

**January 12, 2010  
Planning and Economic Development Board  
Medway Senior Center  
76 Oakland Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, and Chan Rogers

**ABSENT WITHOUT NOTICE:** John Williams

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Dave Pellegri, Tetra Tech Rizzo  
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:00 pm.

**BOARD BUSINESS:**

**Appointments:**

**Design Review Committee and Economic Development Committee:**

- On a motion made by Karyl Spiller-Walsh, and seconded by Thomas Gay, the Board voted unanimously to appoint Carolyn Chodat to the Design Review Committee for a term through June 30, 2011.

**Economic Development Committee:**

- On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted unanimously to appoint Ray Himmel to the Economic Development Committee through for a term June 30, 2010.

**Resignations:**

The Board was in receipt of a resignation letter dated January 9, 2010 from Beth McDonald from the Design Review Committee.

**PUBLIC HEARINGS**

**Modification to Daniels Woods II Definitive Subdivision Plan:**

The Engineer David Faist noted that they were in receipt of a memo from Tetra Tech Rizzo dated January 7, 2010. The Board is also in receipt of an alternative Driveway & Grading Plan dated December 29, 2009. The memo made reference to the site walk which was conducted on January 7, 2010. It also notes a grading detail in the area surrounding the grass basin to show where the runoff will flow when the basin is overtopped. Faist Engineering explained that the proposed design provides for approximately 9-12" of freeboard as the basin will overtop at an approximate elevation of 240.5. Faist Engineering believes that the grades are sufficient and will show that the runoff will

flow towards the existing stone wall at the northern edge of the property and then easterly along the stone wall onto the adjacent property owned by Fred Sibley. Consultant Pellegrini communicates that the additional spot grades and the flow paths are now shown on the plan. The only other changes are adjusted small grass swales to pull grade back. Faist Engineering discussed that the grading easement will need additional space for minor grading changes during construction and placement of the erosion control measures. The drainage easement will need to be recorded. The Board would like to see some revisions on the drainage easement to include the adjacent Sibley parcel. The Board wants to see this provided before voting.

Member Spiller-Walsh communicated that there is no way to police any surface run-off water on abutter's property. This lot is aquatically tight. She has concerns about a flowage easement like this. Applicant's attorney Glenn Murphy noted that he has never heard of a flowage easement.

Another area of concern for member Spiller-Walsh is the dimension of the house. The footprint and exact dimensions are an integral part of drainage needs. There is no jurisdiction to keep it this size or smaller. There is no guarantee that this is the footprint that will be built. She was also inquiring about if this will be handed over to the Conservation Commission. She would like to see the project monitored since she believes that the water will go around the perimeter.

Chairman Rodenhiser explains that the house can not be bigger than 60 by 30. The applicant could agree to a condition on decision regarding the footprint of the house.

Susy Affleck-Childs was wondering if there are any reasons why the lot could not be enlarged easterly or southerly to provide some more room.

Mr. Yorkis communicated that he does not know what type of house the eventual buyer of this property may want. This will be determined by the buyer. The issue about the drainage is a legitimate concern. The decision could be written to stipulate that the capacity of the drywell has to be large enough to handle the run off from the roof. Mr. Yorkis noted that the condition of Certificate of Action can specify that the engineer certify that the drywell can handle the run off.

Affleck-Childs inquired about the size of Lot 2B. Mr. Sibley reported it was communicated that this is 5 ½ acres.

Mr. Sibley, the property owner, does not want to make Lot 2 B any smaller since the land value is the size and privacy. The trees and land are visual buffers for his house.

Affleck-Childs notes that when and if recorded, the deed needs to call out the drainage easements within the body of the deed on Lot 2B.

Member Chan moves to close the public hearing.

Affleck-Childs recommends a quick review of all needed information before closing the hearing.

Attorney Murphy explained that a meeting took place with Susy Affleck Childs. The following items will need to be prepared: the proposed deeds, the driveway easements, the private roadway agreement, and the subdivision covenant.

There will be six agreements provided which will need Town Counsel approval.

Consultant Pellegrini noted that there are no outstanding waiver issues.

- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to close the public hearing for Daniels Woods.**

Susy Affleck-Childs will work on drafting a decision for review at the January 26, 2010 meeting.

#### **Williamsburg Condominium OSRD Definitive Plan – Public Hearing Continuation**

The Chairman reopened the Public Hearing for Williamsburg Condominium at 8:20 pm.

The only outstanding issues are the waivers.

A letter dated January 6, 2010 was provided from the Open Space Committee. The letter makes reference to the revised plant schedule for the Williamsburg Condo OSRD. The letter commends the developer and landscape architect for addressing the selected plant species along with supporting the Open Space Committee's efforts to control the impact of non-native and invasive species of our community.

The residents were asked if there are any other questions. There were no additional questions or comments.

- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to close the public hearing for Williamsburg Condominium.**

Mr. Yorkis provided the abutters a verbal overview about the pre-construction meeting which took place.

#### **Establish Construction Account Fee – Applegate Farm Subdivision**

Member Gay wanted clarification on the estimates as provided.

A memo from Consultant Pellegrini from Tetra Tech Rizzo dated January 7, 2010 provided a revised estimate for Construction Administration Services. Consultant Pellegrini explained the sheet which was provided noting the various categories along with including the type of inspections, number of site visits needed, hours of inspections, rate of pay and a final column for the total amount. The fee estimate is \$20,641.95 but it is based on the former VHB estimate from June 2006 and updated to add in inspections for sewer, water and utilities which DPW wants TTR to conduct.

Member Tucker wants to make sure that the amounts are based on current 2010 numbers from Tetra Tech Rizzo and not from VHB fees from 2006

After discussion, the Board would like Consultant Pellegrini to provide a revised estimate to reflect TTR's 2010 rates. A decision will be held off until the 1-19-10 meeting when a revised estimate will be provided for the Applegate Farms Definitive Subdivision.

**Establish Construction Account Fee - Williamsburg Condominium OSRD project:**

The estimate is for \$15,781.50. Mr. Yorkis communicates that he hopes the numbers on the estimate reflect the best consultant practices. He also communicated that the estimate may be up or down or right on the money. Mr. Yorkis was inquiring about what the \$750.00 overhead fee covers. Consultant Pellegrini notes that this is for mileage, postage, and fed ex. Mr. Yorkis wants to make sure that the invoices from Tetra Tech Rizzo will be broken down. Consultant Pellegrini responded that this is done on an expense sheet.

- **On a motion made by Thomas Gay and seconded by Chan Rogers, the Board voted unanimously to approve the construction estimate as presented for roadway and infrastructure.**

**Construction Status Update**

**Applegate Farm Subdivision**

There will be a pre-construction meeting on Thursday, January 14, 2010 at 10:00 am.

**Williamsburg Condominium OSRD**

There was a preconstruction meeting on Williamsburg held on January 4<sup>th</sup>. This meeting had representatives from DPW, Conservation Commission, and the Developer. The meeting was helpful for all parties. The erosion control measures are in place. The grubbing and clearing will be taking place. Mr. Yorkis noted that the filter mitt is in place. The orange fencing is 50% completed. The 50 feet of stone on top of the filter fabric is going in on Wednesday, January 13, 2010. This process is moving along and all steps are being followed.

**Revisions to Subdivision Rules and Regulations:**

The Board is in receipt of a memo from Susy Affleck-Childs dated January 8, 2010. The memo referenced Section 7 Design/Construction Standards for subdivision infrastructure. Consultant Pellegrini will research to see if there are already developed lists which may assist the Board. Member Chan communicates that the State Highway Standards have already been created, dictating how things need to be done. He further explains that in reference to the Subdivision Regulations, it is standard specifications. He believes that the Board does not need to reinvent the wheel. The work on this has already been completed. Member Gay also feels that reference standards can be used. It is recommended from Susy Affleck-Childs that the Board involve a number of other Committees and Departments in seeking recommended revisions or suggestions.

**Zoning and Other Priorities for 2010 Annual Town Meeting:**

The Board was in receipt of a memo from Susy Affleck-Childs dated January 7, 2010. The memo was a preliminary list of recommended articles for the 2010 Annual Town Meeting. See attached. The DRC and Open Space have been asked for suggestions. Member Tucker will continue to work



with Susy Affleck-Childs on the lighting standards. Member Rogers would like to see the word “standards” changed to performance.

### **Proposed Mapping Fee:**

The Board is in receipt of a memo from Susy Affleck-Childs dated January 7, 2010 providing an overview about the development of the proposed mapping fee. Lengthy discussion had taken place regarding the establishment of a Mapping Revolving Fund. At the initiative of Susy Affleck-Childs and Assessor Will Naser, an article had been placed on the warrant for the November 2009 fall town meeting. Prior to that town meeting, the Board has expressed its reservations about having such a fee and wanted more time to discuss with the full membership. Susy Affleck-Childs had understood the board was OK with keeping the article on the warrant; the article would establish the fund. Member Gay does not have that same recollection and therefore he spoke against the motion at town meeting.

The Board continues to try to figure out how to establish administrative/filing fees that are fair, reasonable and reflect actual administrative fees. The Board would like to continue working on this item. The Chairman wants to thank Susy for being proactive in getting this moving. Member Gay will work with Susy Affleck-Childs to come up with average cost for projects. The Board should be able to do this and meet those estimates. Member Gay noted that the fees can drive the behavior of the length of the hearings and performance of the engineer. Member Rogers noted the difference between residential and industrial/commercial type projects needs to be part of the analysis.

Susy Affleck-Childs presented a four page chart of the various tasks which must be undertaken when an application is submitted. The chart includes pre-applications, start up, public hearing preparations, abutter notice, application processing, plan review/public hearing, money management, decision, plan endorsement, pre-construction, construction process, performance guarantee, and the street acceptance process. The chart also specifies who handles the various tasks. Susy Affleck-Childs will begin keeping track of the time allotment that these tasks require.

Affleck-Childs will take notes about how long the different administrative tasks take. There is a lot of work on the back end of the project with street acceptance and bond reduction. Chairman Rodenhiser suggested creating a duration timeline for the tasks. Member Tucker noted that one engineer may take three meetings and another engineer may then take five meetings. The Board would like to discuss this further.

### **Conservation Commission Rules and Regulations**

The Chairman was in receipt of a memo from Susy Affleck-Childs recapping the cost of \$4,272.12 for consultant review of the Conservations Commission’s proposed *Rules and Regulations*. This a significant amount of money out of the FY10 consulting and contracted service line item and will hamper the Board’s ability to use the outside engineering and planning consultants to help with Rules and Regulations and zoning articles. The Board would like to present this to Finance Committee for an emergency transfer request. Without the emergency transfer, this would inhibit the Boards ability to have Tetra Tech Rizzo and PGC Associates work on the subdivision rules and regulations or on zoning articles during the remainder of the year. A member of Finance Committee, Tony Pacholec, was at the meeting and he will communicate this information at the Finance meeting on Wednesday evening. The Chairman will also speak with the Board of Selectmen about this.

**Country View Estates:**

The Board was presented with a draft letter addressed to Mr. Greg Whelan, Trustee of the Broad Acres. The letter is asking for Mr. Whelan's cooperation in resolving a number of outstanding issues at the Country View Estates and Broad Acres Estates subdivisions. The updated estimate amount is \$48,019.50. The documents have been reviewed by Town Counsel.

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to send the letter as written to Mr. Whelan.**

Consultant Pellegri presented to the Board a letter from Vanasse Hangen and Brustin, Inc. dated May 11, 2009 regarding berm repairs in the subject subdivision. The issue of concern involves the Monolithic Berm (Stable Way). Consultant Pellegri included the Berm repair in his estimate. It is the feeling that it may be more of a detriment to remove this berm.

**Agricultural Commission Exploratory Meeting:**

Susy Affleck-Childs has been in touch with a representative from the Mass Department of Agriculture who is based in Ashland. She speaks throughout Massachusetts about Agricultural Commissions. March is the tentative month for which a public meeting will be set up. Members of the agricultural community will be invited to attend. The purpose of this meeting will be to hopefully have enough members who will work to create, shape and steer the establishment of an Agricultural Commission for Medway and put forth an article for the warrant for the 2010 annual town meeting.

**Minutes:**

- **On a motion made by Bob Tucker and seconded by Thomas Gay, the Planning and Economic Board had voted unanimously to accept the minutes from October 27, 2009.**
- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Planning and Economic Board had voted unanimously to accept the minutes from November 24, 2009.**
- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Planning and Economic Board had voted unanimously to accept the minutes from December 12, 2009. (member Spiller-Walsh abstained from vote)**
- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Planning and Economic Board had voted unanimously to accept the minutes from December 15, 2009. (member Tom Gay abstained from vote)**

**Committee/Task Force Reports:**

Member Tucker reminded all that any proposed expenditures of CPA funds must be submitted to the CPC for review at their March meeting. There is an open invite to a meeting in March for those who would like to make proposals. .

**SWAP Meeting:**

Consultant Carlucci informed the Board that there will be a meeting on January 20, 2010 from 5:00 – 7:00 pm in the Ashland Library. The purpose of the meeting is to address the economic impacts of Casinos in the region. The Committee is looking to formulate a letter to send to the legislature. Member Rogers is planning on attending. Consultant Pellegrini wanted to disclose that TTR has had a conversation about this with one of the applicants.

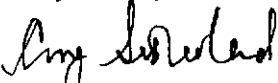
- **On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting at 10:00 pm.**

**Future Meetings:**

The next meetings scheduled are: **January 19 & 26, February 9 & 23, 2010.**

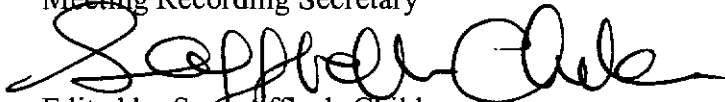
The meeting was adjourned at 10:00 pm.

Respectfully Submitted,



Amy Sutherland

Meeting Recording Secretary



Edited by Susy Affleck-Childs

Planning and Economic Development Coordinator

**Memorandum  
January 7, 2010**

**TO:** Medway Planning and Economic Development Board  
**FROM:** Susy Affleck-Childs  
**RE:** 2010 Annual Town Meeting

Below is a preliminary list of recommended articles for our work for the 2010 Annual Town Meeting. It is based on discussions at PB, EDC and AHC. I have also asked the DRC and Open Space Committee for suggestions.

**Zoning**

1. Amend Industrial I & III to specifically allow:
  - renewable and alternative research and development facilities
  - manufacturing of renewable and alternative energy related products
  - biotech laboratory and manufacturing
2. Amend Industrial II (Exelon site) to allow for various forms of alternative/renewable energy generation
3. Definitions – add definitions for: Research & Development; Alternative/Renewable Energy; Home Based Businesses; Biotech
4. Home Based Businesses – Allow by right within ARI & ARII based on certain performance standards; anything in excess would go to the ZBA for a special permit
5. Lighting standards
6. Site Plan Projects – add language re: options to fulfill sidewalk construction obligations – on site, off site, or payment in lieu of construction
7. Sign Regulations – a series of minor amendments
8. ARII, Commercial III and IV - Multi family residential special permit (recommended by the Affordable Housing Committee)
9. ARI – Allow for estate lots by special permit (large lots with inadequate frontage)

**Other**

1. Proposed General Bylaw to Establish an Agricultural Commission
2. Expand 43D sites to include all (or as much as possible) of Industrial I, II and III

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Planning and Economic Development Board  
Medway Senior Center  
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**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, Chan Rogers, and John Williams

**ABSENT WITH NOTICE:**

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**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Dave Pellegrini, Tetra Tech Rizzo  
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:00 pm.

**BOARD BUSINESS:**

**Establish Construction Account Fees- Applegate Farm Subdivision:**

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the construction estimate of \$22,911, dated 1/19/2010 prepared by Tetra Tech Rizzo, for the Applegate Farm Subdivision.**

Susy Affleck-Childs is looking for guidance from the Board on whether to collect the money all at once or in installments. Member Rogers doesn't see why we should collect all the money at once. Chairman Rodenhiser and Vice Chairman Tucker feel we should collect all the money up front.

**Williamsburg Condominium OSRD Definitive Plan Draft Decision:**

The Board is in receipt of a revised draft of the CERTIFICATE OF ACTION for the Williamsburg Condominium Open Space Residential Development Definitive Plan; the revised draft is dated January 19, 2010 and is attached. After reviewing **Sections I through VIII**, the Board is in agreement with the verbiage with the exception of a few minor typographical errors. Within Section VII, Susy Affleck Childs would like to add the prior Williamsburg OSRD Special Permit Decision and Williamsburg OSRD Concept Plan as exhibits. The Board is in agreement.

**Section IX - Project Evaluation Criteria**

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to approve the Project Evaluation findings as specified in the 1-19-2010 draft decision as conditioned and approved by this Certificate of Action.**

**Section X. Other Findings:**

The Board next reviewed Section X. OTHER FINDINGS. Susy Affleck-Childs informed the Board that the only difference to note is the absence in the Definitive Plan of 4 additional on-street parking spaces for visitors that had been shown on the Concept Plan.

**Section XI. Waivers**

**Subdivision Rules and Regs SECTION 5 – CONTENTS OF DEFINITIVE PLAN:**

The Board is satisfied with the proposed text for Section 5 waiver explanations and findings.

**Subdivision Rules and Regs SECTION 6 – ADMINISTRATION OF APPROVED DEVELOPMENTS:**

The Board reviewed the proposed text for waiver explanations and findings for Sections 6.6.3 through Section 6.8.11. The Board was satisfied with these sections. Member Gay noted that the last sentence needs to be removed.

**Subdivision Rules and Regs SECTION 7 – CONSTRUCTION STANDARDS:**

The Board is satisfied with this the proposed text for Section 7 waiver explanations and findings.

**ZONING BYLAW – SECTION V. USE REGULATIONS, Sub-Section T. OSRD:**

The Board is satisfied with this section.

**ACTION OF WAIVER FINDINGS:**

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the noted Action of Waiver Findings as written.**

**ACTION OF WAIVER REQUEST:**

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the Action on the Waiver Request as modified.**

**Section XI. Conditions:**

**Condition #2 Mitigation:**

The Board had a discussion about the proposed mitigation text and it is their feeling to strike the whole paragraph #2.

**Condition # 3 – Ownership/Maintenance of Common Areas**

Mr. Yorkis would like the Trash Removal under page 14. B. 5) to be removed. He communicated that the residents will be covered under the Town of Medway trash removal system which is already in place. This encourages recycling. The Board is comfortable with this.

**Condition #8 Plan Endorsement:**

The words “Approval of” need to be removed from this section.

**Condition #10 - Maintenance Responsibility During Construction:**

Mr. Yorkis would like this section needs to be more specific about the Homeowner's Association. Susy Affleck-Childs will rework this language.

#### **Condition # 11 – Fire Protection**

The Board is not comfortable removing the requirement of the Provisions for Fire Prevention and Protection. The Board is in receipt of a memo dated 1/19/2010 in regards to the applicant agreeing to install additional water infrastructure.

#### **Condition #12 – Building Permits**

Mr. Yorkis referenced page 18. #7 Sidewalk Binder. He would like this requirement removed since the sidewalk binder could be damaged while the remainder of the work is completed. The Board is comfortable with waiving this.

#### **Condition #13 – Sidewalks**

The bituminous concrete sidewalk linear feet needs to be changed from 225 linear feet to 105 feet. Susy Affleck-Childs will add language about the sidewalk obligation within the introduction in paragraph #13. Mr. Yorkis indicated that the sidewalk will be completed by October 15, 2010. Vice Chairman Tucker would also like signage included in the decision regarding the crosswalk. The Board would like to get a recommendation from the Safety Officer as to what kind of signage he wants for the crosswalk

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to remove the Sidewalk Binder requirements.**

#### **Condition # 16 - Play Area in Parcel C:**

The Board discussed that the play area needs to be established before the last occupancy permit is issued.

#### **Condition # 19 - 40 B Comprehensive Permit:**

The language of this was revised by Town Counsel. Susy Affleck-Childs would like Mr. Yorkis to supply the letter as noted in this section.

#### **Condition #20 – Project Completion**

Under page 23 letter E., the Board will be adding the Fire and Police Departments and also the DPW.

Under page 23 letter G., the Board would like to include the addition by listing the various boards which need to sign off.

Under page 23. number 25, the Board feels that the Proof of Taxes Paid section is redundant.

Condition # 28 – Restrictions on Construction Activities

Under page 28, item A., Mr. Yorkis would like the construction time to state that it shall not commence any day before 7 am and shall not continue beyond 7:00 pm. The time allotment needs to remain as noted with an ending time of 6:00 pm as documented in the Special Permit.

**Approval:**

- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to approve the Williamsburg Condominium Open Space Residential Development Definitive Plan Certificate Action with the noted revisions.**

**Daniels Wood II Subdivision Modification**

The Board had a discussion about Daniels Woods II Subdivision Modification. Member Spiller-Walsh noted two issues of concern. Upon further review of the Zoning Bylaw, she wants to know how to evaluate a lot. It is of great concern that the existing trees and the topography of this lot will be affected. It is her belief that the so called “low impact” water design is actually invasive and that the stormwater management will not work. She would like to leave the natural areas. The Chairman noted that the developer is not required to do low impact design. Member Spiller-Walsh feels that this project is a risk if it is approved. Consultant Pellegrini communicated to the Board that he believes through review of all the plans that this project will work. Mr. Yorkis disagrees with member Spiller-Walsh and believes that this project will be good. Consultant Pellegrini wanted to know if member Spiller-Walsh had any improvements in regards to the landscaping. Next, Consultant Pellegrini suggested that the Board could add conditions for landscaping around the drainage areas. Member Gay communicated that from the beginning of the project submittal, there are significant improvements. The slopes are not as extreme. The condition of the area is done with grass swales, which adds gentle contours. Member Rogers reminds the Board that the only obligation of the Board is to meet the requirements and we cannot dictate excellence. The Chairman communicates the member Spiller-Walsh that he appreciates her passion and likes to hear her opinion. It was suggested to member Spiller-Walsh that she come with suggestions about the landscape.

**FinCom:**

Vice Chairman Bob Tucker and Susy Affleck-Childs will be going to FinCom on February 10, 2010 regarding an emergency transfer request to cover the cost of consulting services to review the Conservation Commission’s proposed *Rules and Regulations*. A memo will be provided to FinCom.

**Minutes:**

The minutes of the January 12, 2010 meeting will be held over to the next meeting on January 19<sup>th</sup>.

**Other Business**

Associate Member John Williams informed that Board that he intends to proceed with his obligation on the Board as its associate member (for special permits) but that he will need to resign from the Economic Development Committee. Chairman Rodenhiser wanted to know if member Williams could offer his expertise with the utility easements. Susy Affleck-Childs noted that his term had technically expired (May 2009) and that he had not ever been reappointed. It would make sense for him to stay involved thru May 2010.



Susy Affleck- Childs informed the Board that Paul Yorkis & David Faist would like to have an informal discussion about a possible OSRD development. This project is located between the ends of Neelon and Cherokee Lanes (site of the previously approved but expired Charles River Acres OSRD project).

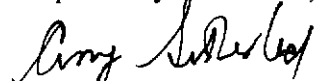
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**Future Meetings:**

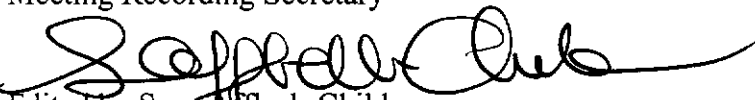
The next meetings scheduled are: **January 26, February 9 & 23, 2010.**

The meeting was adjourned at 10:00 pm.

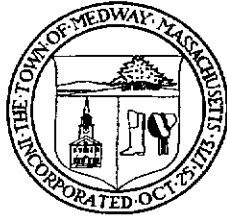
Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary



Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*  
*John W. Williams, Associate Member*

**REVISED DRAFT – January 19, 2010**

**CERTIFICATE OF ACTION**  
**WILLIAMSBURG CONDOMINIUM**  
**OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)**  
**DEFINITIVE PLAN**  
**(\_\_\_\_\_ with Waivers and Conditions)**

***I. APPLICANT & PROPERTY OWNER:***

Williamsburg Condominium Corporation  
4 Daffodil Lane  
Medway, MA 02053

***II. SUBJECT PROPERTY*** - The subject property is a 13.86 acre site at 66A, 70, 70R and 72 West Street. The property is located on the north side of West Street, across from Holbrook Street and is in the ARII zoning district. The site is comprised of four parcels – Medway Assessors Map 2 – Parcels 7B, 6-1-B, 6-1-2 and 6-1-3. On site features include wetlands, a tributary to Hopping Brook, upland meadows, a vernal pool, wooded areas, pine grove, open fields and stone walls.

***III. PROJECT DESCRIPTION*** - The *Williamsburg Way Definitive Plan* depicts an 18 unit townhouse condominium community comprised nine (9) duplex buildings with two (2) dwelling units in each building. The proposed development includes three (3) affordable dwelling units for low to moderate income families which shall comply with the requirements for inclusion on the Massachusetts Department of Housing and Community Development Subsidized Housing Inventory pursuant to M.G.L chapter 40B, section 20-23. Planned site improvements include construction of a 16' wide, one-way, 1,153 linear foot long permanent private roadway off of West Street to be known as Williamsburg Way. Other planned improvements include the construction of a stormwater drainage system to comply with Massachusetts DEP stormwater management

requirements, extension of Town water and sewer, construction of approximately 1200 linear feet of interior sidewalks/pathways, and the preservation of 8.65 acres of open space (Parcels A and B) with three designated visitor parking spaces. Each dwelling unit has room for four (4) off-street parking spaces.

The land is to be divided into three parcels as follows:

*Open Space Parcel A* – 1.00.97 acres including a vernal pool to be owned by the Williamsburg Condominium Trust.

*Open Space Parcel B* – 7.63 acres to be conveyed to the Town of Medway through its Conservation Commission but maintained by the Williamsburg Condominium Trust.

*Parcel C – Development Parcel* – 5.25 acres including all 18 dwelling units, private roadway, sidewalks, stormwater facilities (all to be owned by the Williamsburg Condominium Trust)

**IV. PROCEDURAL SUMMARY:** With respect to *Williamsburg Way Definitive Plan*, the Planning and Economic Development Board verifies that:

1. On October 15, 2009, it received an application for approval of the *Williamsburg Condominium Open Space Definitive Plan*, dated August 31, 2009, revised October 15, 2009, prepared by FAIST Engineering of Southbridge, MA and O'Driscoll Land Surveying Co of Medway, MA. This application was NOT preceded by a preliminary subdivision plan.
2. On October 26, 2009, it circulated the *Williamsburg Condominium Open Space Definitive Plan* to various Town boards and departments, including the Board of Health, soliciting review comments and noting that a public hearing was scheduled to begin on November 10, 2009. The Board of Health did not provide any written comments.
3. On November 10, 2009, it commenced a public hearing on the plan. The public hearing was duly noticed on October 27 and November 2, 2009 in the *Milford Daily News*. Abutter notice was sent by certified mail to abutters, parties of interest and to the Planning Boards of adjacent communities on October 19, 2009. The public hearing was continued to December 15, 2009 and to January 12, 2010 at which time it was closed. At the public hearing, comments were received from the general public, municipal boards/ departments, PGC Associates (the Town's Consulting Planner), Tetra Tech Rizzo (the Town's Consulting Engineer), the applicant and members of the applicant's development team. All persons in attendance were provided the opportunity to comment and present evidence. All members voting on this definitive plan were present at all sessions.

**V. BACKGROUND** - This application was filed pursuant to an Open Space Residential Development (OSRD) Special Permit and Affordable Housing Special Permit

approved by the Medway Planning and Economic Development Board on March 10, 2009 and the Williamsburg Condominium Concept Plan dated August 20, 2008, last revised \_\_\_\_\_ and endorsed by the Planning and Economic Development Board on \_\_\_\_\_. The applicant at that time was then property owner Broad Acres Management Trust. The OSRD Special Permit was recorded at the Norfolk County Registry of Deeds on October 2, 2009 in Book 27111, page 95. The associated OSRD Concept Plan was recorded on October 2, 2009 in Plan Book 595, Page 51.

On October 2, 2009, Broad Acres Management Trust conveyed the subject property to the Williamsburg Condominium Corporation. That deed was recorded with the Norfolk County Registry of Deeds on October 2, 2009 in Book 27111, page 118.

**VI. VOTE OF THE BOARD** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, after having carefully reviewed the application and all plans, materials and documentation presented by the applicant, the Board’s consultants, abutters and the general public, comments from Town officials and board, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the \_\_\_\_\_ prepared by FAIST Engineering and O’Driscoll Land Surveying, Inc., dated \_\_\_\_\_, last revised \_\_\_\_\_ subject to the *Specific and General Conditions* as specified herein and with *Waivers* from the of the *Subdivision Rules and Regulations* dated April 26, 2005 as also specified herein. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ against.

**VII. EXHIBITS – Plans and Documents**

Specified below is a list of application materials, public comments, consultant and town review documents, and supplemental information filed by the Applicant. All information is on file with the Planning and Economic Development Board and is available for public review.

***Williamsburg Way OSRD Definitive Plan***

Prepared by FAIST Engineering & O’Driscoll Land Surveying  
August 31, 2009, revised October 15, 2009  
Revised – November 30, 2009

***Deed conveying subject property to Williamsburg Condominium Corporation***

October 2, 2009

***Lighting Plan*** – Prepared by Faist Engineering & TO Design Inc.

October 15, 2009

***Wetlands Information***

***Superseding Order of Resource Area Delineation*** – Mass DEP, 10/29/09; DEP file # 216-765

***Superseding Order of Conditions*** – Mass DEP, 12/29/09, DEP file # 216-771

***Stormwater Management Report*** (including soil survey, percolation and high groundwater testing)

Prepared by Faist Engineering - October 2009

Revised –November 2009

***Long Term Operation and Maintenance Plan for Proposed Site Drainage and Stormwater Management System***

Prepared by Faist Engineering - October 2009

Revised – November, 2009

***Waiver Request Worksheet***

October 15, 2009 – Paul Yorkis, Patriot Real Estate

Revised November 30, 2009 - Paul Yorkis, Patriot Real Estate

***Town Engineering Consultant Review Letters***

***David Pellegrini, P.E., Tetra Tech Rizzo, Inc.***

November 4, 2009 review letter responding to initial application

December 9, 2009 review letter responding to revised plans dated November 30, 2009 and additional information submitted on December 2, 2009.

December 16, 2009 review letter responding to additional information provided on December 15, 2009.

***Town Planning and Economic Development Consultant Review Letters***

***Gino Carlucci, AICP, PGC Associates***

November 3, 2009 review letter responding to initial application

December 14, 2009 review letter in response to revised plans dated November 30, 2009.

***Medway Departmental/Board Review Comments***

Memo dated November 22, 2009 from Medway Fire Chief Paul Trufant

Memo dated November 8, 2009 from the Medway Design Review Committee

Memo dated November 25, 2009 from Medway DPW Deputy Director

Memos dated December 7, 2009 and January 6, 2010 from the Open Space Committee

***Supplemental Information Provided By Applicant***

NPDES Stormwater Pollution Prevention Plan (SWPPP) for Williamsburg Way –  
Prepared by Faist Engineering - December 2, 2009.

December 15, 2009 letter from Paul Yorkis, regarding specific measures that will be taken to try to achieve daily per capita water usage below 65 gallons/day.

Revised Planting Schedule – Prepared by Jim LeBlanc, RLA, TO Design, Inc.  
dated December 15, 2009

November 30, 2009 letter from David Faist, Faist Engineering responding to the November 3, 2009 review letter from Gino Carlucci, PGC Associates. Letter includes Williamsburg OSRD Area Calculations.

November 30, 2009 letter from David Faist, Faist Engineering responding to the November 4, 2009 review letter from David Pellegrini, Tetra Tech Rizzo. Letter included Williamsburg OSRD Area Calculations and Revised Stormwater Management Report Tables 1, 2 & 3.

Ground Water Mounding Analysis Book – 12/15/09 - prepared by Faist Engineering, submitted 12-15-09.

Georgia Pacific – Forest Edge Vinyl Siding information.

***Citizen/Resident Communications***

Email dated November 10, 2009 from Jim and Betty Wickis, 74 West Street.

***VIII. PUBLIC HEARING SUMMARY:*** The public hearing and review of the *Williamsburg Condominium Open Space Definitive Plan* was conducted over the course of three (3) Planning and Economic Development Board meetings (11-10-09, 12-15-09 and 1-12-10) during which substantive information was presented, evaluated and discussed. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005.

***Citizen/Resident Testimony***

Jim Wickis, 74 West Street  
Rhea Berry, 68 West Street  
Corrie O'Callaghan, 65 West Street  
Jeffrey Swenson, 68 West Street

***Professional Review/Testimony***

Gino Carlucci, AICP, PGC Associates, Inc.  
David Faist, PE, FAIST Engineering  
Paul Yorkis, Patriot Real Estate  
Jim LeBlanc, RLA, TO Design, Inc.  
David Pellegrini, PE, Tetra Tech Rizzo, Inc.  
Paul J. DeSimone, RLS on behalf of Dr. Michael Robinson, Medway Animal Hospital, 66 West St

***Other Testimony***

John Schroeder, Chairman, Medway Open Space Committee

**IX. PROJECT EVALUATION CRITERIA** – *Before taking action on a Definitive Plan, the Board shall evaluate the proposed development according to the criteria as specified in Section 5.16 of the Subdivision Rules and Regulations. At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, a motion was made by \_\_\_\_\_ and*

seconded by \_\_\_\_\_ to \_\_\_\_\_ the Project Evaluation  
Findings noted below as conditioned and approved by this Certificate of Action.

**5.16.1 Completeness and technical accuracy of all submissions.**

*Findings* – The staff and consultants have reviewed the submitted information and the applicant and its development team have provided additional submissions, information and revisions as requested. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.**

*Findings* – The proposed new roadway has been designed as a one-way private way forming a loop off of West Street. Sight distances and street lighting on West Street have been determined to be adequate. The roadway is of adequate width for the property served. It also has a sidewalk on one side providing for safe pedestrian movement. Therefore, the Planning and Economic Development Board finds this criterion is met.

**5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.**

*Findings* – As an OSRD, the project is limiting disturbance of the natural area and development is kept outside the wetlands and flood plain areas of the site. As mentioned above, the roadway design does not pose a traffic hazard. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environmental, which damage could be avoided or ameliorated through an alternative development plan.**

*Findings* – As an OSRD, the proposed development does represent an alternative development style that limits damage to the environment and preserves open space. The development is also designed to limit water consumption on site. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous**

**traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.**

*Findings* – The proposed new roadway has adequate width and adequate sight distance. It has been reviewed by the Medway Police and Fire Departments and has been determined to be adequate for the provision of emergency services. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.**

*Findings* – The 13.88 acre site exceeds the minimum of 8 acres required by the Zoning Bylaw for an OSRD. The project provides 8.63 acres of open space (exceeding the minimum of 50% of the site or 6.94 acres). The area of uplands within the open space is 5.32 acres, exceeding the required minimum of 5.25 acres. Since this is a condominium development and no lots are being created, there are no area and frontage standards for the individual dwelling units. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.7 Consistency with the purposes of the Subdivision Control Law.**

*Findings* – The proposed development will result in a new road that meets applicable safety and construction standards. The stormwater drainage system also complies with applicable regulations and minimizes impacts. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**X. OTHER FINDINGS** – In accordance with the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section T. Open Space Residential Development (OSRD), paragraph 12. 3), the Planning and Economic Development Board makes the following findings regarding this application:

**A.** The proposed Williamsburg Way OSRD Definitive Plan substantially complies with the previously approved OSRD Concept Plan dated March 10, 2009. **The only difference of note is the absence in the Definitive Plan of 4 additional on-street parking spaces for visitors that had been shown on the Concept Plan.**

**B.** All Conditions of Approval specified in item 3 of the March 10, 2009 OSRD Special Permit Decision have been incorporated into the Williamsburg Way OSRD Definitive Plan and this Certificate of Action

**XI. WAIVERS** – The Applicant has requested waivers from the following sections of the *Medway Subdivision Rules and Regulations*, dated April 26, 2005.



## SECTION V - CONTENTS OF DEFINITIVE PLAN

**SECTION 5.6.3** *All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88).*

**EXPLANATION** - The applicant requests a waiver from using the North American Vertical Datum of 1998 (NAVD88) and authorization to use the NVGD 2929 datum instead. This waiver will minimize conflicts between various elements of the project which rely on the NGVD 1929 datum (FEMA 100-year flood elevation and the recent Town of Medway West Street Sewer Project).

**FINDINGS** – The Planning and Economic Development Board finds that the waiver is justified since it is in the best interests of the town to use topographical data that is consistent with both the sewer project on West Street and the FEMA flood elevations since there is a flood plain on the property.

**SECTION 5.7.19** *The proposed layout of street construction, storm drainage and storm drainage and stormwater management facilities, water supply, and sewage disposal system, including grades, and the proposed electric, telecommunications, natural gas, cable TV, and spare communications conduit shall be shown on the definitive plan.*

**EXPLANATION** - The applicant requests a waiver from showing the underground utility services on the definitive plan. NSTAR serves as the lead utility in Medway. It prepares the initial design for underground utilities including electric, phone and cable service. Verizon and COMCAST follow the NSTAR design. NSTAR does not begin their design process until the definitive plan is endorsed. Therefore, it is not possible to shown these locations on the definitive plan. They can be shown on the as-built plan.

**FINDINGS** - The Planning and Economic Development Board finds that sufficient information has been provided for the Board to generally understand how the underground utilities will be provided. The applicant will provide the Planning and Economic Development Board with a copy of the NSTAR utility plan once it is completed.

**SECTION 5.20.2 a)** *A Restrictive Covenant shall be executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be completed to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed, . . . .*

**EXPLANATION** – The applicant desires a waiver from one aspect of this regulation in that they would like to begin construction on one duplex structure (2 dwelling units) to serve as a model while the way, infrastructure and services are under construction. The applicant agrees to not seek an occupancy permit for either of the dwelling units until all work is completed or acceptable replacement security is provided.

**FINDINGS** – The Planning and Economic Development Board finds that this variation is acceptable because public safety will not be jeopardized as no occupancy will be involved. The standard Covenant will need to be revised to allow for construction to begin on one building before the way and services are fully completed. No release from the Covenant will be required before a building permit can be issued for one structure.

## SECTION 6 - ADMINISTRATION OF APPROVED DEVELOPMENTS

**SECTION 6.6.3** – *The Board shall not grant a partial release for such for partial completion of improvements until the following items, at a minimum, have been installed, inspected and approved by the Board or its agent.*

**EXPLANATION** – The applicant would like to begin construction on one duplex structure (2 dwelling units) to serve as a model while the way, infrastructure and services are under construction. The applicant agrees to not seek an occupancy permit for either of the dwelling units until all roadway, infrastructure and utility work is completed or acceptable replacement security is provided.

**FINDINGS** – The Planning and Economic Development Board finds that this variation is acceptable because public safety will not be jeopardized as no occupancy is involved. However, the minimum improvements specified in 6.6.3 shall be completed before a building permit is authorized for any additional structures.

**SECTION 6.4.1** – *No building permit shall be issued within a development without written permission from the Board by release of covenant, bond or securities resulting from the fulfillment of developer obligations.*

**EXPLANATION** – The applicant seeks this waiver in order to obtain a building permit to begin construction of one (1) duplex building to serve as a model home.

The applicant agrees to not request an occupancy permit for the duplex units until such time as the base/binder coat of the roadway paving has been completed.

**FINDINGS** – The Planning and Economic Development Board finds that this waiver is acceptable because public safety is not jeopardized as no occupancy is involved. However, the minimum improvements specified in Section 6.6.3 shall be completed before a building permit is authorized for any additional structures. [Note: This may set a precedent for other projects that wish to receive a single building permit prior to the binder course of roadway being installed.]

**SECTION 6.8.1 – 6.8.4 and 6.8.6 – 6.8.11 Street Acceptance**

**EXPLANATION** – The Applicant requests waivers from these regulations as they are not applicable to Williamsburg Way as it will be a permanent private way.

**FINDINGS** – The Planning and Economic Development Board finds that because Williamsburg Way is going to be a permanent private way, there is no need to require compliance with the various regulations regarding street acceptance.  
6.9.1 – release of construction guarantee

## SECTION VII. CONSTRUCTION STANDARDS

**SECTION 7.9.1 c** – Use of Local Street construction standards is required for subdivisions of up to five (5) lots/dwelling units.

**EXPLANATION** – The applicant seeks a waiver from using the Local Street construction standards as Williamsburg Way will be a permanent private way. The Local Street construction standards are to be used for roads intended to become public ways.

**FINDINGS** – Since this a private way to be owned and maintained by the condominium association in perpetuity, the Planning and Economic Development Board finds that this waiver is acceptable. The roadway standards specified on Detail Sheet #1, that is, a 1 1/2" gravel base, 2 1/4" binder course and 1 1/4" finish course, with a width of 14 feet and 16 feet, are acceptable.

**SECTION 7.9.4 a)** – The minimum width of any permanent private way, neighborhood, minor or secondary street right-of-way, including dead-end streets, will be fifty feet (50').

**EXPLANATION** – The applicant seeks a waiver from this regulation because Williamsburg Way will be a permanent private way to be owned by the



Williamsburg Condominium Association. The roadway is planned to be one way and 16 feet wide. The roadway and all land surrounding the roadway and the residential units (Parcel C) will be held in common ownership. There is no separate road parcel per se. Therefore a defined right of way is not needed.

**FINDINGS** – The Planning and Economic Development Board finds that since the private way will be owned and maintained by the condominium association in perpetuity, no separate right-of-way is needed and this waiver is acceptable.

**SECTION 7.9.5 Grade a)** *The minimum centerline grade for any street shall not be less than two percent (2%)*

**EXPLANATION** – The applicant requests a waiver from this regulation because the centerline grade at both the entrance and exit will be at or approximately 1%. This is necessary to accommodate minimal grade changes at the site's entrance and storm water runoff conditions at the site due to similar centerline grades along West Street and because of the relatively flat site topography.

**FINDINGS** – The Planning and Economic Development Board finds that, due to the topography of the site and the adjacent West Street, this waiver is acceptable. However, the centerline grade shall be a minimum of 1% to ensure proper drainage.

**SECTION 7.9.7 g)** *Roadway shall be constructed for the full length of all streets within the subdivision. . . . The minimum width of the roadway pavement shall be twenty-six feet for a local street and eighteen feet for a permanent private way.*

**EXPLANATION** – The applicant requests a waiver from this regulation in order to construct a permanent, one-way private roadway with a paved width of 14' at the entrance increasing to 16'.

**FINDINGS** – The Planning and Economic Development Board finds that the 14 foot entranceway and 16 foot private roadway width is adequate for Williamsburg Way since it is a one way roadway with separate access and egress and it serves only this development. It does not provide any thru connection to another road.

**SECTION 7.10.2 Curbs and Berms** – *Curbing shall be provided the full length of all streets along each side of the roadway. The following curb types are required for the various street categories: Permanent Private Way – Hot Mix Asphalt Cape Cod Berm; Local Street – Sloped Granite Curb (Type S-B).*

**EXPLANATION** – Williamsburg Way is proposed to use a “country drainage” low impact design using roadside grass swales to guide stormwater flow. Curbing is not planned along the edges of the private roadway.

**FINDINGS** – The Planning and Economic Development Board finds that, since this will be a private way to be owned and maintained by the condominium association in perpetuity and that the absence of a curb is an integral component of the low impact stormwater design, that this waiver is acceptable.

**SECTION 7.13.2** - Sidewalks shall extend the full length of the street and around the entire perimeter of the cul-de-sac, with pedestrian ramps at both ends of the cul-de-sac entry. Permanent private way – no sidewalks required. Local street – six feet on one side – Hot mix asphalt with a 6' grass strip

**EXPLANATION** - The applicant requests a waiver from the Local Street sidewalk width and composition requirements. The proposed sidewalks are 4' wide in an effort to reduce impervious surfaces.

**FINDINGS** - The Planning and Economic Development Board finds this waiver is acceptable. Simply by having any sidewalks, they exceed the private way standards. The sidewalks meander and are off the street and safer, therefore a reduced width is OK.

**SECTION 7.19.2** - . . . . Deciduous street trees of nursery stock . . . shall be planted on each side of each street in a subdivision. . . . At least 3 trees are to be located on each lot at approximately forty foot intervals. . . . Trees shall be at least twelve feet in height and two and one-half inches in caliper.

**EXPLANATION** – The applicant seeks a waiver from these specific requirements. Because this is a condominium community, there are no individual house lots.

**FINDINGS** - The Planning and Economic Development Board finds that this waiver is acceptable. There is a landscape plan for the entire project that approximates the requirements of this section.

**SECTION 7.19.4** - Trees approved for planting are: Shademaster, Honey and Skyline Locust; Sugar Maple; White, Scarlet, Pin and Northern Red Oak; Bradford and Aristocrat Pears; London Planetree.

**EXPLANATION** - The applicant seeks a waiver from these requirements in order to implement a landscape plan prepared by its Registered Landscape Architect.

**FINDINGS** – The Planning and Economic Development Board finds that the waiver and the proposed landscape plan are acceptable. The applicant complied with the request of the Open Space Committee to use native species and the Open Space Committee supports the plan.

## **ZONING BYLAW – SECTION V. USE REGULATIONS, Sub-Section T. OSRD.**

**8. Reduction of Dimensional Requirements f) –** Garage doors facing the street shall be set back a minimum of five feet (5') more than the front wall of the principal building. No more than fifty percent (50%) of the garage doors within an entire OSRD shall face the street from which it is accessed. These requirements may be waived by the Planning Board for corner lots where the garage doors face a different street than the front of the house or for other extraordinary circumstances that the Planning Board deems to be in the Town's best interests.

**EXPLANATION** – The Williamsburg Condominium development offers 6 floor plans. The "F" style building unit is designed for a household that needs all first floor living. The applicant has asked to be able to have the two "F" style buildings to each have one (1) front load garage. By doing so, this will allow the adjacent building to include garages if desired by future buyers. However, this might then exceed the maximum 50% front loading garage requirement.

**FINDINGS** – The Planning and Economic Development Board finds that providing the widest variety of housing types is in the community's best interest. Providing some units that are single story helps advance this goal. The constraints of the site do not allow the "F" style buildings to comply with this section. Therefore, a maximum of two "F" style buildings are acceptable.

**Action on Waiver FINDINGS** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to approve the above noted Waiver Findings. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

**Action on Mitigation Plan** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2020, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the

above noted Mitigation Plan. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor and \_\_\_ opposed.

**Action on Waiver Request** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to grant the above noted Waivers from the *Subdivision Rules and Regulations*. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor and \_\_\_ opposed.

**XI. CONDITIONS** – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

**Specific Conditions**

1. It is expressly understood that this condominium development is authorized for Parcels A, B and C as shown on the OSRD Definitive Plan and shall have no more than eighteen (18) dwelling units including three (3) affordable dwelling units. As a permanent condition of this plan, no further subdivision of Parcels B and C will be allowed. Williamsburg Way is a permanent private way.
2. ~~Mitigation – As part of this project and as mitigation for the requested waivers noted in XI herein, the applicant shall install sidewalk, curbing and a handicap ramp on north side of West Street for approximately 120 feet running in front of a portion of 68 West Street. The purpose of this additional sidewalk is to provide a pedestrian connection between Holbrook Street and Williamsburg Way and allow neighborhood residents to safely access Open Space Parcel B.~~
3. **Ownership/Maintenance of Common Area**
  - A. Williamsburg Way, the stormwater drainage facilities and Open Space Parcel A shall be owned and maintained for the Williamsburg Condominium Trust. It is the intent of the Planning and Economic Development Board that these facilities not be accepted by the Town of Medway.
  - B. The Board requires that the following aspects of the development shall be and shall remain forever private, and that the Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of same:
    - 1) Roadway and parking areas
    - 2) Stormwater Management Facilities
    - 3) Snowplowing/sanding
    - 4) Landscaping
    - 5) Trash Removal
    - 6) Street lights
    - 7) Maintenance of Open Space Parcels A and B.

3. **Timetable for Completion** – Notwithstanding the provisions of the Williamsburg OSRD Special Permit, the Applicant shall complete construction of the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the OSRD Definitive Plan, to the satisfaction of the Planning and Economic Development Board, within three (3) years of the date of endorsement of the plan. A request to extend the completion time limits must be made in writing to the Board at least thirty (30) days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to make any appropriate changes to this decision, and to require any appropriate modifications of the OSRD Definitive Plan.
4. **OSRD Definitive Plan Revisions** - Prior to endorsement:
  - A. Sheet 1 of the plan set shall be revised to include the following:
    1. The final plan revision date
    2. The list of Approved Waivers
    3. Reference to the OSRD and Affordable Housing Special Permit dated March 10, 2009 with recording information specified.
    4. Approval date of Mass DEP Superseding Order of Conditions
  - B. The plan set shall be revised as follows to include:
    1. Sheet 14 shall be updated to include the revised planting schedule dated December 15, 2009
    2. Sheet 17 – Information regarding the approved siding and color palette shall be added. Georgia Pacific Forest Edge vinyl siding (or equivalent). Colors – All standard and premium colors noted except Pearl and Cream. Varied color combinations to be used for siding, shutters and trim.
  - C. The plan shall be revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Planning and Economic Development Board will endorse the definitive subdivision plan.
5. **Unit Deeds** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with copies of a sample deed to be used to convey or convey each dwelling unit for review, comment, amendment and approval by Town Counsel. The deed shall clearly state that the Williamsburg Condominium Trust shall own and be responsible for the maintenance and upkeep of Williamsburg Way, a permanent private way, the stormwater management system, and all property located on Parcels A, B and C.



6. **Easements** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed easement to allow public use and passage on Williamsburg Way in order to access Open Space Parcel B.

7. **Open Space Parcels**

- A. **Parcel A** – Open Space Parcel A shall remain as open space to be owned by the Williamsburg Condominium Trust for primary use by the residents of the development. Parcel A shall be protected to the satisfaction of the Planning and Economic Development Board through a Conservation Restriction granted to the Town of Medway, acting through its Conservation Commission, in perpetuity and exclusively for conservation purposes pursuant to Sections 31, 32 and 33 of Chapter 184 of Massachusetts General Laws.

Prior to the issuance of an occupancy permit for the first dwelling unit, the applicant or its successor or assigns shall execute a Conservation Restriction for Parcel A, to be approved by the Planning and Economic Development Board and Town Counsel and submitted to the Secretary of the Executive Office of Environmental Affairs.

- B. **Parcel B** – Open Space Parcel B shall remain as permanent open space accessible to the general public. The Conservation Commission, at its 2-12-09 meeting, agreed in principle to receive on behalf of the Town of Medway the conveyance of Open Space Parcel B for open space/conservation purposes. ???? When shall this property be conveyed to the Town???? [Gino suggests either prior to first occupancy permit or prior to the occupancy permit that gives a majority of the homeowners association to the residents.] [[Paul Yorkis requests “no later than 30 days after the sale of the last market rate unit.”]

Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed deed to convey Parcel B to the Town of Medway through its Conservation Commission.

Prior to the conveyance of Parcel B to the Town, the Williamsburg Condominium Trust or its assigns shall provide a pathway/trail on Parcel B connecting the designated open space parking area to the center of the northwest meadow where a bench shall be provided for viewing/resting.

If Open Space Parcel B is not conveyed to the Town of Medway through its Conservation Commission, another entity acceptable to the Planning and Economic Development Board must agree to the land ownership. If conveyed to another entity or if retained by the condominium association, a conservation restriction in compliance with the Open Space Residential Development (OSRD) provisions of the Medway Zoning Bylaw and acceptable to the Planning and Economic Development Board is required.

It is understood that the construction of trails on Open Space Parcel B may occur in the future by other parties subject to appropriate approvals. This condition does not require nor specifically allow the Williamsburg Condominium Association to construct additional trails on Parcel B.

The Williamsburg Condominium Association will be responsible for the on-going upkeep and maintenance of Parcel B. This shall include the mowing of the upland meadow at least twice a year and the annual mowing/packing/preparation of a pathway on Parcel B. All maintenance work performed on Parcel B after Parcel B has been conveyed to the Town shall be performed in accordance with all requirements of the Town of Medway, through the Director of the Department of Public Works. The Association will notify the Director of the Department of Public Works prior to performing any maintenance on Parcel B after it has been conveyed to the Town, and shall provide the Town with adequate evidence of insurance prior to performing maintenance work, and shall execute an agreement saving the Town harmless and indemnifying the Town for such maintenance work, and comply with any other directives and requirements of the Town in performing the maintenance work on Parcel B.

**8. Plan Endorsement**

- A. Approval of the final OSRD Definitive Plan shall be endorsed on the Original drawings of all sheets by the signatures of a majority of the Planning and Economic Development Board within ninety (90) days after the statutory twenty (20) day appeal period has elapsed following the filing of the Board's Certificate of Action with the Town Clerk and the Clerk has notified the Board that no appeal has been filed. If not submitted within ninety days, this approval shall expire unless the deadline is extended at the developer's request by the Planning and Economic Development Board.
- B. *Copies of Endorsed Plans* - Within thirty (30) days after plan endorsement, the Applicant shall provide the Town with one set of the approved plans in 11" x 17" and eight sets in 24" by 36" paper format. The Applicant shall also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The applicant may be asked to pay any reasonable associated costs, to update the Medway GIS/Assessor's maps relative to this subdivision.

**9. Recording of Plans and Documents**

- A. Within ninety (90) days of plan endorsement, the following documents/plans shall be recorded at the Norfolk County Registry of Deeds:
  - 1) Williamsburg Way OSRD Definitive Plan

- 2) Williamsburg Condominium OSRD Definitive Plan Certificate of Action
    - 3) Covenant
    - 4) Certificate of No Appeal from the Medway Town Clerk
  - B. Within thirty (30) days of recording the OSRD Definitive Plan and associated documents with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.
10. **Maintenance Responsibility During Construction** - The Applicant shall provide for snow plowing, sanding and full maintenance of Williamsburg Way and all related infrastructure including stormwater management facilities throughout the entire construction process.
11. **Fire Protection** – *In lieu of installing a fire alarm system within the development, the Planning and Economic Development Board requires a sum of money be paid to the Town equal to the cost of such installation for use by the Fire Department for future capital expense to upgrade the town's fire alarm system. A fee of \$1,000.00 per fire alarm box has been established by the Fire Department for this purpose. The Williamsburg OSRD Definitive Plan shows approximately 1,134 linear feet of roadway. Therefore, a fee of \$1,000 shall be paid to the Town of Medway for the Fire Alarm Special Capital Account prior to the issuance of the occupancy permit for the seventh market rate dwelling or within three years after the first building permit is issued, whichever comes first.*
12. **Building Permits**
- A. No building permit shall be issued before the Planning and Economic Development Board endorses the Williamsburg Condominium OSRD Definitive Plan.
  - B. The Planning and Economic Development Board authorizes the applicant to apply for a building permit to begin construction on Units 1 & 2 prior to installation of the base coat of paving (binder course) on Williamsburg Way. One of the two units will be used as a model home for the development.
  - C. Before the Board will authorize a building permit for the second structure, the following items, at a minimum must be installed and inspected and approved by the Board:
    - 1) Roadway gravel subbase
    - 2) Roadway binder course
    - 3) Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales,

- infiltrations systems or any other stormwater management facilities.
- 4) As-built plan of each detention pond and forebay and all critical elevations and details of the associated structures, pipes and headwalls.
- 5) Street name signs in a size and form as specified by the Medway Department of Public Works, and all regulatory signs as specified on the approved OSRD Definitive Plan.
- 6) Stop line pavement markings.
- 7) Sidewalk binder
- 8) Provisions for fire prevention and protection.

**13. Sidewalk Construction on West Street**

- A. As part of this approval, the applicant shall construct a 4' wide bituminous sidewalk with concrete curbing and a handicap ramp on the north side of West Street within the Town's right of way immediately west of the entry way to the Williamsburg Condominium in front of 68 West Street (Medway Assessor's Map 2, Parcel 6), running approximately 120 linear feet to meet with the western edge of pavement on Holbrook Street. All work shall comply with the current Town of Medway street standards and Massachusetts Architectural Access Board (AAB) requirements. The Town of Medway will install the crosswalk between Holbrook Street and Williamsburg Way.

Timing for sidewalk completion ... [Gino suggests by the time 9<sup>th</sup> unit is occupied] [Paul Yorkis indicates the sidewalk will be completed by 10-15-2010.]

- B. The construction standards of the Subdivision Rules and Regulations require the installation of sidewalks along a property's frontage of existing public ways. For this site, the frontage along West Street is approximately 225 linear feet. The Planning and Economic Development Board has found that sidewalk construction along the property's West Street frontage is not practical due to the location of a vernal pool on Open Space Parcel A. Accordingly, in lieu of such sidewalk construction on West Street and to fulfill its responsibility to support sidewalk construction in Medway, the applicant or its assigns shall make a payment in lieu of sidewalk construction to the Medway Sidewalk Improvement Fund. This payment shall be provided to the Town before the occupancy permit for the seventh market rate dwelling unit is granted or within three years after the building permit for the first market rate dwelling unit is issued, whichever comes first. At that time, the amount of the payment in lieu of sidewalk construction shall be determined by the Planning and Economic Development Board and shall be calculated based on the latest Weighted Average Bid Prices issued by Mass Highway in effect at that time. The payment amount shall be equal to the estimated cost for the Town to

construct 225 linear feet of bituminous concrete sidewalk with hot mix asphalt standup berm (Curb Type 3) in accordance with the Town's requirements per the Medway Subdivision Rules and Regulations; total width from street to edge of sidewalk including the curb would be 6 feet. The amount of the payment in lieu of sidewalk construction amount will not include any additional construction contingency percentage. Due to the development's inclusion of three affordable dwelling units (16.67% of the total number of 18 dwelling units), a 16.67% discount will then be applied to determine the final amount of the required payment in lieu of sidewalk construction.

14. **Affordable Housing**

- A. *Three dwelling units within the Williamsburg Condominiums will be affordable housing units that will comply with the requirements for inclusion on the Subsidized Housing Inventory established by the Massachusetts Department of Housing and Community Development.*
- B. *Affordable dwelling units are hereby designated as units # 9, 11 and 17. The Affordable units shall have three bedrooms.*
- C. *Prior to the issuance of the occupancy permit for the first dwelling unit, the applicant shall prepare or cause to be prepared an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, the Massachusetts Department of Housing and Community Development and the Williamsburg Condominium Corporation, or its successors/ assigns and recorded at the Norfolk County Registry of Deeds. The affordable units are subject to the Regulatory Agreement and shall be sold and resold in accordance with the provisions of the Regulatory Agreement.*
- D. *Prior to the issuance of the occupancy permit for the first dwelling unit, the applicant shall prepare or cause to be prepared a marketing plan for the selection of qualified purchasers for Planning and Economic Development Board approval. The marketing plan shall be prepared after consultation with the Medway Affordable Housing Committee and shall comply with the requirements of the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing, 10. 3.*
- E. *A long term Affordable Housing Deed Rider/Restriction, as specified in Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing and in a form acceptable to the Town and the Massachusetts Department of Housing and Community Development shall be recorded with the deeds for the affordable units.*
- F. *The Williamsburg Condominium Master Deed and all legal documents related to the affordable units shall include language to specify:*

- 1) *the unit numbers of the designated affordable units*
  - 2) *that the affordable units shall be sold to income eligible persons or households*
  - 3) *that the local preference criteria for the sale and re-sale of the affordable units shall be in accordance with the Massachusetts Department of Housing and Community Development Local Initiative Program or other applicable state housing program that provides units eligible for inclusion in the Subsidized Housing Inventory*
- G. Minimum design and construction standards for affordable housing units –  
The affordable housing units shall:
- 1) be integrated with the rest of the development and the exterior shall be of compatible design, appearance, character, construction and quality of materials with the market rate units;
  - 2) be designed so as to not be obviously identifiable by a visitor as being affordable by their exterior appearance;
  - 3) comply in all respects to the minimum design and constructions standards set forth in the Local Initiative Guidelines by DHCD, July 1996, or as amended pertaining to the interior features of affordable dwelling units; and
  - 4) have a minimum size of 1,500 square feet and three bedrooms excluding basement space.
- H. *The owners and tenants of affordable housing units shall have the same rights and privileges and responsibilities as do the owners and tenants of the market rate dwelling units including access to and use of any amenities within the development.*
- I. *All other provisions of Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub- Section X. Affordable Housing shall apply.*
15. **Condominium Documents** - *Prior to the issuance of an occupancy permit for the first unit in the development, the following documents shall be recorded at the Norfolk County Registry of Deeds.*
- A. *Williamsburg Condominium Master Deed, Bylaws, Rules & Regulations, and the Stormwater Operation and Maintenance and Management Plan*
  - B. *Declaration of Trust of the Williamsburg Condominium organization*
  - C. *Open Space/Conservation Restriction applicable to Parcel A.*
16. **Play area in Parcel C** - *A play area is shown on Sheet 4 of 17. TIMING ??? – Gino notes one option is to require the play area to be improved before the last*

*occupancy permit is issued. Paul Yorkis suggests that the play area will be improved once the Williamsburg Condominium Association is formed.*

17. **Signage** – The Williamsburg Condominium development will not include any permanent development identification signage except for standard private way street signs.

18. **Performance Security**

*A. Covenant* - Prior to plan endorsement, the Applicant shall sign a *Covenant*, on a form provided by the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services, sidewalks and site amenities as specified in the approved OSRD Definitive Plan. Reference to the *Covenant* shall be noted on the cover sheet of the OSRD Definitive Plan. The *Covenant* shall specify that no unit may be occupied or conveyed until such services are completed or an alternative form of security is provided. The *Covenant* shall specify that the roadway and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within three (3) years of the date of plan endorsement. The *Covenant* shall be recorded at the Norfolk County Registry of Deeds at the same time the OSRD Definitive Plan and this Decision are recorded.

*B. Alternative Performance Security*

1) At such time as the Applicant wishes to secure a building permit for the which method or combination of methods may be selected and from time to time varied by the applicant, in a sufficient amount, source and form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town including:

- a. the date by which the developer shall complete construction
- b. a statement that the agreement does not expire until released in full by the Planning and Economic Development Board
- c. procedures for collection upon default.

2. *Amount* - The amount of the performance guarantee shall be equal to pedestrian facilities and all site amenities as specified in the OSRD Definitive Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so. The security amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid such. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. In five percent (25%) contingency.

The Board has agreed the security amount will NOT include the cost of sidewalk construction in the right of way in front of a portion of 68 West Street.

C. *Adjustment of Performance Guarantee* – At the developer's written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Planning and Economic Development Board upon the partial completion of the roadways and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the Williamsburg Condominium OSRD Definitive Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the MassHighway Department. The estimate shall also include the cost to maintain the roadways, stormwater management system and other infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus a twenty-five percent (25%) contingency.

D. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

19. ~~40B Comprehensive Permit~~ – After the expiration of the 30 day appeal period after the issuance of this Certificate of Action, the applicant or its agent shall submit a letter to the Planning and Economic Development Board and the Zoning Board of Appeals pursuant to 760 CMR 36.05 (11) that it wishes to change the comprehensive permit granted by the Zoning Board of Appeals on June 15, 2005 for the subject property by having the comprehensive permit declared null and void.

## 20. **Project Completion**

A **As-Built Plans** – Upon completion of all work included on the plan and specified in the Decision, the Applicant shall prepare and provide as-built construction plans of the roadways, utilities and other infrastructure prepared in accordance with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted, determined to be complete and approved by the Planning and Economic Development Board. The Applicant shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The Applicant may be directed to pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/ Assessor's maps relative to this development.



- B. **Developer's Certification of Completion and Compliance** – A Letter of Completion and Compliance signed under oath by the developer and signed and stamped by a Professional Engineer registered in the Commonwealth of Massachusetts, who shall attest and certify that all facets of the subdivision work including roadway and all infrastructure was constructed and completed in strict compliance with the approved and endorsed Williamsburg Condominium OSRD Definitive Plan and the *Subdivision Rules and Regulations*, shall be provided to the Board.
- C. Conveyance of Open Space Parcel B to the Town of Medway
- D. Approved conservation restriction on Parcel A has been certified by the State.
- E. All required affordable housing documents have been completed and approved by the Town of Medway and the Massachusetts Department of Housing and Community Development.
- F. Certificate of Compliance from MASS DEP relative to the Superseding Order of Conditions for the site.
- G. Proof of taxes paid to the Town of Medway for all property owned in the development by the Williamsburg Condominium Corporation and the Williamsburg Condominium Association.

21. Site clearing began prior to the issuance of this Certificate of Action and prior to the endorsement of the OSRD Definitive Plan. Such work is performed at the applicant's risk of the applicant and is subject to all conditions noted herein. The applicant participated in a pre-construction meeting and has agreed to having inspections conducted of all work.

22. All other provisions/conditions of the OSRD Special Permit dated 3-10-09 shall also apply to this Decision.

### **General Conditions**

- 23. **Expiration of Appeal Period** - Prior to plan endorsement, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk's office.
- 24. **Payment of Balance of Fees/Taxes** - Prior to plan endorsement, releases, security adjustments or plan modifications, the Applicant shall pay the balance of any outstanding plan review and construction services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations or fees due the Town of Medway pertaining to these properties. The Applicant shall also provide proof from the Medway Town

Treasurer/Collector that all real estate taxes are current for all property included in this subdivision.

25. **Proof of Taxes Paid** - Prior to plan endorsement, releases, security adjustments or plan modifications, the Applicant shall provide proof from the Medway Town Treasurer/ Collector that all real estate taxes and other fees due the Town of Medway are current to that date for all property included in this development.
26. **Order of Conditions** - Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all "*Order of Conditions*" as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the Definitive Open Space Plan that may be required under the "*Order of Conditions*" shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a modification to the Definitive Plan. The Planning and Economic Development Board reserves the right to work with the issuing authority to accomplish any mutually acceptable modifications to the "*Order of Conditions*" that may be deemed appropriate by the Planning and Economic Development Board and the Town's Consulting Engineer. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty (20) day appeal period must be received from the Town Clerk's office before the Planning and Economic Development Board endorses the plan modification.

Additionally, upon issuance of any "*Order of Conditions*" requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

27. **Construction Account** – Inspection of roadway, infrastructure and utility construction by the Town's Consulting Engineer and review of legal documents by Town Counsel is required. Prior to plan endorsement, the Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer. A construction account shall be established with the Medway Planning and Economic Development Board prior to plan endorsement. The Applicant shall provide supplemental payments to the Town of Medway, for reasonable construction inspection and legal services, upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed, municipal services are installed, the as-built plan is reviewed and all legal documents associated with this development have been reviewed and determined to be satisfactory.

28. ***Restrictions on Construction Activities*** - During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following restrictions on construction activity shall apply:
- A. Outside construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m. including truck and machine start-up and movement.
  - B. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
  - C. There shall be no off-site tracking of materials. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create a hazardous or deleterious conditions for vehicles, pedestrians or abutting residents.
  - D. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.
29. **Modifications to Plan and/or Decision** – The Board, on its own motion on the petition of the Applicant or any person interested, may modify or amend or require a change in the Definitive Plan and/or the associated Certificate of Action. All of the provisions of the Medway *Subdivision Rules and Regulations* relating to the submission and approval of a plan shall be applicable to the approval of a modification or amendment to the Certificate of Action. Any changes are subject to the *Rules and Regulations* in effect at the time a modification or amendment is sought.
30. **Compliance**
- A. All construction shall be as specified in the approved OSRD Definitive Plan and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
  - B. The Planning and Economic Development Board shall use all legal options available to it, including referral of any violation to the Building Commissioner/ Zoning Enforcement Officer for appropriate enforcement action to ensure compliance with this Decision.

***XI. APPEALS*** – Appeals, if any from this Decision shall be made to the Superior Court or Land Court in accordance with M.G.L. Chapter 41, Section 81BB, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Medway Town Clerk.

**WILLIAMSBURG CONDOMINIUM  
OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)  
DEFINITIVE PLAN**

**CERTIFICATE OF ACTION**

***Date of Action by the Medway Planning and Economic Development Board:***

\_\_\_\_\_

***AYE:***

***NAY:***

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***Date Signed:*** \_\_\_\_\_

***Attest:***

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

\_\_\_\_\_  
Date

***Date Filed with the Town Clerk:***

***Copies To:*** Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering  
Trish Brennan, Conservation Agent  
John Emidy, Building Commissioner  
Bill Fisher, Board of Health  
Thomas Holder, DPW  
Suzanne Kennedy, Town Administrator  
Will Naser, Assessor  
Melanie Philips, Treasurer/Collector  
Barbara Saint Andre, Petrini & Associates Town Counsel  
Dave Travalini, Conservation Commission  
Paul Trufant, Fire Chief  
Jeffrey Watson, Police Safety Officer  
Maryjane White, Town Clerk  
Gino Carlucci, PGC Associates  
Dave Pellegri, Tetra Tech Rizzo

**January 26, 2010  
Planning and Economic Development Board  
Medway Town Hall - 155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, Chan Rogers

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Dave Pellegrini, Tetra Tech Rizzo  
Amy Sutherland, Meeting Recording Secretary

The Vice Chairman Tucker opened the meeting at 7:03 pm.

**BOARD BUSINESS:**

**Minutes:**

**January 12, 2010:**

- On a motion made by Tom Gay, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from January 12, 2010 with the noted revisions.

**January 19, 2010:**

- On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to accept the minutes from January 19, 2010 with the noted revisions. (NOTE - These minutes will have as an attachment, the draft decision of Williamsburg Condominium OSRD Definitive Draft Decision as noted in minutes).

**Construction Update:**

**Williamsburg:**

Consultant Pellegrini noted that a site visit was done on January 26, 2010. There is clearing and grubbing taking place on site. The contractor is cleaning up and disposing of scrap metals including old tires and computers. These items are being disposed of properly. The erosion control measures are in place. The big boulders are being stock piled. There is currently no breaking up of the asphalt on West. St. Mr. Yorkis communicated to Consultant Pellegrini that he will be meeting with the DPW about the street opening permits. Mr. Yorkis will also be seeking a permit for utilities.

**Applegate Modification:**

Susy Affleck-Childs reported that Mr. Costello has submitted an application to modify the Applegate Farm Definitive Subdivision decision; the plan was endorsed in late January 2007. The three year window per the Town of Medway Subdivision Rules and Regulations will expire

in three days thus the reason for modification. A Public Hearing will need to be held and abutters will need to be notified.

**Daniels Wood II Subdivision Plan Modification:**

**CERTIFICATE OF ACTION:**

A draft Certificate of Action had been emailed to board members; copies were distributed. A copy of the 1-25-10 draft decision is attached to these minutes.

The Applicant is seeking an extension for the Planning Board's deadline for a Certificate of Action on the proposed modification.

- **On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to grant the applicant's request for an extension until March 12, 2010 for the Certificate of Action for the Modification to the Daniel Wood II Definitive Subdivision Plan & Certificate of Action.**

The Board began its review of the draft decision.

The Board is comfortable with the noted history on Sections I, II, III. The top section on page two represents the old plan. There will be clarity provided on the roadway Station numbers.

**IV. MODIFICATION DESCRIPTION:**

Susy Affleck-Childs informs the Board, that the language of the modification description was taken from the original written description as presented by the applicant.

The Board had a lengthy discussion about whether to keep the word natural in connection with the drainage text included in items A. and B of the Modification Description. Member Spiller-Walsh would like to add language to clarify "the project". She would like to specify where the run off will be going. She would also like the word "natural" to be taken out since it is not a term or definition of the Town of Medway.

- **On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted to take out the word natural in Modification Description A but not B. Karyl Spiller-Walsh voted no. Vote passes.**

Member Gay would like the new lot change noted.

Member Spiller Walsh made a motion to eliminate on page 2. Section (D) to the Modification Description. There was no second to the motion. The motion fails. This will stay as written.

Susy Affleck-Childs informed the Board that they did not prepare Findings on the original Daniels Wood II decision. Affleck-Childs visually showed on the plan that the modification only pertains to one Lot and parcel.

**V. PROCEDURAL SUMMARY:**

The Board was in agreement with section V. Procedural Summary on page 3.

**VI. EXHIBITS – PLANS and DOCUMENTS:**

The Board is satisfied with the Section entitled Exhibits – Plans and Documents on page 4 as written. The only revision on page 5 will be to include the revised memo date from the Medway Fire Chief Paul Trufant.

**VII. PUBLIC HEARING SUMMARY:**

The Board was in agreement with this section.

**IX. PROJECT EVALUATION CRITERIA:**

Susy Affleck-Childs will come up with draft language to the findings within each section. These will need to be reviewed by Town Counsel. Under 5.16.7 Consistency with the purpose of the Subdivision Control Law, member Spiller-Walsh does not feel the project is consistent with the Subdivision Control Laws.

**X. WAIVERS:**

The applicant will be seeking an additional waiver relative to stormwater management.

**ACTION OF WAIVER FINDINGS:**

Action on the Waiver Findings will be done at a later date.

**ACTION OF WAIVER REQUEST:**

Action on the Waiver Request will be done at a later date.

**XI. CONDITIONS:**

The Board was in agreement with Sections noted Specific Conditions and Ownership/Maintenance, Mitigation. The Section entitled Timeable for Completion should note that the normal duration will be 3 years. The Section entitled Plan Revisions requires a second sheet to be added to the plans which will be added to show and clarify the drainage easements.

**LEGAL DOCUMENTS:**

All copies of the Deeds, Easements, and Private Roadway Agreement will need to be reviewed by Attorney Murray, Susy Affleck-Childs, and Legal Counsel.

**9. Recording of Plans and Documents:**

The Board is comfortable with the wording of this section.

**10. Maintenance Responsibility During Construction:**

The Board is comfortable with the wording of this section.

**11. Building Permits:**

The Board is comfortable with the wording of this section.



Mr. Yorkis wants to remove the requirement that the Roadway Binder Course be completed before a building permit is issued. The Board communicated that a waiver needed to be submitted and it is too late since the public hearing is closed.

**12. Performance Security:**

**B. Alternative Performance Security:**

Mr. Yorkis is concerned that the individual who purchases this will have a substantial burden to come up with the money for the performance security. Susy Affleck-Childs reminds the Board that security of some sort must be put in place to protect the Town. The language on page 13 will need to be clarified.

**13. Project Completion:**

The Board is comfortable with how this section is written.

**General Conditions:**

The Board is comfortable with how this section is written.

**Next Steps** – The Board will discuss this again at the March 9<sup>th</sup> meeting.

**Request for Informal Discussion Neelon and Cherokee Lane:**

Susy Affleck-Childs informed the Board that Paul Yorkis & David Faist would like to have an informal discussion about a possible OSRD development. This project is located between the ends of Neelon and Cherokee Lanes (site of the previously approved but expired Charles River Acres OSRD project).

Mr. Yorkis & Mr. Faist began their presentation informing the Board that this project is on a 7.7 site adjacent to the Charles River located between the ends of Neelon and Cherokee Lanes. This is a site of the previously approved but expired Charles River Acres OSRD project. Mr. Yorkis communicated that there is a different applicant who is putting together some preliminary ideas.

Mr. Faist provided a historical overview. The OSRD Special Permit was issued on October 20, 2006. The former developer (KDEE Realty) has not pursued the project due to financial difficulties and the decline of the real estate market, thus the permit expired and there has been no activity for two years. The old approval was for six single family detached homes and two duplex buildings for a total of ten residential dwelling units.

Mr. Yorkis is considering having single family condominiums and not duplexes. A draft of a series of architectural designs was provided showing the cottage style homes.

Member Spiller-Walsh communicates that Cherokee appears to be the logical access (and not Neelon Lane). She was also inquiring about if it may be possible to do 2 or 2 1/2 story units and remove the single family concept.

Vice Chairman Tucker communicated that the plan looks as though they are trying to maximize the number of units. Once all the calculations are available, the Board can address the impacts.

Member Rogers notes that both of the two concepts of access have significant issues. Consultant Pellegrini explains that a traffic engineer would be able to come up with the pros and cons of the access concept ideas.

Mr. Faist presented a sheet noting the minimum width of traveled way for specified design volume per ASHTO standards. The Board discussed that this will need to be further substantiated. The plan would need to be verified by a licensed surveyor. It is premature to make the exact specifications. Mr. Yorkis has had informal discussion with several of the abutters. They are aware of what is informally taking place. The restrictions are the pavement width; improve the rounding, trees in the front, and the existing pavement. One of the ideas is to have the Town water line looped. This discussion was helpful in exploring different possibilities.

### **Birch Hill:**

Ms. Ellen Rosenfeld communicated that the Hunter Lane is 100% complete. The signs have been installed and the gate valves are done. In regards to Ivy Lane, the As-Builts have been provided, and the potholes have been filled, and the fire hydrants have been raised. There was an issue with a small parcel being deeded to the wrong neighbor. She communicated that as long as there are two separate lots, it doesn't really matter who owns it. The Board would like two letters from Ms. Rosenfeld noting that the required items have been addressed. Once the letters are received and items checked, the money will be released. Susy Affleck-Childs informed the Board that it has been difficult working with Ms. Rosenfeld.

### **Other Business/Reports**

Gino Carlucci informed that Board that there was a follow-up meeting in regards to the discussions regarding a Casino in the metro-west/swap area. Various towns will be writing a joint letter to communicate the comments and concerns. A key issue is to make sure that local zoning is not infringed upon. The letter will also make note of the economic impacts, traffic, and housing. Member Rogers noted that Milford is looking to change the Zoning to allow and potentially accept casino type resort development.

- **On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to adjourn the meeting at 10:00 pm.**

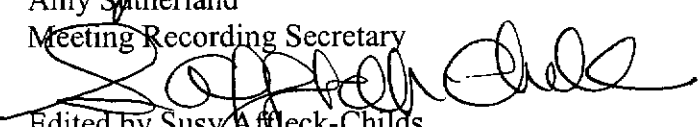
### **Future Meetings:**

The next meetings scheduled are: **February 9 & 23, 2010.**

The meeting was adjourned at 10:00 pm.

Respectfully Submitted,

  
Amy Sutherland  
Meeting Recording Secretary

  
Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*  
*John W. Williams, Associate Member*

Revised Draft - January 25, 2010

**CERTIFICATE OF ACTION**

**MODIFICATION to the Daniels Wood II**  
**Definitive Subdivision Plan and Certificate of Action**  
**(\_\_\_\_\_ with Waivers and Conditions)**

**I. APPLICANT & PROPERTY OWNER:**

Frederic Sibley  
12 Oak Street  
Medway, MA 02053

**II. SUBJECT PROPERTY** - The subject property is a 6.15 acre site located at 12 Oak Street in the Agricultural Residential II zoning district. The property is located on the north side of Oak Street and at the eastern end of Daniels Road. The site is shown as Medway Assessors Map 5, Parcel 354.

**III. BACKGROUND** – The applicant wishes to modify the previously approved Daniels Wood II Definitive Subdivision Plan and the associated Certificate of Action/Decision.

*Daniels Wood II Subdivision Certificate of Action* – Approved by the Medway Planning Board on April 29, 2008. NOTE – The applicant has not recorded this Certificate of Action at the Norfolk County Registry of Deeds.

*Daniels Wood II Definitive Subdivision Plan* – Endorsed by the Medway Planning Board on May 27, 2008. Prepared by Colonial Engineering of Medway, MA dated September 23, 2007, last revised May 23, 2008. This plan was recorded at the Norfolk County Registry of Deeds on September 25, 2009 in Plan Book 595, Page 36.

That plan divided the subject parcel into:

- Lot 2B-1 (24,212 sq. ft) – A new building lot to be accessed by a 108 foot extension of the Private Way portion of Daniels Road which is
- Parcel A - a 11,979 sq. ft cul-de-sac right of way to provide legal frontage for Lot 2B-1 (Station 8+50.37 to Station ?????)
- Lot 2B-2 (5.32 acres) – The remaining land which is accessed from a driveway off of Oak Street with 254' of legal frontage on Oak Street.

The previously approved site work was to include construction of a 14' paved private roadway and a T shaped turnaround within the cul de sac; installation of stormwater drainage facilities; and construction of water lines to connect Lot 2B-1 to the Town's system. Lot 2B-1 would be serviced by a new on-site septic system.

The approved infrastructure construction work has not occurred; Lot 2B-1 has not been sold. As a result of soil tests completed in April 22, 2009, the applicant has determined that the utility arrangement, driveway, site grading and stormwater management design need to be modified to accommodate the needed sewage disposal system for Lot 2B-1.

The applicant also wishes to modify the prior Certificate of Action/Decision and Covenant to allow the applicant to convey Lot 2B-1 and Parcel A to a new owner who will be responsible for the infrastructure construction.

**IV. MODIFICATION DESCRIPTION** - The modified design is shown on *Alternative Driveway and Grading Plan – Daniels Wood II Definitive Subdivision Modification*, dated October 29, 2009, last revised December 17, 2009, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying co. of Medway, MA. The new design provides for:

- A. the use of natural drainage pathways to control storm water runoff from the project instead of the original catch basin and drywell system;
- B. creation of an 18" grass basin and swale to allow for the natural infiltration of storm water runoff from the single family home driveway;
- C. gravel emergency vehicle turnaround area within the cul-de-sac area to reduce runoff;
- D. reduction in the size of the proposed house size on Lot 2B-1 to an 1,800 sq. ft. footprint (as compared to the original 3,200 sq. ft footprint on the original Daniels Wood II plan)
- E. provision of a limited Operation and Maintenance Plan for the maintenance of Parcel A and its associated stormwater management system.

The proposed *Alternative Driveway and Grading Plan* will supplement the original *Daniels Wood II Definitive Subdivision Plan* last revised May 23, 2008, endorsed by the Planning Board on May 27, 2008, and recorded at the Registry of Deeds on September 15, 2009. The *Alternative Driveway and Grading Plan* essentially replaces Sheets 4 and 5 of the *Daniels Wood II Definitive Subdivision Plan* and also serves to void the *Driveway Infiltration Field Detail* and *Street Cross Section Detail* on Sheet 6 as they are no longer required because of the modified design.

The roadway layout and lot delineation shown on the original *Daniels Wood II Definitive Subdivision Plan* do not change.

**V. PROCEDURAL SUMMARY:** With respect to the proposed modification to the *Daniels Wood II Definitive Subdivision Plan* and its associated Certificate of Action, the Planning and Economic Development Board verifies that:

- A. On October 30, 2009, it received an application to modify the *Daniels Wood II Definitive Subdivision Plan* and Certificate of Action/Decision.
- B. On November 10, 2009, it circulated the *Alternative Driveway and Grading Plan* to various Town boards and departments, including the Board of Health, soliciting review comments and noting that a public hearing was scheduled to begin on November 24, 2009. The Board of Health did not provide any written comments.
- C. On November 24, 2009, it commenced a public hearing on the proposed plan modification. The public hearing was duly noticed on November 9 and 17, 2009 in the *Milford Daily News*. Abutter notice was sent by certified mail to abutters, parties of interest and to the Planning Boards of adjacent communities on November 3, 2009. The public hearing was continued to January 12, 2010 at which time it was closed. At the public hearing, comments were received from the general public, municipal boards/departments, PGC Associates (the Town's Consulting Planner), Tetra Tech Rizzo (the Town's Consulting Engineer), the applicant and members of the applicant's development team. All persons in attendance were provided the opportunity to comment and present evidence. All members voting on the definitive plan modification were present at all sessions.

**VI. VOTE OF THE BOARD** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 26, 2010, after having carefully reviewed the application and all plans, materials and documentation presented by the applicant, the Board's consultants, abutters and the general public, comments from Town officials and boards, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the *Alternative Driveway and Grading Plan* for the *Daniels Wood II Definitive Subdivision* prepared by FAIST Engineering and O'Driscoll Land Surveying, Inc., originally dated October 29, 2009, last revised December 17,

2009, as a modification to the *Daniels Wood II Definitive Subdivision Plan*, subject to the *Specific and General Conditions* as specified herein and with *Waivers* from the *Subdivision Rules and Regulations* dated April 26, 2005 as also specified herein. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed.

## **VII. EXHIBITS – Plans and Documents**

Specified below is a list of application materials, public comments, consultant and town review documents, and supplemental information filed by the Applicant. All information is on file with the Planning and Economic Development Board and is available for public review.

### ***Daniels Wood II Definitive Subdivision Plan Certificate of Action***

Issued by the Medway Planning Board on April 29, 2008.

### ***Daniels Wood II Definitive Subdivision Plan***

Prepared by FAIST Engineering & O'Driscoll Land Surveying  
Originally dated September 23, 2007; last revised May 23, 2008  
Endorsed by the Medway Planning Board – May 27, 2008

### ***Alternative Driveway and Grading Plan – Daniels Wood II Definitive Subdivision Modification*** prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying Co. of Medway, MA.

Dated October 29, 2009,  
Last revised December 17, 2009,

### ***Stormwater Management Letter/Report***

*Letter/Report* prepared by Faist Engineering - October 29, 2009 including excerpts from the Massachusetts Stormwater Handbook (January 2, 2008) and limited stormwater management calculations

*Pre-Post Development: Limited Drainage Calculations & HydroCAD Report* – December 28, 2009, prepared by Faist Engineering.

### ***Daniels Wood II - Lot 2B-1 Long Term Operation and Maintenance Plan- Site Stormwater Management System***

Prepared by Faist Engineering – October 2009

### ***Soil Suitability Assessment for On-Site Sewage Disposal***, prepared by O'Driscoll Land Surveying Co, April 22, 2009

### ***Waiver Request***

Prepared by Faist Engineering, October 29, 2009

### ***Town Engineering Consultant Review Letters - David Pellegrini, P.E., Tetra Tech Rizzo, Inc.***

November 4, 2009 review letter responding to initial application

January 4, 2010 review letter responding to revised *Alternative Driveway and Grading Plan* dated December 17, 2009 and additional information submitted on December 29, 2009.

**Medway Departmental/Board Review Comments**

Memo dated \_\_\_\_\_ from Medway Fire Chief Paul Trufant

**Supplemental Information Provided By Applicant**

December 28, 2009 letter David Faist, Faist Engineering responding to the November 20, 2009 review letter from David Pellegri, Tetra Tech Rizzo.

**VIII. PUBLIC HEARING SUMMARY:** The public hearing and review of the Alternative Driveway and Grading Plan for Daniels Wood II was conducted over the course of two (2) Planning and Economic Development Board meetings (11-24-09 and 1-12-10) during which substantive information was presented, evaluated and discussed. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005.

**Citizen/Resident Testimony**

Frederic Sibley, owner

**Professional Review/Testimony**

Gino Carlucci, AICP, PGC Associates, Inc., Medway Planning Consultant  
David Faist, PE, FAIST Engineering, engineer for the applicant  
Paul Yorkis, Patriot Real Estate, representing the applicant  
David Pellegri, PE, Tetra Tech Rizzo, Inc., Medway Engineering Consultant  
Glenn Murphy, Attorney for the applicant

**Other Testimony - None**

**IX. PROJECT EVALUATION CRITERIA** – Before taking action on a Definitive Plan, the Board must evaluate the proposed development according to the criteria as specified in Section 5.16 of the Subdivision Rules and Regulations. At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the Project Evaluation Findings as such pertain to the proposed modification as conditioned and approved by this Certificate of Action. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed ( ).

**5.16.1 Completeness and technical accuracy of all submissions.**

*Findings* – The staff and consultants have reviewed the submitted information and the applicant and its development team have provided additional submissions, information and revisions as requested. Therefore, the Planning and Economic Development Board finds that this criterion is met.

- 5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.**

*Findings –*

- 5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.**

*Findings –*

- 5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environmental, which damage could be avoided or ameliorated through an alternative development plan.**

*Findings –*

- 5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.**

*Findings –*

- 5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.**

*Findings –*

- 5.16.7 Consistency with the purposes of the Subdivision Control Law.**

*Findings*

- X. WAIVERS** – The Applicant has requested the following additional waivers from certain provisions of Section 7 of the *Medway Subdivision Rules and Regulations*, dated April 26, 2005. Please note that the *Daniels Wood II Definitive Subdivision Plan Certificate of Action* issued by the Medway Planning Board on April 29, 2008 included other waivers from selected provisions of Sections 5, 6 and 7 of the *Subdivision Rules and Regulations*. Those waiver approvals remain in effect.



## SECTION 7. CONSTRUCTION STANDARDS

### SECTION 7.7.1 – 7.7.5 Stormwater Management

**EXPLANATION** – The applicant seeks a waiver from the provisions of the Stormwater Management standards of the Subdivision Rules and Regulations due to the small scale and size of the development site and the need to redesign the site and Parcel 2B-1 to accommodate the correctly sized septic system.

**FINDINGS** – The Medway Subdivision Rules and Regulations provide that the Board may modify the stormwater requirements to address specific needs of a particular site. The Rules and Regulations also defer to the Mass DEP Stormwater Management Policy. That policy, dated January 2, 2008, specifically exempts a single family house and housing developments comprised of detached single family dwellings on four or fewer lots from its provisions. Accordingly, the Planning and Economic Development Board finds its stormwater management provisions are not applicable for the following reasons:

- The modified plan includes only Lot 2B-1 and Parcel A, which combined are less than one acre in size and therefore the subject lot and parcel are exempt from the Mass DEP Stormwater Management Policy.
- At the request of the Planning and Economic Development Board, the applicant has provided limited stormwater analysis and the plan shows a scaled back "country style" drainage system that has been reviewed by the Town's Consulting Engineer and found to adequately mitigate the increased flow and volume of stormwater runoff that will be created by the construction of a single family home on Lot 2B-1 and the associated extension of Daniel's Road.

**Action on WAIVER FINDINGS** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 26, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted Waiver Findings. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed ( )

**Action on WAIVER REQUEST** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 26, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above requested Waiver from Section 7.71 – 7.7.5 of the Subdivision Rules and Regulations. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed ( ).

**XI. CONDITIONS** – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

### Specific Conditions

1. It is expressly understood that this modification applies to Lot 2B-1, Lot 2B-2 and Parcel A as shown on the original *Daniels Wood II Definitive Subdivision Plan* and the new *Alternative Driveway and Grading Plan*. As a permanent condition of this plan, no further subdivision of Lot 2B-2 will be allowed.
2. The applicant or his successors in title shall construct the roadway and all related infrastructure including stormwater facilities and utility extensions as shown on the modified plan. Roadway construction shall occur from the eastern end of the existing paved Daniels Road cul de sac easterly approximately 75' thru the Town's right of way stub and continue easterly through Parcels B and A and conclude at the eastern end of Parcel A at Station 8+50.37. The entire length of the roadway shall be paved 14' wide.

2. **Ownership/Maintenance**

- A. The extension of the Daniels Road right of way and the stormwater drainage facilities onto Parcel A will be privately owned in common by the owners of the new Lot 2B-1 and the owners of the property at 10 Daniels Road (Medway Assessors Map 5 - Parcel 354E12) and maintained by both parties. It is the intent of the Planning and Economic Development Board that these facilities will never be accepted by the Town of Medway.
- B. The Board requires that the following aspects of the development shall be and shall remain forever private, and that the Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of same:
  - 1) Roadway
  - 2) Stormwater management facilities
  - 3) Snowplowing/sanding
  - 4) Landscaping
  - 5) Street lights

C.

3. **MITIGATION PLAN**

- A. The extension of Daniels Road will be a private way in perpetuity and thus the Town will be relieved of the on-going responsibility and expense for its upkeep and maintenance.
- B. The stormwater management facilities will be privately maintained and thus the Town will be relieved of the on-going responsibility and expense for their upkeep and maintenance.
- C. The applicant has agreed to not further divide Parcel 2B-2 (5.32 acres) or Lot 2C as shown on the original Daniels Wood II Definitive Subdivision Plan to the extent that might be otherwise allowed per the Medway Zoning

Bylaw for the ARII zoning district. The applicant will permanently restrict such further division of the aforementioned parcels through a deed restriction to be prepared and approved by Town Counsel and recorded at the Norfolk County Registry of Deeds.

- D. The reduced width of road paving will result in reduced disturbance to the topography and have less impact on the site's natural features and resources.
4. **Timetable for Completion** – Construction of the roadway and all related infrastructure including the stormwater management system and installation of all utilities as shown on the Daniels Wood II Modified Plan shall be installed to the satisfaction of the Planning and Economic Development Board, within ~~180~~ years of the date of plan endorsement. A request to extend the completion time limits must be made in writing to the Board at least thirty (30) days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to make any appropriate changes to this decision, and to require appropriate further modifications of the modified Daniels Wood II definitive plan.
5. **Plan Revisions** - Prior to plan endorsement, the *Alternative Driveway and Grading Plan* dated October 29, 2009, last revised December 17, 2009 will be further revised as follows:
- A. Sheet 1
- 1) The Plan Set shall be titled – Daniels Wood II Definitive Subdivision Modification; Sheet 1 is Alternative Driveway and Grading Plan
  - 2) The final plan revision date
  - 3) The list of additionally Approved Waivers
  - 4) Standard Subdivision plan reference to a Covenant
  - 5) The boundaries of Parcel B need to be checked and revised to NOT include that portion of the Daniels Road public right of way that extends approximately ~~75'???~~ easterly from the end of the Daniels Road cul de sac.
  - 6) ~~The drainage easement shall be extended further onto Lot 2B-2??~~
  - 7) Reference to a Private Roadway Agreement
- B. A Sheet 2 titled "Easement Plan" shall be added to the Plan Set. The Easement Plan shall show the property lines and easements as per the Planning Board Decision. Sheet 2 shall also include the standard Subdivision Plan reference to a Covenant.
- C. The plan shall be revised to reflect all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the

Planning and Economic Development Board will endorse the OSRD definitive plan.

## **6. Legal Documents**

A. **Deeds** – Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the deed to be used to convey Lot 2B-1 and Parcel A for review, comment, amendment and approval by Town Counsel. The deed shall clearly state that the owner of Lot 2B-1 or its assigns shall own and be responsible for the maintenance and upkeep of Parcel A and for the stormwater management system and for upkeep and maintenance of the private roadway on Parcels B and A.

B. **Easements** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed easements for review, comment, amendment and approval by Town Counsel. These easements include, but are not limited to: slope and drainage easement on Lots 2B-1 and 2B-2 and a driveway easement on Parcel B. Additional easements may be required at the direction of Town Counsel.

C. **Private Roadway Agreement** – The owners of Lot 2B-1, Parcel A and Parcel 354E12 (Medway Assessors Map 5) shall be subject to a Private Roadway Agreement to be executed and recorded with the plan and Certificate of Action. Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed Private Roadway Agreement for review, comment, amendment and approval by Town Counsel. At a minimum, the Agreement shall include language regarding the property owners' responsibility for the up-keep, repair, and on-going maintenance of the roadway including snowplowing and sanding and the operation and maintenance of the stormwater facilities.

## **7. Plan Endorsement**

A. The original drawings of all sheets of the final *Daniels Wood II Definitive Subdivision Plan Modification* shall be endorsed by the signatures of a majority of the Planning and Economic Development Board within ninety (90) days after the statutory twenty (20) day appeal period has elapsed following the filing of the Board's Certificate of Action with the Town Clerk and the Clerk has notified the Board that no appeal has been filed. If the final Daniels Wood II Definitive Plan Modification is not submitted for endorsement within ninety days, this approval decision shall expire unless the deadline is extended at the applicant's request by the Planning and Economic Development Board.

B. *Copies of Endorsed Plans* - Within thirty (30) days after plan endorsement, the Applicant shall provide the Town with one set of the endorsed plans in 11" x 17" and eight sets in 24" by 36" paper format. The Applicant shall

also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The applicant may be asked to pay any reasonable associated costs, to update the Medway GIS/Assessor's maps relative to this subdivision.

**9. Recording of Plans and Documents**

- A. Within ninety (90) days of plan endorsement, the following documents/ plans shall be recorded at the Norfolk County Registry of Deeds:
- 1) Daniels Wood II Certificate of Action approved by the Medway Planning Board on April 29, 2008.
  - 2) Daniels Wood II Definitive Subdivision Plan Modification – all sheets as endorsed by the Planning and Economic Development Board
  - 3) Daniels Wood II Definitive Subdivision Plan Modification - Certificate of Action/Decision
  - 4) Subdivision Covenant
  - 5) Certificate of No Appeal from the Medway Town Clerk
  - 6) Deed Restriction applicable to Parcels 2B-2 and 2C.
  - 7) Easements – Slope & Drainage; Driveway, etc.
- B. Within thirty (30) days of recording the Daniels Wood II Definitive Subdivision Plan Modification and all associated documents with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.

10. **Maintenance Responsibility During Construction** - The Applicant or its assigns shall provide for snow plowing, sanding and full maintenance of the applicable portion of Daniels Road and all related infrastructure including stormwater management facilities throughout the entire construction process.

**11. Building Permits**

- A. No building permit for Lot 2B-1 shall be issued before the Planning and Economic Development Board endorses the Daniels Wood II Definitive Plan Modification.
- B. Before the Board will authorize a building permit for construction of a home on Lot 2B-1, the following items, at a minimum must be installed and inspected and approved by the Board:
- 1) Roadway gravel subbase
  - 2) Roadway binder course

- 3) Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales, infiltrations systems or any other stormwater management facilities.
- 4) As-built plan of each detention pond and forebay and all critical elevations and details of the associated structures, pipes and headwalls.
- 5) Provisions for fire prevention and protection. Municipal water service to be constructed, installed and functional.

## **12. Performance Security**

- A. *Covenant* - Prior to plan endorsement, the Applicant shall sign a *Covenant*, on a form provided by the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the way and all related infrastructure and installation of utilities and services as specified in the approved Daniels Wood II Definitive Plan Modification. Reference to the *Covenant* shall be noted on the cover sheet of the Daniels Wood II Definitive Plan Modification. The *Covenant* shall specify that no building may be constructed on Lot 2B-1 unit until such services are completed or an alternative form of security is provided. The *Covenant* shall specify that the roadway and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within \_\_\_\_ years of the date of plan endorsement. The *Covenant* shall be recorded at the Norfolk County Registry of Deeds at the same time the Daniels Wood II Definitive Plan Modification and this Certificate of Action/Decision are recorded.
- B. *Alternative Performance Security*
  - 1) At such time as the Owner of Lot 2B-1 wishes to secure a building permit to construct a house on Lot 2B-1, the security provided by the *Covenant* shall be replaced by one of the types of performance guarantees set forth in M.G.L. Ch. 41, Section 81U, which method or combination of methods may be selected and from time to time varied by the applicant, in a sufficient amount, source and form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town Counsel. The performance guarantee shall be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:
    - a. the date by which the developer shall complete construction
    - b. a statement that the agreement does not expire until released in full by the Planning and Economic Development Board
    - c. procedures for collection upon default.

- 2) *Amount* - The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the Daniels Wood II Definitive Plan Modification that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so. The security amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The estimate shall also include the cost to maintain the roadways and infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a twenty-five percent (25%) contingency.
- C. *Adjustment of Performance Guarantee* – At the developer's written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Planning and Economic Development Board upon the partial completion of the roadways and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the Daniels Wood II Definitive Plan Modification that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the Mass Highway Department. The estimate shall also include the cost to maintain the roadways, stormwater management system and other infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus a twenty-five percent (25%) contingency.
- D. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

### 13. **Project Completion**

- A. **As-Built Plans** – Upon completion of all work included on the plan and specified in the Decision, the Applicant or its assigns shall have prepared and provide as-built construction plans of the roadways, utilities. Such as-built plans shall be prepared in accordance with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted. The as-built plans shall be determined to be complete and approved by the Planning and Economic Development Board. The Applicant or its assigns shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The Applicant may be directed to pay any reasonable associated costs, as may be determined to update the Medway GIS/ Assessor's maps relative to this development.
  - B. **Certification of Completion and Compliance** – A Letter of Completion and Compliance signed under oath by the applicant or its assigns and signed and stamped by a Professional Engineer registered in the Commonwealth of Massachusetts, who shall attest and certify that all facets of the subdivision work including roadway and all infrastructure was constructed and completed in strict compliance with the approved and endorsed the *Subdivision Rules and Regulations*, shall be provided to the Board.
  - C. Certificate of Compliance from the Medway Conservation Commission relative to any Order of Conditions for the site.
  - D. Proof of taxes paid to the Town of Medway for all property owned by the applicant or its assigns.
  - E. Sign-offs from the Planning and Economic Development Board, the Town's Consulting Engineer, Medway Fire Department, Medway Police Department and other Town departments/boards/ committees with jurisdiction.
  - F. The project's design engineer shall provide a signed statement verifying that the roof drain system for the constructed house is of adequate size to accommodate all of its stormwater runoff.
14. All other provisions/conditions of the Daniels Wood II Definitive Subdivision Plan Certificate of Action dated April 29, 2008 which have not been changed due to this Certificate of Action shall also apply.

### **General Conditions**



15. **Expiration of Appeal Period** - Prior to plan endorsement, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk's office.
16. **Payment of Balance of Fees/Taxes** - Prior to plan endorsement, releases, security adjustments or plan modifications, the Applicant shall pay the balance of any outstanding plan review and construction services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations or fees due the Town of Medway pertaining to these properties. The Applicant shall also provide proof from the Medway Town Treasurer/Collector that all real estate taxes are current to that date for all property included in this development.
17. **Order of Conditions** - Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all "*Order of Conditions*" as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the Definitive Open Space Plan that may be required under the "*Order of Conditions*" shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a modification to the Definitive Plan. The Planning and Economic Development Board reserves the right to work with the issuing authority to accomplish any mutually acceptable modifications to the "*Order of Conditions*" that may be deemed appropriate by the Planning and Economic Development Board and the Town's Consulting Engineer. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty (20) day appeal period must be received from the Town Clerk's office before the Planning and Economic Development Board endorses the plan modification.

Additionally, upon issuance of any "*Order of Conditions*" requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

18. **Construction Account** – Inspection of roadway, infrastructure and utility construction by the Town's Consulting Engineer and review of legal documents by Town Counsel is required. Prior to plan endorsement, the Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer. A construction account shall be established with the Medway Planning and Economic Development Board prior to plan endorsement. The Applicant shall provide supplemental payments to the Town of Medway, for reasonable

construction inspection and legal services, upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed, municipal services are installed, the as-built plan is reviewed and all legal documents associated with this development have been reviewed and determined to be satisfactory.

19. **Restrictions on Construction Activities** - During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following restrictions on construction activity shall apply:
  - A. Outside construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m. including truck and machine start-up and movement.
  - B. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
  - C. There shall be no off-site tracking of materials. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create a hazardous or deleterious conditions for vehicles, pedestrians or abutting residents.
  - D. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.
20. **Modifications to Plan and/or Decision** – The Board, on its own motion on the petition of the Applicant or any person interested, may modify or amend or require a change in the Definitive Plan and/or the associated Certificate of Action. All of the provisions of the Medway *Subdivision Rules and Regulations* relating to the submission and approval of a plan shall be applicable to the approval of a modification or amendment to the Certificate of Action. Any changes are subject to the *Rules and Regulations* in effect at the time a modification or amendment is sought.
21. **Compliance**
  - A. All construction shall be as specified in the approved Daniels Wood II Definitive Plan and this Modification and shall be constructed in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

- B. The Planning and Economic Development Board shall use all legal options available to it, including referral of any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action to ensure compliance with this Decision.

**XIII. APPEALS** – Appeals, if any from this Decision shall be made to the Superior Court or to Land Court in accordance with M.G.L. Chapter 41, Section 81BB, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Medway Town Clerk.

## **DANIELS WOOD II DEFINITIVE SUBDIVISION PLAN MODIFICATION CERTIFICATE OF ACTION**

**Date of Action by the Medway Planning and Economic Development Board:**

**AYE:**

**NAY:**

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\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_

**Date Signed:** \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

\_\_\_\_\_  
Date

**Date Filed with the Town Clerk:**

**Copies To:**

Fred Sibley  
Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering  
Trish Brennan, Conservation Agent  
John Emidy, Building Commissioner  
Bill Fisher, Board of Health  
Thomas Holder, DPW  
Suzanne Kennedy, Town Administrator  
Will Naser, Assessor  
Melanie Philips, Treasurer/Collector  
Barbara Saint Andre, Petrini & Associates Town Counsel  
Dave Travalini, Conservation Commission  
Paul Trufant, Fire Chief  
Jeffrey Watson, Police Safety Officer  
Maryjane White, Town Clerk  
Gino Carlucci, PGC Associates  
Dave Pellegrini, Tetra Tech Rizzo

**February 23, 2010  
Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Amy Sutherland, Meeting Recording Secretary

The Vice Chairman Tucker opened the meeting at 7:03 pm.

**BOARD BUSINESS:**

**Minutes:**

**February 9, 2010:**

- On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from February 9, 2010 with the noted revisions. (Andy Rodenhiser abstained).

**Draft Medway Housing Production Plan:**

Consultant Gino Carlucci from PGC Associates gave a presentation about Town of Medway Housing Production Plan. The document presented to the Board was dated December 17, 2009. The Housing Production Plan is “intended to serve as an update to the housing element of the 2004 Community Development Plan.” The first section of the plan is a Comprehensive Housing Needs Assessment. The second section presents Affordable Housing Goals. The final section is the implementation strategies section. This section discusses a variety of options available for accomplishing the goals and objectives of the Affordable Housing Goals.

**Development Constraints:**

There are five sites in Medway which were designated as Chapter 21 E sites by the state. Chapter 21 E sites are contaminated by oil or other hazardous material and are subject to special restrictions for redevelopment. These sites are classified by tiers based on their level of contamination. After reviewing the sites which fall within the Chapter 21 E sites, the Board communicated that there were some sites not included and were interested in knowing when this determination was made. Consultant Carlucci indicated that he will research this further.

It was suggested by Affleck-Childs that Zone II Areas should indicate within the title that it is a Mass DEP Designation.

**Birch Hill Subdivision:**

The project completion review and consideration of request to release bond will be held over until March 9, 2010.

**Articles for 2010 Annual Town Meeting:**

**NON ZONING:**

**Stretch Energy Code:**

The Board is in receipt of the draft article for the “Stretch Energy Code”. The Chairman brought up information he had read about Pace Bonds. There are currently 15 states have adopted this. It sets specific criteria for energy improvements to residents and businesses. The Chairman suggested that the town consultant research this further and report back to the Board. It was suggested that once the Board gets further information, it could be forwarded to the Energy Committee.

**Land Conveyances: - Granite Estates Subdivision:**

This article is to see if the Town will vote to authorize the Board of Selectmen to accept as a gift from Granite Estates one parcel totaling .41 acres. This land will be used by the Town for stormwater/drainage purposes. The second section references one parcel totaling 3.53 acres. This land will be used by the Town for open space/conservation purposes.

**Land Conveyances: - Ishmael Coffee Estates Subdivision:**

This article is to see if the Town will vote to authorize the Board of Selectmen to accept as a gift one parcel of land totaling 58,006 sq. ft identified as Parcel D on the Modified Ishmael Coffee Estates Definitive Subdivision Plan. This land will be used by the Town for open space/conservation purposes. Susy-Affleck-Childs informed the Board that the Town is waiting for certification regarding whether the property shows evidence of a vernal pool this spring.

**43 D Sites:**

The Article is to see if the Town will to vote to approve the filing of a proposal with the State Interagency Permitting Board to designate specific properties as Priority Development Sites (PDS) under MGL Chapter 43D. There are broken up into Industrial I properties (located north of Main Street/Route 109), Industrial II Properties (located east of West Street, west of Summer St. and north of Main Street), and Industrial III properties (located south of Main Street, generally west of Trotter drive and on both sides of Alder Street).

**ZONING DRAFT ARTICLES:**

**Draft Article for Green Communities Work – Definitions:**

The Board is looking to see if the Town of Medway will vote to amend the Zoning Bylaw by adding the following definitions: Manufacturing, Alternate Energy, Renewable Energy, Research and Development Facilities.

**Draft Article pertaining to Industrial I Zoning District:**

The Board is looking to see if the Town will vote to amend the Medway Zoning Bylaws, Section V. Use Regulations, Sub-Section M., Industrial I by adding items j and k to paragraph #1 under allowed uses.

**Draft Article pertaining to Industrial II Zoning District:**

The Board is looking to see if the Town will vote to amend the Medway Zoning Bylaws, Section V. Use Regulations, Sub-Section N., Industrial II by deleting item e) in paragraph 1 and replacing it with the noted draft as presented to the Board. (reference the draft 2-4-10) and further by adding items h & i in paragraphs #1.

**Draft Article pertaining to Industrial III Zoning District:**

The Board is looking to see if the Town will vote to amend the Medway Zoning Bylaws, Section V. Use Regulations, Sub-Section O., Industrial III by adding item g & h to paragraph #1 under allowed uses.

**Draft Article pertaining to Site Plan Review:**

The Board is looking to see if the Town will vote to amend the Medway Zoning Bylaws, Section V. Use Regulations, Sub-Section C. Site Plan Review and Approval, by adding item e) to paragraph #5. (reference the draft 2-4-10).

**Draft Article pertaining to Sign Regulations:**

The Board is looking to see if the Town will vote to amend the Medway Zoning Bylaws, Section V. Use Regulations, Sub-Section R. Sign Regulation. The Board would like to discuss this further at the next meeting.

**Draft Article pertaining to Lighting:**

The Board is looking to see if the Town will vote to amend the Medway Zoning Bylaws, Section V. Use Regulations, Sub-Section B. Area Standards by deleting 3. b) Glare and inserting a new paragraph. The Board would like to discuss this further at the next meeting.

**Draft Article pertaining to Home Based Businesses:**

The Board is looking to see if the Town will vote to amend the Medway Zoning Bylaws to insert definitions under Section II. Definitions. The Board would like clarity in regards to the language under d).

**Committee/Task Force Reports:**

Member Spiller-Walsh attended the DRC meeting and informed all that the new computer is up and running.

Member Rogers attended a meeting with MAPC. There were two speakers addressing issues on Energy and Regionalization.

**26 & 28 Norfolk Ave ANR Plan**

The names on the previously endorsed ANR plan (from October 2009) were incorrectly spelled and need to be revised.

- **On a motion made Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to endorse the corrected plan.**

**25 Milford St:**

Susy Affleck-Childs received a telephone call regarding property at 25 Milford St. There is a potential buyer for the property. The Board endorsed a plan back in 2006 for the subdivision. The lot was sold and the party has defaulted and a new party wants to buy the property. A lot release would need to be provided. The road infrastructure has not been done completely and so this lot does not have adequate frontage. The Board is not comfortable providing a lot release as the lot is really non-conforming.

**Williamsburg Condominium OSRD**

Susy Affleck-Childs communicated that all the documents for Williamsburg have been submitted including deeds, signoff from the safety officer, covenants, and all taxes and fees have been paid in full.

- **On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to endorse the definitive plan and sign the covenant for Williamsburg.**

**Finance Committee Meeting:**

Susy Affleck-Childs will be meeting with the Finance Committee on March 10, 2010 regarding the request for emergency transfer.

**Future Meetings:**

The next meetings scheduled are for: **March 9 & 23, 2010.**

There will be an exploratory meeting on Wednesday, March 10, 2010 to establish a Medway Agricultural Commission, to be held at the senior center.

The 2010 Annual Town is scheduled for Monday, June 14, 2010.

- **On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting at 9:30 pm.**

The meeting was adjourned at 9:30 pm.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator



**February 9, 2010  
Planning and Economic Development Board  
Medway Town Hall - 155 Village Street**

**BOARD MEMBERS PRESENT:** Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:**

Members Andy Rodenhiser, John Williams  
Engineering Consultant Dave Pellegrini, Tetra Tech Rizzo

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Amy Sutherland, Meeting Recording Secretary

The Vice Chairman Tucker opened the meeting at 7:03 pm.

**BOARD BUSINESS:**

**Minutes of the January 26, 2010 Meeting**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to accept the minutes from January 26, 2010 with the noted revisions.**

**ANR Plan (Mary Narducci, Paul Chelman and Rose Cote):** 174 Main St.

The Planning and Economic Development Board is in receipt of an ANR Application and Plan for 174A and 174 B Main Street. The property contains two buildings, both of which were constructed prior to the effective date of the Subdivision Control Law. The field cards for each building were attached to the application.

Gino Carlucci, PGC Associates, Inc provided a memo dated February 8, 2010. It was noted that the applicants propose to divide an existing property with two buildings built prior to the adoption of the Subdivision Control Law under Section 81L of MGL Chapter 41. It was the recommendation that the plan as prepared meets the relevant technical requirements for ANR plan endorsement. The revision to the frontage of one of the parcels has been adjusted due to the Adaptive Use Overlay District special permit requirements. The owners of neither lot are entitled by right to any expansion or change of use. Due to the change of frontage with 174A, it now has more options. The field cards note that no value for land has been assessed to this property. This may be a result of its classification as a condominium.

- **On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to endorse the ANR plan dated February 5, 2010 for 174 Main Street.**
- **On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to authorize Tom Gay to sign the ANR plan on behalf of the Board.**

## **DISCUSSION OF TOWN MEETING ARTICLES**

### **General bylaw - Abandoned Property Bylaw**

John Emidy, Medway Building Commissioner was present to discuss this draft with the Board.

The Board is in receipt of a Proposed Medway General Bylaw in regards to the Registration and Maintenance of Abandoned and/or Foreclosing Residential Properties. There is currently nothing in place to control any of this without the implementation of the Bylaw. This bylaw would require the owner of any foreclosed or abandoned home to register with the town, and have a sign put up in front of the property with the owner's name and contact information. The property would need to be inspected to make sure it is up to code. If there are any violations, then a civil complaint may be issued through a ticket system. This would only apply for "Residential Property", which means any property that contains one or more units used, intended, or designed to be occupied for living purposes. The Board discussed clarifying when residents travel to Florida or other places for a few months. The Board wants to make sure that there is clarity in the definition and that such properties are not considered to be abandoned. Mr. Emidy will rework the definition of that section. This information will be shared with Fire and Police. An inventory of the foreclosed properties will be kept.

Susy Affleck-Childs would like to rework the section regarding the sign placement as referenced on page 3-4. The wording currently indicates that the sign must be posted on the front of the property so as be clearly visible by the Commissioner or his/her designee from street. Some of the members are not comfortable with a sign placed on the property.

### **Zoning - Wind Generation:**

Susy Affleck-Childs presented the Board with several documents pertaining to Wind Generation. She communicated that there is no mechanism in place for the time to regulate wind generation structures. The purpose of this new subsection of the zoning bylaw would be to provide by Special Permit for the construction and operation of small wind energy systems. The small wind energy system would be no greater than 60 kilowatts. The current draft makes reference to the words that it does not apply to roof-mounted, building integrates, building-mounted or architectural wind systems. The Bylaw would only cover the single stand-alone tower mounted turbines. The State notes this particular language. One of the general requirements is that the Zoning Board of Appeals would issue a Special Permit authorizing such use. The Inspector of Buildings would then issue a building permit to erect, construct, and install this wind turbine. The draft also includes Siting Standards, Design Standards, Safety and Environmental Standards, Monitoring and Maintenance, Abandonment and Decommissioning, Terms of Special Permit, Permit Process, Requirements and Enforcement.

Resident Dick Steinhoff, owner of 146 Main Street, was present expressing his knowledge and support of wind generation. He is looking to add wind generation to the property at 146 Main St. which he recently purchased. Mr. Steinhoff also presented valuable information about wind generation. One of the memos references the incentives for the ME Renewables. There is a Small Wind Initiatives Rebate for wind energy systems smaller than 10 (kW). Residents are eligible for Small Renewables Initiative rebates from the Massachusetts Technology Collaborative. The American Recovery and Reinvestment Act of 2009 established a 30% Business Energy Investment Tax Credit for the purchase and installation of wind systems.

The height of the towers for wind generation systems is related to the square of the blade diameter (double diameter and you get 4 times the power) and the cube of the wind speed (double the wind speed and you get 8 times the power)

After a lengthy discussion, the Board reviewed the Draft Bylaw of Wind Generation. This is a working document intended to elicit comments from the Board. The first Section entitled Purpose was agreeable to the Board. Mr. Steinhoff was not comfortable with the Section noted Applicability. He does not believe that the bylaw should not apply to roof-mounted, building-mounted or architectural wind systems. This bylaw only covers single stand-alone tower mounted turbine. The Board next discussed the definitions in relation to the height, rated nameplate capacity, and small wind energy systems. The capacity of these would be 60 kW or less. Mr. Steinhoff explained the two types of turbines being vertical or horizontal.

*General Requirements:*

The Zoning Board of Appeals would need to issue a special permit making sure that the noted requirements one through four are met.

*Siting Standards:*

The Board would like Sections A and B to be reworked. The set back of 70 ft. may not work in many of the neighborhoods. Susy Affleck Childs would like to add language which would address the future technological innovations.

*Utility Connections:*

It was suggested that this section make reference that efforts shall be made to locate the utility connection from the small wind energy system underground.

*The Safety Environmental Standards, Monitoring and Maintenance, Abandonment or Decommissioning and Term of the Special Permit* were reviewed. The last section reviewed was the permit process, requirements and enforcement.

Susy Affleck-Childs will place this on the agenda for further discussion and it will be submitted as an article for town meeting.

**Zoning – Home Based Businesses**

The members were presented with a revised copy of a proposed Zoning Bylaw amendment – Customary Home Occupations and Professional Offices in ARI and ARII. This is a revised copy dated February 5, 2010. The Board had a discussion about the use of the term “recognized

professions” as is used in the existing bylaw. It must be determined what criteria the Building Commissioner should use to determine whether a certain business is a “recognized profession”.

The discussion then moved into determining if the home based business should be allowed by right or by special permit. It was the feeling that most home based businesses can exist by right without limitations, although some which generate traffic should be considered on a case by case basis by special permit. It was recommended to delete the existing language in 1b) re: offices of doctors or dentists or other members of recognized professions and replace it with the definition provided for Home-Based Business.

The Board discussed the wording that the area for a home based business is to be no more than 20% of the gross floor area of the dwelling and any accessory structures up to a maximum of 1,000 gross square feet. The total floor area of all heated and ventilated, and therefore habitable, rooms in the dwelling or on the premises. And includes basements, attics and accessory structures if they are heated and ventilated. Further refinement of this section will be done.

Member Spiller-Walsh does not want to have a maximum gross square feet limitation.

Member Rogers, Tucker and Gay are comfortable with 20% or 1,000 gross square feet.

Member Gay believes there is a better way to define this.

### **Zoning - Green Communities Work Definitions:**

The Board is in receipt of the draft article for Green Communities Work – *Definitions*. The proposed amendments are for Sections II of the Medway Zoning Bylaw. The definitions for Manufacturing, Alternative Energy, Renewable Energy, and Research and Development Facilities were read through and reviewed. The Board is comfortable with the recommended definitions.

#### *Draft Article pertaining to Industrial I Zoning District:*

Items j and k to paragraph #1 under allowed use were reviewed.

#### *Draft Article pertaining to Industrial II Zoning District:*

Under Section V. Use Regulations, Sub-Section N., Industrial II it is recommended to add item e. in paragraph #1 in relation to electric power generation. Another recommendation is to add Items h.) and i.) in paragraph #1 in relation to facilities.

#### *Draft Article pertaining to Industrial III Zoning District:*

Under Section V. Use Regulations, Subsection O, Industrial III it is recommended to add items g & h to paragraph #1 under allowed uses.

Regarding the 2010 Annual Town Meeting, the Board was in receipt of a revised list dated February 5, 2010. The memo was drafted by Susy Affleck-Childs and was based on discussions at PB, EDC, and AHC. The DRC and Open Space Committee have offered suggestions. The following lists are the recommended articles:

1. Amend Industrial I,II, and III to allow renewable and alternative research and development facilities, and manufacturing of renewable and alternative energy related products.
2. Amend Industrial II to allow for various forms of alternative/renewable energy generation.
3. Definitions for Research and Development; Alternative/Renewable Energy; Home based businesses; commercial vehicles.
4. The lighting standards are currently being worked on by member Bob Tucker.
5. Home based businesses.
6. Signage revisions
7. Site plan revisions

The General Bylaw to Establish an Agricultural Commission will be put off until the fall.

**Committee/Task Force Reports:**

Consultant Pelligri provided five reports regarding the Williamsburg project.

**Future Meetings:**

The next meetings scheduled are: **February 23, March 9 & 23, 2010.**

**2010 Annual Town is scheduled for Monday, June 14, 2010.**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to adjourn the meeting at 10:20 pm.**

The meeting was adjourned at 10:20 pm.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator

**March 9, 2010  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Bob Tucker, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:** Andy Rodenhiser, John Williams, Thomas Gay

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Amy Sutherland, Meeting Recording Secretary

Vice Chairman Tucker opened the meeting at 7:10 pm.

**BOARD BUSINESS:**

**Minutes:**

**February 23, 2010:**

- On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to accept the minutes from February 23, 2010 with the noted revisions.

**APPOINTMENTS:**

**Hasan Husain –Economic Development Committee:**

Hassan Husain provided a letter of interest and resume for appointment to the Economic Development Committee.

- On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to appoint Hasan Husain to the Economic Development Committee through June 30, 2012.

An appointment letter will be sent out.

**2-4 Main Street Site Plan Modification:**

Owner and applicant Robert Potheau was present at the meeting. The Board was presented with a packet which was entitled 2-6 Main Street – Master Sign Plan. (See attached draft document). The language within the document has been clarified. Susy Affleck-Childs explained the numbering of the buildings on the premises to the Board.

**Westerly Building Upper Level:**

These businesses are accessed via the site's WESTERLY curb cut. Address – 6 Main St.

**Westerly Building Lower Level:**

These establishments are accessed via the site's MIDDLE curb cut. Address – 4 Main Street. (There could be as many as 6 tenants occupying the lower level of the building.)

**Middle Building: 4 Main Street**

These establishments are accessed via the site's MIDDLE curb cut. All businesses accessible from this driveway including those on the westerly building's lower level shall also be able to use the 4 Main Street address.

**Residential Building: 4 Main Street**

**Easterly Building: 2 Main Street**

The Business is accessed via the easterly curb cut.

The applicant has informed the Board that he is planning on meeting with the Board of Assessors to discuss addresses. The Board would like confirmation from the Board of Assessors before any action is taken.

Member Spiller-Walsh communicates that the building numbering is confusing. She would like to know if the Board of Assessor's has a problem with this concept.

The Board does not feel comfortable closing the public hearing at this time without input from the Assessors regarding the address numbers. The continuation will be on Tuesday May 11, 2010 at 7:15 pm. Mr. Potheau will be requesting an extension of the deadline for Planning Board action until May 30, 2010. A letter will be coming from Ellen Rosenfeld that she is OK with changing the address of her property from 6 to 8 Main Street.

Member Chan Rogers noted that several abutters were concerned about the lighting being on until 11:00 pm. The Board needs to decide where we stand on the lighting. Mr. Potheau responded that there is a level of security lighting that needs to remain on. Mr. Potheau feels strongly that the board cannot impose further restrictions on another part of the site that is not the subject of this site plan modification.

**Continuation Hearing:**

- On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted **unanimously** to continue the public hearing until May 11, 2010 at 7:15 pm.

**Extension:**

- On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted **unanimously** to authorize the applicant's request for extension for Planning Board Action until May 30, 2010.

**Proposed FY11 PED Budget:**

Susy Affleck-Childs presented the proposed FY11 budget for Planning and Economic Development. This was met with support. The proposed budget for FY11 is level funded (compared to fy10) in the amount of \$100,321.48.

**Casino Gambling in Massachusetts:**

A letter from SWAP, the MetroWest Growth Management Committee and the 495 Partnership was provided to the Board regarding concerns development of casinos or other gambling facilities in Commonwealth. The letter was copied to Senator Karen Spilka and Chairman Dempsey along with being copied to Governor Deval Patrick, Lt. Governor Tim Murray, Senate President Therese Murray, Speaker DeLeo, Majority Leader Frederick E. Berry, Majority Leader James Vallee, Chairman Steven Panagiotakos, Chairman Charles Murphy, and 495 MetroWest Legislative Delegation.

**Applegate Farm Subdivision – Modification to Certificate of Action and Scenic Road Work Permit:**

Mr. Ralph Costello, owner and developer was present.

This subdivision was approved by the Board on June 22, 2006. The decision included the standard completion deadline of 3 years after endorsement of the definitive subdivision plan. The applicant has filed an application to modify the Applegate Farm Certificate of Action to extend the time period for the project completion. The standard extensions for project completion are for one year. The applicant has requested a waiver from that section of the Rules and Regulations and has asked for an additional 3 year period to complete the roadway and subdivision infrastructure by April 30, 2013.

**Steven Barrasso, 2 Spruce Road:**

The abutter had two concerns.

1. The road has been cut in and it is very close to the back of his property. He wanted to know the Zoning Requirements. Member Spiller-Walsh indicated 15 feet.
2. There was a rain storm and the abutter had a gully which formed and this water ran down to the back of his property 6 to 8 feet wide for a whole day. He is concerned that with the trees cut, this could have affected the land. Water is coming through the stone wall.

Mr. Costello noted when the project is completed, the water will be diverted. There may be some while the project is being completed.

**Mr. & Mrs. Preston, 1 Spruce Road:**

The abutters came and have been living at the property for only three years. Currently the retaining wall which is 4 ½ feet has cracked and water is coming through and sand is collecting on the driveway. The abutters have noted an increase in water volume but are not sure what the normal flow is since they have only resided there for three years.

**Extension of Waiver:**

- On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to grant a 3 year extension for completion of the Applegate Farm subdivision until April 30, 2013.



**Scenic Road Work Permit.**

**On a motion made by Karyl Spiller-Walsh, and seconded by, Chan Rogers the Board voted unanimously to grant extend the applicant's deadline for completing tree pruning pursuant to the 2007 Scenic Road Work Permit to April 30, 2013. Tree pruning will be completed under the guidance and direction of the Tree Warden.**

**Daniels Wood II Subdivision Modification – Finalize Certificate of Action:**

This item will be tabled. A memo was provided from Mr. Sibley's attorney requesting a special meeting. Susy Affleck-Childs suggested Tuesday, March 16, 2010. Spiller-Walsh will check her calendar. Other members indicated they were available.

**Birch Hill Subdivision:**

The Board reviewed the document which noted the three items which needed action on behalf of the Board.

- **On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to modify the June 22, 2002 Certificate of Approval for the Modified Birch Hill Definitive Subdivision Plan (4-29-2002).**
- **On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to vote to determine that construction as shown on the modified Birch Hill Subdivision Plan is complete and that the road and all municipal services have been installed in accordance with the Agreement for Deposit of Money executed January 8, 2009, thereby releasing the remaining bond funds (\$10,000 plus interest).**

The Board is not comfortable at this time with recommending the street acceptance to the Board of Selectmen as there remain outstanding issues with the completeness of the deeds/easements.

**Town Management Appointment:**

The Board of Selectmen is looking to appoint one member of the Planning and Economic Development Board to the Town Wide Management Study. Interested members are Tom Gay, Bob Tucker, John Williams and Chan Rogers. A memo will be sent to the Board of Selectmen informing them that a member will be selected at the next Planning and Economic Development Board meeting.

Member Spiller-Walsh communicated that she feels the Town may need to bring in a wind turbine consultant to confirm the facts which have been provided by various sources. Susy Affleck-Childs responded that the Zoning Board can bring in consultants when they review applications.

Gino Carlucci informed the Board that he will not be present at the April 13, 2010 meeting.

**Future Meetings:**

The next meetings scheduled are: **March 23 & April 13 & 27, 2010.**

There will be an exploratory meeting on Wednesday, March 10, 2010 to discuss the possibility of establishing a Medway Agricultural Commission

*Minutes of March 9, 2010 Meeting  
Medway Planning & Economic Development Board  
Approved March 16, 2010*

The 2010 Annual Town Meeting is scheduled for Monday, June 14, 2010.

- **On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting at 9:00 pm.**

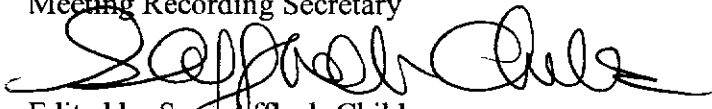
The meeting was adjourned at 9:00 pm.

Respectfully Submitted,



Amy Sutherland

Meeting Recording Secretary



Edited by Susy Affleck-Childs

Planning and Economic Development Coordinator

Revised draft – March 9, 2010

## **2-6 Main Street MASTER SIGN PLAN**

This multi tenant site is comprised of 4 areas/buildings on one land parcel with 3 curb cuts. Most of the property uses 4 Main Street as their address. However, the business in the easterly building uses 2 Main Street as its address. These are the current conditions on the property.

1. Westerly building – multi tenant building (upper and lower levels)
2. Middle Building – multi tenant building
3. Residential Building – single family home and business
4. Easterly building - Single Tenant building/Metro West Auto Sales

### **Westerly Building Proposed New Address: 6 Main Street**

- A. **WESTERLY BUILDING UPPER LEVEL** - Businesses whose customer entrances are on the building's SOUTH facade (facing Main Street). These businesses are accessed via the site's WESTERLY curb cut. Address – 6 Main Street

1. **\*Individual Establishment Wall Sign.** Required for Each Tenant.

Quantity - One wall sign (1) per establishment

Type of sign – The only type of sign allowed will be an internally illuminated individual channel letter sign (without external raceway). NO box signs.

Design - Color of sign sides, face, trim cap and interior lighting and the lettering style & logo is at the discretion of the tenant

Size - Sign surface area (square footage) may not exceed the “building sign frontage” of the individual establishment facing Main Street x 1.0 except that no individual sign may exceed 60 sq. ft.

Sign Location – Sign to be positioned on south building facade centered above windows and entry door of the space for that respective tenant. All signs on this façade shall be aligned similarly.

Sign Illumination – Internal; Signs must not be illuminated after 11 pm unless the business is still open.

2. **Individual Establishment Projecting Sign:** None allowed.

3. **\*Multi Tenant Development Sign**

Quantity – 1 two sided development sign to be used only for the businesses at 6 Main Street.

Maximum Size – 30 sq. ft per side for a total of 60 sq. ft.

Design/Materials – MDO board with Azek PVC Cover including all trim

- o Individual business sign panels ONLY for south facing tenants accessed from this curb cut.
- o Sign panels to be made from Azek PVC – (lettering style and logos at discretion of tenant )
- o Top of Sign will include flowerpot logo, address (6 Main Street)

Height – 8 feet maximum

Setback – minimum 8 feet from lot line

Illumination – External, two ground spots per sign face surrounded by landscaping

Location – West of the westerly curb cut.

\* Sign Permit needed from Town of Medway

- B. **WESTERLY BUILDING LOWER LEVEL** - Businesses whose entrances are on the lower level of the westerly building. These establishments are accessed via the site's MIDDLE curb cut.  
Address – 4 Main Street. (There could be as many as 6 tenants occupying the lower level of this building.)

1. **\* Individual establishment wall sign.** Required for each tenant.

Quantity – One per establishment

Sign Size – Sign surface area (square footage) may not exceed the “building sign frontage” of the individual establishment x 1.0 except that no individual sign may exceed 60 sq. ft.

Sign Type – Tenants have their choice of 3 types of signs:

- Internally illuminated channel letters (no raceway)
- Vinyl cut letters/graphics mounted on MDO board
- Individually formed letters affixed directly to the façade

- No box/cabinet type signs

Sign Illumination – internal illumination required if sign type is channel letters; external illumination is permitted for all other types of signs

Sign Location – Affixed above the entrance doorway to each individual establishment.

\* Sign Permit needed from Town of Medway

2. **\*Multi Tenant Development Sign** - This sign may be used only by tenants of 4 Main Street.

Quantity – 1. This sign will need a special permit from the ZBA before a building permit can be issued for the sign.

Maximum Size – 30 sq. ft per side for a total of 60 sq. ft.

Design/Materials – MDO board with Azek PVC Cover including all trim

- Individual business sign panels ONLY for north facing tenants on the westerly building accessed from this curb cut. 6 Main Street for everyone using this common driveway Main Street. For best motor vehicle safety along Rt. 109 there will be only one address used for this driveway. Individual unit numbers shall be on tenant's doors.
- Sign panels to be made from Azek PVC – (lettering style and logos at discretion of tenant.
- Top of sign – will include flowerpot logo, and address (6 Main Street)

Height – maximum 8 feet

Setback – minimum 8 feet from lot line

Illumination – External, two ground spots per sign face surrounded by landscaping

Location – East of the middle curb cut.

\* Sign Permit needed from Town of Medway

## **Middle Building: 4 Main Street**

**Businesses whose customer entrance is on the middle building's NORTH façade (facing toward the back of the property). These establishments are accessed via the site's MIDDLE curb cut. All businesses accessible from this driveway including those on the westerly building's lower level, shall also be use the 4 Main Street address. This will avoid confusion by traffic on Rt. 109.**

1.     **\* Individual establishment wall sign.** REQUIRED for each tenant.

Quantity – One per establishment

Sign Size – Sign surface area (square footage) may not exceed the “building sign frontage” of the individual establishment x 1.0 except that no individual sign may exceed 60 sq. ft.

Sign Type –Tenants have their choice of 3 types of signs:

- Internally illuminated channel letters (no raceway)
- Vinyl cut letters/graphics mounted on MDO board
- Individually formed letters affixed directly to the façade
- No box/cabinet type signs

Sign Illumination – internal illumination required if sign type is channel letters; external illumination is permitted for all other types of signs

Sign Location – Wall signs shall be affixed above the entrance doorway to each individual establishment, except that 1 wall sign may be affixed to the south façade of this building for use by a tenant with a 6 Main Street address even though that tenant may not necessarily be located in the middle building, but is located on the back side/lower level of the westerly building. Location – east of the easterly curb cut. The building that is currently on the property and shall remain after demolition of the adjacent structure will have a mortar less brick (Nova Brick) installed on the entire wall that faces Rt. 109. The allowed sign will be internally illuminated channel letters not to exceed 42 square feet. There shall not be an entrance facing Rt. 109 on that building.

\*Sign Permit needed from Town of Medway

2.     **Multi Tenant Development Sign** - This sign to be used by ALL tenants who use this driveway for access. It is a matter of safety thus all addresses on both buildings accessed by this driveway shall be known as 6 Main Street. And individual unit numbers shall be on tenant's doors; this will avoid any confusion by drivers looking for a business.

Quantity – This sign will need a special permit from the ZBA

Maximum Size – 30 sq. ft per side for a total of 60 sq. ft.

Design/Materials – MDO board with Azek PVC Cover including all trim

- Individual business sign panels ONLY for north facing tenants of the westerly building lower level shall be known as 6 main St. thus it will match the driveway entrance. All tenants at who use this curb cut will be known as 6 Main Street.
- Sign panels to be made from Azek PVC
- Top of sign – will include flowerpot logo, and address (6 Main Street)

Height – maximum 8 feet

Setback – minimum 8 feet from lot line

Illumination – External, two ground spots per sign face surrounded by landscaping

Location – East of the middle curb cut.

\* Sign Permit needed from Town of Medway

## **Residential Building - 4 Main Street**

No signage allowed for any business not conducted from within that structure.

Current signage for Metro West Auto shall be removed.

If a future business tenant wants a sign, the following shall be allowed:

1. Wall Sign Quantity – One per establishment

Sign Size – Sign surface area (square footage) may not exceed the “building sign frontage” of the individual establishment x 1.0 except that no individual sign may exceed 60 sq. ft.

Sign Type –Tenants have their choice of 2 types of signs:

- Vinyl cut letters/graphics mounted on MDO board
- Individually formed letters affixed directly to the façade
- No box/cabinet type signs

Illumination – external only, if any

## **Easterly Building – 2 Main Street**

Presently, MetroWest Auto Sales. This business is accessed via the easterly curb cut.

1. **\* Individual establishment wall sign. REQUIRED.**

Quantity - 2 wall signs allowed; one on the east side of the building not to exceed 25 square feet. And one on the south side of the building not to exceed 45 sq. ft.

Type of sign - Internally illuminated individual channel letter sign (without external raceway); NO box signs. Current tenant may keep existing sign until he desires to change it to illuminated channel letters.

Design - Color of sign sides, face, trim cap and interior lighting and the lettering style & logo is at the discretion of the tenant

Size - Sign surface area (square footage) may not exceed the "building sign frontage" of the individual establishment (facing Main Street) x 1.0 except that no individual sign may exceed 60 sq. ft. With the Main Street building width estimated at 45', the maximum amount of signage would be 45. sq. ft.

Sign Location – Sign to be positioned on south building facade centered above windows and entry door of the space for that respective tenant. All signs shall be aligned similarly.

Sign Illumination – Internal; Signs must not be illuminated after 11 pm.

\* Sign Permit needed from Town of Medway

2. **Individual Establishment Projecting Sign** –None allowed

3. **Individual Establishment Freestanding Sign:**

Quantity – 1 two sided sign for MetroWest Auto Sales or future tenant.

Maximum Size – 24 sq. ft per side for a total of 48 sq. ft.

Design/Materials – MDO board with Azek PVC Cover including all trim

- o Individual business sign panel.
- o Sign panels to be made from Azek PVC – (lettering style and logos at discretion of tenant – text and art should not comprise more than 75% of the individual tenant panel
- o Top of Sign will include flowerpot logo and address (2 Main Street)

Height – maximum 8 feet

Setback – minimum 8 feet from lot line



Illumination – External, two ground spots per sign face surrounded by landscaping

Location – east of the easterly curb cut.

## **All Buildings/Tenants**

**Open/store hour signs** – Hours shall be shown as vinyl cut letters on entry door – not to exceed 1 sign (2 sq. ft.) per establishment

## **Outdoor Advertising Sign on Westerly side of property:**

For approximately 60 years there had been two outdoor advertising signs that have been used as what is commonly known as “billboards”. One of those signs has already been removed as part of Rt. 109 widening. Permission was never sought to replace it due to this re-development of this property. The other sign shall remain on this property and is part of the existing signage plan. Permission shall not be sought at any time to replace the second sign that has been removed.

## **March 16, 2010 Special Meeting Medway Planning and Economic Development Board**

Present – Karyl Spiller-Walsh, Bob Tucker, Andy Rodenhiser, Chan Rogers

Absent – Tom Gay

Also present – Susy Affleck-Childs  
Gino Carlucci

Meeting opened at 7:10 pm

No Citizen Comments

### **Applegate Farm Subdivision Covenant Amendment**

Susy noted that this development needs a new subdivision covenant to correspond to the decision modification the board approved last week to extend the completion deadline to 2013. She spoke with Ralph Costello and asked him to have his attorney prepare a document. It is here for your review and action.

Motion by Bob Tucker, seconded by Chan Rogers to sign a new covenant. Approved. NOTE – Andy Rodenhiser did not vote as he had not participated in the public hearing on the decision modification.

The board signed the covenant

### **March 9, 2010 PEDB Meeting Minutes**

Motion by Karyl Spiller-Walsh, seconded by Bob Tucker to approve the minutes of the 3-9-10 meeting as presented. Approved. NOTE – Andy Rodenhiser did not vote as he had not attended that meeting.

### **Daniels Wood II Modification Decision -**

Attached is the draft decision dated March 8, 2010 which the board reviewed.

Attorney Glenn Murphy and applicant Fred Sibley were present.

Glenn Murphy – There had been some confusion about who owned what parcels

Parcel B (road) – is both Sibley and Todd Allen

Parcel A (cul de sac) – is just Sibley

I have had conversations with the Allen's' attorney – he still has some questions on the documents, specifically on the private roadway agreement – his concern is whether his client (Todd Allen) should be responsible for any maintenance on parcel B as far as the private roadway agreement – however, there is already a private roadway agreement on record that assigns responsibility to both parties

Andy Rodenhiser – has the likelihood of an increased expenditure on maintenance been anticipated – more road to plow?

Fred Sibley – yes, probably would be 2-3 times more

Glenn Murphy – I could scan the old private roadway agreement and send it to Barbara Saint Andre so she can advise if a new agreement is needed.

Fred Sibley – when Todd bought the land, it was packaged so that his responsibility ended at what is now parcel B -

Glenn Murphy– I explained to Todd’s attorney that the existing private roadway agreement puts him on the hook for maintenance of what is now parcel B –

The Board reviewed the draft decision dated March 8, 2010.

A motion was made by Chan Rogers, seconded by Bob Tucker to approve the project evaluation criteria.

#### **Discussion on Project Evaluation Criteria**

Karyl Spiller-Walsh – I have difficulty with 5.16.3 with anything related to the water system – that the drainage system allows flowage easements – I find anything that involves surface flowage easements to be unacceptable . . . it is a no design approach – it is not an answer in other cases that we have looked at

Chan Rogers - I say her concern about drainage easements doesn’t exist – there are none of the nature she is concerned – there is a scale difference here

Karyl Spiller-Walsh – they are exactly the same . . .

Bob Tucker – I don’t have a problem with the design

Andy Rodenhiser – I feel this is an improvement over the previous design (original Daniels Wood II plan).

Karyl Spiller-Walsh – to my way of thinking, there is not an adequate amount of land on this parcel to accommodate a better drainage system and they have nuked the site and the site has become a funnel for water –

Andy Rodenhiser - he is creating a hardship on himself as the abutter if there is one to be had

The motion to approve the project evaluation criteria was approved. Rodenhiser, Tucker and Rogers in support. Spiller-Walsh opposed.

Motion by Bob Tucker, seconded by Chan Rogers to approve the Waiver Findings as presented.

#### **Discussion on Waiver Findings**

Karyl Spiller-Walsh – I am not comfortable granting a waiver on the stormwater standards.

The motion to approve the Waiver Findings was approved. Rodenhiser, Tucker and Rogers in support. Spiller-Walsh opposed.

Motion by Chan Rogers, seconded by Bob Tucker to approve the waiver Requests.

The motion to approve the Waiver Requests was approved. Rodenhiser, Tucker and Rogers in support. Spiller-Walsh opposed.

### **Discussion on Conditions**

#### **Legal Documents**

Karyl Spiller-Walsh – the entire lot 2B-1 is moving water across its surface – the entire lot should be an easement

Andy Rodenhiser – I don't agree – if you put a septic system in front, there will be a mounded system

Bob Tucker – you could make that argument for every single house lot in the town

Karyl Spiller-Walsh – not true, subdivisions are done with some kind of stormwater gathering system

Chan Rogers – every piece of land has water flowing on it and you don't consider the entire lot

Karyl Spiller-Walsh – there is no receptive system that is taking the water –

Karyl Spiller-Walsh – it is designed to move water across the surface – the only thing that is not is the footprint of the house - if it fails, then it could affect town property (to the north)

Andy Rodenhiser – Dave Pellegrini has reviewed this and said it was an adequate design for the purposes of the parcel

Chan Rogers – I think Karyl Spiller-Walsh is misusing the word easement

Karyl Spiller-Walsh – I disagree with you –

Andy Rodenhiser – he is creating his own hardship on his own land

Karyl Spiller-Walsh – I don't think it will wake Fred Sibley up in the morning – I think it will impact the wetlands

Andy Rodenhiser – we are not charged with addressing the wetlands –

Karyl Spiller-Walsh – it is our responsibility to not allow water from a subdivision to move off the site . . .

Glenn Murphy – Conservation will have to address this when somebody goes to build the house and get an Order of Conditions. NOTE – Mr. Murphy is a member of the Conservation Commission.

Fred Sibley – the wetlands on my land are actually higher

Susy Affleck-Childs – you have granted a waiver to not require compliance with stormwater regs in the Subdivision Rules and Regs because it is just one lot.

Bob Tucker – I want to make sure that the existing private roadway agreement addresses maintenance.

Glenn Murphy - I could send Town Counsel the prior roadway agreement to determine if it is sufficient.

Motion by Chan Rogers, seconded by Bob Tucker to approve the definitive subdivision plan modification and decision. Approved. Rodenhiser, Rogers and Tucker in favor. Spiller-Walsh opposed.

FRED SIBLEY – This modification has been much more involved that I ever expected – more expensive than the first two combined.

### **Discussion on Draft Agricultural Commission Bylaw**

See attached draft dated March 11, 2010.

Karyl Spiller-Walsh – I have a lot of issues with this – in reading thru, it is very encumbered – the number of responsibilities we are going to expect a commission to take on is too much – if you are looking for people from the farming community – it will have a negative connotation –

Bob Tucker – which items are negative?

Karyl Spiller-Walsh – we are trying to entice people – this is too much – this is a good thing, but with a low number of people that showed the other night (at the public meeting) – I don't know if these folks have the time and focus and have the time to muster up to this level of responsibility

Bob Tucker – then why bother with this idea at all?

Andy Rodenhiser – I would rather put something out there that empowers folks

Karyl Spiller-Walsh – I wish there had been more communication with folks – we are not yet communicating with people – a lot of other folks, all they are doing is sitting by

Chan Rogers – I say we empower people to do things

Susy Affleck-Childs – I sent this draft plus a letter to all the folks who attended

Bob Tucker – I look at this as an enabling tool like we have done so many times before – I don't see others jumping up to do more and have a positive impact on the town – I think it is a great starting point – get it out to a public hearing and hear what people have to say.

Andy Rodenhiser - I don't think people will really care what the text is. It is our job to inspire people to get involved.

Chan Rogers – I thought the attitude was excellent –

Andy Rodenhiser – Even Paul Revel said he would do it – he hates the Town and is suing the Town –

Gino Carlucci – the flip side of the argument is wouldn't you want to be on a committee that has some authority?

Karyl Spiller-Walsh – exactly

Andy Rodenhiser – Do you realize how crazy this sounds

Karyl Spiller-Walsh – people in the town who farm – professional or not, effects everything . . . all these people are not interested in giving time into the educational process – they want to negotiate the use of land - they want to mitigate against the notions of the Board of Health, they want to be proponents of farming

Andy Rodenhiser – do you have a recommended alternative?

Karyl Spiller-Walsh – it is very layered – it has to be less layered – I want it to be attractive to those that do farm –

Andy Rodenhiser – what would make it attractive to them?

Karyl Spiller-Walsh – it needs to sound more actual farming – it needs to be simplified – that is my opinion, I am done – I went to the farm meeting, I went to the farm bureau – I am for the idea – knowing the people in Medway, I feel there is a lot in here that would put people off . . .

Gino Carlucci – get something on the books and then it could be revised after

Andy Rodenhiser – this is a document that empowers and allows – this committee will make their own goals

Karyl Spiller-Walsh – first you have to get them in there . . . go ahead . . . I have put my two cents in. . . . I am usually right on things like this . . . I would be delighted if there was a flock of people who wanted to get involved.

Further Discussion on draft – Suggestions

Change Commission to Committee  
Tighten up text

Motion by Chan Rogers, seconded by Bob Tucker to approve the draft Agricultural Committee bylaw for the warrant for the 2010 Annual Town Meeting. Motion was approved unanimously.

Karyl Spiller-Walsh - I would like to see it happen – I think it will fail.

Susy Affleck-Childs – will you speak against this at town meeting?

Karyl Spiller-Walsh – No . . . I don't want to see it fail . . . . .

Andy Rodenhiser – you can be a leader on this . . .

Chan Rogers – the day following the meeting, I was talking with Medway Assessor Will Naser. . . . he was looking at assessments of farm property – we got talking about the dilapidated building at the southeast corner of West and Beech Street (near Bellingham) - - - that property has not been paying taxes since 1991 – the owners are deceased – the town is going for it in tax title -

## **Town Facilities Management Study Committee**

Susy Affleck-Childs - there is a slot for the PB on this committee – we need to give the BOS a nominee – Tom, Chan, Bob and John Williams have all expressed interest.

Bob Tucker – the Town is starting to recognize that their facilities and properties need ongoing maintenance and repairs and what they are looking for is to create a single entity instead of having multiple entities performing the same function

Chan Rogers – sooner or later a lot of cities and towns are going to have to do regionalization and force towns to look at better ways of operating . . . budget constraints are going to force these issues

Bob Tucker – any properties that the Town owns should all be maintained under a centralized system

Andy Rodenhiser – pockets of money meant for maintenance get hijacked for other purposes –

Chan Rogers – I have passion about this. . I am working with Tom Holder (DPW Director) on a highway barn project – I feel I have something to contribute

Bob Tucker – it is in my background, but with this School Building Committee I am chairing, I just don't see it as something I can do – if whoever we appoint needs some help or resources or somebody to attend a meeting periodically, I would be glad to jump right in and help out – I don't want to take on more than I can handle – I would almost like to suggest that we recommend two people to the committee – bring good balance – both Tom and Chan Rogers from that standpoint –

Motion by Bob Tucker, seconded by Karyl Spiller-Walsh to recommend both Chan Rogers and Tom Gay to the BOS. APPROVED.

## **Reports/Other Business**

Chan Rogers – two things I want to mention to you:

1. Tom Holder just got a letter from DEP limiting all the towns around here to x amount of water per day – it was slightly reduced from what we had – it allows nothing for development – there is some leeway . . . we have no watering and have some conservation measures – all the controls are in place – BOS has agreed to appeal this decision to DEP -

We are not taking water out of the basin - we are using water within the basin and we are replacing it with groundwater – I don't see the purpose of this restriction

Bob Tucker – this has been in place for a number of years . . .

Andy Rodenhiser – I am told you just ask for more . . .

Gino Carlucci – I know lots of towns that struggle to get an action from DEP

2. A situation has come up in the Speroni Acres subdivision – they are all on force main ejector pumps – during a heavy rainfall a week ago, the whole system failed – it is alleged that the manhole in the Restaurant 45 parking lot was gunked up with grease and blocked up the line – one home caught the brunt and it all back flowed into a house – 2 feet of raw sewage – problem as I see it, it was not a good idea to have 14 separate systems – it should have been one system –

Andy Rodenhiser – none of that stuff is publicly accepted

## **Future Meeting Topics**

Susy Affleck-Childs – You have 3 informals next week - Christine price has asked for an informal about her Hill Street property – You will remember that Tony Biocchi had been in here before for a very informal chat. Also John Greene for Medway Mill and Paul Yorkis for the Neelon Lane property.

Andy Rodenhiser - I would like these people to meet with Susy first

Bob Tucker – Christine needs to make up her own mind about what she wants to do - - is Holliston amendable to the width of the road that they want to have come off Hill Street?? Has she done the homework we asked about?

Andy Rodenhiser – we perceive there is less than an adequate width for a road up there – we had concerns



Andy Rodenhiser – what about John Greene – he keeps doing little things there without any site plan at all

Karyl Spiller-Walsh – in the DRC, we are finding that having informals has become a tactical strategy on the part of an applicant

Bob Tucker – Susy, listen to what they have to say and you know the rules/regs and the zoning as it applies within this Town . . . give them some direction – I personally would like to put these off. We have other work we need to do on zoning – we need to focus on a number of zoning articles that are in front of us. . they are dragging out and out way too long . . .

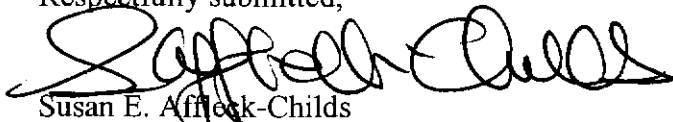
Chan Rogers – I have sat here quietly and twice tried to say something – since I have been on this board, there has never been a discussion re: Hill Street.

Susy Affleck-Childs – I will contact Christine and tell her to meet with me first – I will ask if she has spoken to Holliston yet? I will tell John Greene that he needs to file a site plan and get started. The same with Paul Yorkis re: Neelon Lane - file the application and get started

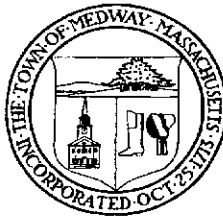
Motion by Karyl Spiller-Walsh, seconded by Chan Rogers to adjourn. APPROVED.

The meeting was adjourned at 9:50 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Susan E. Affleck-Childs', written in a cursive style.

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller-Walsh Spiller Walsh*  
*John W. Williams, Associate Member*

Revised Draft – March 8, 2010  
10:15 am

**CERTIFICATE OF ACTION**

**MODIFICATION to the Daniels Wood II**  
**Definitive Subdivision Plan and Certificate of Action**  
**(\_\_\_\_\_ with Waivers and Conditions)**

**I. APPLICANT & PROPERTY OWNER:**

Fred Sibley  
12 Oak Street  
Medway, MA 02053

**II. SUBJECT PROPERTY -** The subject property is a 6.15 acre site located at 12 Oak Street in the Agricultural Residential II zoning district. The property is located on the north side of Oak Street and at the eastern end of Daniels Road. The site is shown as Medway Assessors Map 5, Parcel 354.

**III. BACKGROUND –** The applicant wishes to modify the previously approved Daniels Wood II Definitive Subdivision Plan and the associated Certificate of Action/Decision.

*Daniels Wood II Subdivision Certificate of Action –* Approved by the Medway Planning Board on April 29, 2008. NOTE – The applicant has not recorded this Certificate of Action at the Norfolk County Registry of Deeds.

*Daniels Wood II Definitive Subdivision Plan –* Endorsed by the Medway Planning Board on May 27, 2008. Prepared by Colonial Engineering of Medway, MA dated September 23, 2007, last revised May 23, 2008. This plan was recorded at the Norfolk County Registry of Deeds on September 25, 2009 in Plan Book 595, Page 36.

planningboard@townofmedway.org

That prior plan divided the subject parcel into:

- Lot 2B-1 (24,212 sq. ft) – A new building lot to be accessed by a 107.23 linear foot extension of the Private Way portion of Daniels Road which is
- Parcel A - a 11,979 sq. ft cul-de-sac right of way (from Station 7+43.13 to Station 8+50.37) to provide legal frontage for Lot 2B-1
- Lot 2B-2 (5.32 acres) – The remaining land which is accessed from a driveway off of Oak Street with 254' of legal frontage on Oak Street.

The previously approved site work was to include construction of a 14' paved private roadway and a T shaped turnaround within the cul de sac; installation of stormwater drainage facilities; and construction of water lines to connect Lot 2B-1 to the Town's system. Lot 2B-1 would be serviced by a new on-site septic system.

The approved infrastructure construction work has not occurred; Lot 2B-1 has not been sold. As a result of soil tests completed in April 22, 2009, the applicant has determined that the utility arrangement, driveway, site grading and stormwater management design need to be modified to accommodate the needed sewage disposal system for Lot 2B-1.

The applicant also wishes to modify the prior Certificate of Action/Decision and Covenant to allow the applicant to convey Lot 2B-1 and Parcel A to a new owner who will be responsible for the infrastructure construction.

**IV. MODIFICATION DESCRIPTION** - The modified design is shown on *Alternative Driveway and Grading Plan – Daniels Wood II Definitive Subdivision Modification*, dated October 29, 2009, last revised December 17, 2009, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying co. of Medway, MA. As described by the applicant, the intended purpose of the revised design is to provide for:

- A. the use of graded drainage pathways instead of the catch basin and drywell system to control storm water runoff across lot 2B-1 to the low point on Lot 2B-2.
- B. the creation of an 18" grass basin and swale to allow for the natural infiltration of storm water runoff from the single family home driveway;
- C. the construction of a gravel emergency vehicle turnaround area within the cul-de-sac area to reduce runoff; and
- D. the reduction in the size of the proposed house size on Lot 2B-1 to a 1,800 sq. ft. footprint (as compared to the original 3,200 sq. ft footprint on the original Daniels Wood II plan)

- E. the development of a limited Operation and Maintenance Plan for the maintenance of Parcel A and its associated stormwater management system.

The proposed *Alternative Driveway and Grading Plan* will supplement the original *Daniels Wood II Definitive Subdivision Plan* last revised May 23, 2008, endorsed by the Planning Board on May 27, 2008, and recorded at the Registry of Deeds on September 15, 2009. The *Alternative Driveway and Grading Plan* essentially replaces Sheets 4 and 5 of the *Daniels Wood II Definitive Subdivision Plan* and also serves to void the *Driveway Infiltration Field Detail* and *Street Cross Section Detail* on Sheet 6 as they are no longer required because of the modified design.

The roadway layout and lot delineation shown on the new *Alternative Driveway and Grading Plan* vary slightly from the original *Daniels Wood II* plan (5-23-08). Lot 2B-1 is now shown as 23,463 sq. ft. as compared to 24,212 q. ft. This is a correction provided by the current land surveyor.

**V. PROCEDURAL SUMMARY:** With respect to the proposed modification to the *Daniels Wood II Definitive Subdivision Plan* and its associated Certificate of Action, the Planning and Economic Development Board verifies that:

- A. On October 30, 2009, it received an application to modify the *Daniels Wood II Definitive Subdivision Plan* and Certificate of Action/Decision.
- B. On November 10, 2009, it circulated the *Alternative Driveway and Grading Plan* to various Town boards and departments, including the Board of Health, soliciting review comments and noting that a public hearing was scheduled to begin on November 24, 2009. The Board of Health did not provide any written comments.
- C. On November 24, 2009, it commenced a public hearing on the proposed plan modification. The public hearing was duly noticed on November 9 and 17, 2009 in the *Milford Daily News*. Abutter notice was sent by certified mail to abutters, parties of interest and to the Planning Boards of adjacent communities on November 3, 2009. The public hearing was continued to January 12, 2010 at which time it was closed. At the public hearing, comments were received from the general public, municipal boards/ departments, PGC Associates (the Town's Consulting Planner), Tetra Tech Rizzo (the Town's Consulting Engineer), the applicant and members of the applicant's development team. All persons in attendance were provided the opportunity to comment and present evidence. All members voting on the definitive plan modification were present at all sessions.

**VI. VOTE OF THE BOARD** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on March 9, 2010, after having carefully reviewed the application and all plans, materials and

documentation presented by the applicant, the Board's consultants, abutters and the general public, comments from Town officials and boards, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the *Alternative Driveway and Grading Plan* for the Daniels Wood II Definitive Subdivision prepared by FAIST Engineering and O'Driscoll Land Surveying, Inc., originally dated October 29, 2009, last revised December 17, 2009, as a modification to the *Daniels Wood II Definitive Subdivision Plan*, subject to the *Specific and General Conditions* as specified herein and with *Waivers* from the *Subdivision Rules and Regulations* dated April 26, 2005 also as specified herein. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed.

## **VII. EXHIBITS – Plans and Documents**

Specified below is a list of application materials, public comments, consultant and town review documents, and supplemental information filed by the Applicant. All information is on file with the Planning and Economic Development Board and is available for public review.

### ***Daniels Wood II Definitive Subdivision Plan Certificate of Action***

Issued by the Medway Planning Board on April 29, 2008.

### ***Daniels Wood II Definitive Subdivision Plan***

Prepared by FAIST Engineering & O'Driscoll Land Surveying

Originally dated September 23, 2007; last revised May 23, 2008

Endorsed by the Medway Planning Board – May 27, 2008

### ***Alternative Driveway and Grading Plan – Daniels Wood II Definitive Subdivision Modification*** prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying Co. of Medway, MA.

Dated October 29, 2009,

Last revised December 17, 2009,

### ***Stormwater Management Letter/Report***

*Letter/Report* prepared by Faist Engineering - October 29, 2009 including excerpts from the Massachusetts Stormwater Handbook (January 2, 2008) and limited stormwater management calculations

*Pre-Post Development: Limited Drainage Calculations & HydroCAD Report* – December 28, 2009, prepared by Faist Engineering.

### ***Daniels Wood II - Lot 2B-1 Long Term Operation and Maintenance Plan- Site Stormwater Management System***

Prepared by Faist Engineering – October 2009

### ***Soil Suitability Assessment for On-Site Sewage Disposal***, prepared by O'Driscoll Land Surveying Co, April 22, 2009

**Waiver Request**

Prepared by Faist Engineering, October 29, 2009

**Town Engineering Consultant Review Letters - David Pellegri, P.E., Tetra Tech Rizzo, Inc.**

November 4, 2009 review letter responding to initial application

January 4, 2010 review letter responding to revised *Alternative Driveway and Grading Plan* dated December 17, 2009 and additional information submitted on December 29, 2009.

**Medway Departmental/Board Review Comments**

Memo from Medway Fire Chief Paul Trufant

**Supplemental Information Provided By Applicant**

December 28, 2009 letter David Faist, Faist Engineering responding to the November 20, 2009 review letter from David Pellegri, Tetra Tech Rizzo.

**VIII. PUBLIC HEARING SUMMARY:** The public hearing and review of the Alternative Driveway and Grading Plan for Daniels Wood II was conducted over the course of two (2) Planning and Economic Development Board meetings (11-24-09 and 1-12-10) during which substantive information was presented, evaluated and discussed. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005.

**Citizen/Resident Testimony**

Fred Sibley, owner

**Professional Review/Testimony**

Gino Carlucci, AICP, PGC Associates, Inc., Medway Planning Consultant

David Faist, PE, FAIST Engineering, engineer for the applicant

Paul Yorkis, Patriot Real Estate, representing the applicant

David Pellegri, PE, Tetra Tech Rizzo, Inc., Medway Engineering Consultant

Glenn Murphy, Attorney for the applicant

**Other Testimony - None**

**IX. PROJECT EVALUATION CRITERIA** – Before taking action on a Definitive Plan, the Board must evaluate the proposed development according to the criteria as specified in Section 5.16 of the *Subdivision Rules and Regulations*. At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on March 9, 2010 a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the Project Evaluation *Findings* as such pertain to the proposed modification as conditioned and approved by this Certificate of Action. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed ( ).

**5.16.1 Completeness and technical accuracy of all submissions.**

*Findings* – The staff and consultants have reviewed the submitted information and the applicant and its development team have provided additional submissions, information and revisions as requested. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.**

*Findings* – This modification does not significantly change the street pattern previously approved. The extension of the street serves just 2 lots and the existing segment, which currently functions as a “driveway” serving a single lot will be widened to accommodate the second lot. Future extension is not a viable option as the abutting lot has a restriction against further subdivision. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.**

*Findings* – The design of this development includes a drainage system reviewed by the Town’s consulting engineer and determined to be adequate. The location of the site and the grading of the lot ensure that it is generally protected from natural disasters. As noted above, the street pattern is also safe and traffic will be minimal. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environmental, which damage could be avoided or ameliorated through an alternative development plan.**

*Findings* – As a single lot with minimal street development, the environmental impact of this development is minimal and even falls below the threshold subject to DEP’s stormwater management regulations. Also, the development results in the preservation of an abutting 5.32-acre parcel as a single lot, which might have been further subdivided under another development plan. Therefore, the Planning and Economic Development Board finds that this criterion is met.

**5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that**

**dangerous traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.**

*Findings – The proposed new roadway serves a single additional lot and the segment leading to it, that functions as a driveway serving a single lot, is being widened to accommodate the second lot. It has been reviewed by the Police and Fire Departments and has been determined to be adequate for the provision of emergency services. Therefore, the Planning and Economic Development Board finds that this criterion is met.*

**5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.**

*Findings – The proposed modification corrects the lot size to 23,463 square feet which exceeds the minimum area required by the Zoning Bylaw of 22,500. The frontage requirement is also met by the new cul-de-sac. All other applicable zoning requirements are also met. Therefore, the Planning and Economic Development Board finds that this criterion is met.*

**5.16.7 Consistency with the purposes of the Subdivision Control Law.**

*Findings – The modification of this previously-approved development continues to meet the purposes of the Subdivision Control Law in that a street layout is created to serve a lot meeting the requirements of the Zoning Bylaw. The Subdivision Rules and Regulations have been waived in accordance with the circumstances of the development, but the project is essentially consistent with the purposes of subdivision control. Therefore, the Planning and Economic Development Board finds that this criterion is met.*

- X. WAIVERS** – The Applicant has requested the following additional waivers from certain provisions of Section 7 of the *Medway Subdivision Rules and Regulations*, dated April 26, 2005. Please note that the *Daniels Wood II Definitive Subdivision Plan Certificate of Action* issued by the Medway Planning Board on April 29, 2008 included other waivers from selected provisions of Sections 5, 6 and 7 of the *Subdivision Rules and Regulations*. Those waiver approvals remain in effect.

**SECTION 5. PROCEDURES FOR SUBMISSION AND REVIEW OF DEFINITIVE SUBDIVISION PLANS**

**SECTION 5.18.2 a) – Performance Guarantee – Restriction Covenant** – A Restriction Covenant shall be executed and duly recorded by the owner of record, running with the land, whereby such way and services shall be completed to serve any lot before such lot may be built upon or connected . . .

**EXPLANATION** – The applicant seeks a waiver from this regulation to allow Lot 29-1 to be sold to a new owner who will be responsible for the construction of the services



and infrastructure shown on the plan. Otherwise, it places a heavy financial burden on the applicant.

**FINDINGS** – The Board finds this to be a reasonable request in light of the small size of the development. A condition shall be included in this decision to not allow a building permit to be issued to construct a home on Lot 2B-1 until the required roadway and infrastructure is completed to the Board's satisfaction.

## SECTION 7. CONSTRUCTION STANDARDS

### **SECTION 7.7.1 – 7.7.5 Stormwater Management**

**EXPLANATION** – The applicant seeks a waiver from the provisions of the Stormwater Management standards of the *Subdivision Rules and Regulations* due to the small scale and size of the development site and the need to redesign the site and Parcel 2B-1 to accommodate the correctly sized septic system.

**FINDINGS** - The *Medway Subdivision Rules and Regulations* provide that the Board may modify the stormwater requirements to address specific needs of a particular site. The *Rules and Regulations* also defer to the Mass DEP Stormwater Management Policy. That policy, dated January 2, 2008, specifically exempts a single family house and housing developments comprised of detached single family dwellings on four or fewer lots from its provisions. Accordingly, the Planning and Economic Development Board finds its stormwater management provisions are not applicable for the following reasons:

- The modified plan includes only Lot 2B-1 and Parcel A, which combined are less than one acre in size and therefore the subject lot and parcel are exempt from the Mass DEP Stormwater Management Policy.
- At the request of the Planning and Economic Development Board, the applicant has provided limited stormwater analysis and the plan shows a scaled back “country style” drainage system that has been reviewed by the Town’s Consulting Engineer and found to adequately mitigate the increased flow and volume of stormwater runoff that will be created by the construction of a single family home on Lot 2B-1 and the associated extension of Daniels Road.

**Action on WAIVER FINDINGS** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on March 9, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted Waiver Findings. The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed ( )

**Action on WAIVER REQUEST** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on March 9, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above requested Waiver from Section 7.71 – 7.7.5 of the *Subdivision*

**Rules and Regulations.** The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and \_\_\_\_ opposed ( ).

**XI. CONDITIONS** – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

**Specific Conditions**

1. It is expressly understood that this modification applies to Lot 2B-1, Lot 2B-2 and cul de sac Parcel A as shown on the original *Daniels Wood II Definitive Subdivision Plan* and the new *Alternative Driveway and Grading Plan*. As a permanent condition of this plan, no further subdivision of Lot 2B-2 will be allowed. The applicant is required to record a deed restriction pertaining to Lot 2B-2 to the satisfaction of the Planning and Economic Development Board and Town Counsel. The prior agreement to not allow any further subdivision of Lot 2C as shown on the original *Daniels Wood II Definitive Subdivision Plan* also applies.
2. The applicant or his successors in title shall construct the roadway and all related infrastructure including stormwater facilities and utility extensions as shown on the *Alternative Driveway and Grading Plan*. Roadway construction shall occur Construction shall commence within Parcel B, continue easterly and conclude at the eastern end of Parcel A at Station 8+50.37. The entire length of the roadway shall be paved 14' wide.
2. **Ownership/Maintenance**
  - A. The extension of the Daniels Road right of way and the stormwater drainage facilities onto Parcel A will be privately owned in common by the owners of the new Lot 2B-1 and the owners of the property at 10 Daniels Road (Medway Assessors Map 5 - Parcel 354E12) and maintained by both parties. It is the intent of the Planning and Economic Development Board that these facilities will never be accepted by the Town of Medway.
  - B. The Board requires that the following aspects of the development shall be and shall remain forever private, and that the Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of same:
    - 1) Roadway
    - 2) Stormwater management facilities
    - 3) Snowplowing/sanding
    - 4) Landscaping
    - 5) Street lights

3. **MITIGATION PLAN**

- A. The extension of Daniels Road as shown on this plan will be a private way in perpetuity and thus the Town will be relieved of the on-going responsibility and expense for its upkeep and maintenance.
  - B. The stormwater management facilities will be privately maintained and thus the Town will be relieved of the on-going responsibility and expense for their upkeep and maintenance.
  - C. The applicant has agreed to not further divide Parcel 2B-2 (5.32 acres) or Lot 2C as shown on the original *Daniels Wood II Definitive Subdivision Plan* to the extent that might be otherwise allowed per the Medway Zoning Bylaw for the ARII zoning district. The applicant will permanently restrict such further division of the aforementioned parcels through a deed restriction to be prepared and approved by Town Counsel and recorded at the Norfolk County Registry of Deeds.
  - D. The reduced width of road paving will result in reduced disturbance to the topography and have less impact on the site's natural features and resources.
4. **Timetable for Completion** – Construction of the roadway and all related infrastructure including the stormwater management system and installation of all utilities as shown on the Daniels Wood II Modified Plan shall be installed to the satisfaction of the Planning and Economic Development Board, within three (3) years of the date of plan endorsement. A request to extend the completion time limits must be made in writing to the Board at least thirty (30) days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to make any appropriate changes to this decision, and to require appropriate further modifications of the modified Daniels Wood II definitive plan.
5. **Plan Revisions** - Prior to plan endorsement, the *Alternative Driveway and Grading Plan* dated October 29, 2009, last revised December 17, 2009 will be further revised as follows:
- A. Sheet 1
    - 1) The Plan Set shall be titled – Daniels Wood II Definitive Subdivision Modification; Sheet 1 is Alternative Driveway and Grading Plan
    - 2) The final plan revision date
    - 3) The list of additionally Approved Waivers
    - 4) Standard Subdivision plan reference to a Covenant
    - 5) The boundaries of Parcel B need to be checked and revised to NOT include that portion of the Daniels Road public right of way that extends easterly from the end of the cul de sac for Daniels Road (public way) ending at Station 5+79.01
    - 6) The drainage easement shall be shown to extend further onto Lot 2B-2.
    - 7) Reference to a Private Roadway Agreement

- B. A Sheet 2 titled "Easement Plan" shall be added to the Plan Set. The Easement Plan shall show the property lines and easements as per the Planning & Economic Development Board's Decision. Area of all lots and parcels shall be shown. Sheet 2 shall also include the standard Definitive Subdivision Plan reference to a Covenant.
- C. The plan shall be revised to reflect all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Planning and Economic Development Board will endorse the OSRD definitive plan.

## 6. **Legal Documents**

- A. **Deeds** – Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the deed to be used to convey Lot 2B-1 and Parcel A for review, comment, amendment and approval by Town Counsel. The deed shall clearly state that the owner of Lot 2B-1 or its assigns shall own and be responsible for the maintenance and upkeep of all improvements and infrastructure on Parcel A including the stormwater management system. The owner of Lot 2B-1 will also share in the responsibility for the upkeep and maintenance of the private roadway on Parcel B. Other deeds may be required as determined by Town Counsel.
- B. **Easements** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed easements for review, comment, amendment and approval by Town Counsel. These easements include, but are not limited to: slope and drainage easement on Lots 2B-1 and 2B-2 and a driveway easement on Parcel B. Additional easements may be required at the direction of Town Counsel.
- C. **Private Roadway Agreement** – The owners of Lot 2B-1, Parcel A and 10 Daniels Road (Parcel 354E12 - Medway Assessors Map 5) shall be subject to a Private Roadway Agreement to be executed and recorded with the plan and Certificate of Action. Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed Private Roadway Agreement for review, comment, amendment and approval by Town Counsel. At a minimum, the Agreement shall include language regarding the property owners' responsibility for the up-keep, repair, and on-going maintenance of the roadway including snowplowing and sanding and the operation and maintenance of the stormwater facilities.

## 7. **Plan Endorsement**

- A. The original drawings of all sheets of the final *Daniels Wood II Definitive Subdivision Plan Modification* shall be endorsed by the signatures of a majority of the Planning and Economic Development Board within ninety (90) days after the statutory twenty (20) day appeal period has elapsed following the filing of the Board's Certificate of Action with the Town Clerk and the Clerk has notified the Board that no appeal has been filed. If the final Daniels Wood II Definitive Plan Modification is not submitted for endorsement within ninety days, this approval decision shall expire unless the deadline is extended at the applicant's request by the Planning and Economic Development Board.
- B. *Copies of Endorsed Plans* - Within thirty (30) days after plan endorsement, the Applicant shall provide the Town with one set of the endorsed plans in 11" x 17" and eight sets in 24" by 36" paper format. The Applicant shall also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The applicant may be required to pay any reasonable associated costs, to update the Medway GIS/Assessor's maps relative to this subdivision.

9. **Recording of Plans and Documents**

- A. Within ninety (90) days of plan endorsement, the following documents/ plans shall be recorded at the Norfolk County Registry of Deeds:
  - 1) Daniels Wood II Certificate of Action approved by the Medway Planning Board on April 29, 2008.
  - 2) Daniels Wood II Definitive Subdivision Plan Modification – all sheets as endorsed by the Planning and Economic Development Board
  - 3) Daniels Wood II Definitive Subdivision Plan Modification - Certificate of Action/Decision
  - 4) Subdivision Covenant
  - 5) Certificate of No Appeal from the Medway Town Clerk
  - 6) Deed Restriction applicable to Parcels 2B-2 and 2C.
  - 7) Easements – Slope & Drainage; Driveway, etc.
  - 8) Other documents as may be required by Town Counsel
- B. Within thirty (30) days of recording the Daniels Wood II Definitive Subdivision Plan Modification and all associated documents with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.

10. **Maintenance Responsibility During Construction** - The Applicant or its assigns shall provide for snow plowing, sanding and full maintenance of the applicable portion of Daniels Road and all related infrastructure including stormwater management facilities throughout the entire construction process.

## 11. Building Permits

- A. No building permit for Lot 2B-1 shall be issued before the Planning and Economic Development Board endorses the Daniels Wood II Definitive Plan Modification.
- B. Before the Board will authorize a building permit for construction of a home on Lot 2B-1, the following items, at a minimum must be installed and inspected and approved by the Board:
  - 1) Roadway gravel subbase
  - 2) Roadway binder course
  - 3) Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales, infiltrations systems or any other stormwater management facilities.
  - 4) As-built plan of each detention pond and forebay and all critical elevations and details of the associated structures, pipes and headwalls.
  - 5) Provisions for fire prevention and protection. Municipal water service to be constructed, installed and functional.

## 12. Performance Security

- A. *Covenant* - Prior to plan endorsement, the Applicant shall sign a *Covenant*, on a form provided by the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the way and all related infrastructure and installation of utilities and services as specified in the approved Daniels Wood II Definitive Plan Modification. Reference to the *Covenant* shall be noted on the cover sheet of the Daniels Wood II Definitive Plan Modification. The *Covenant* shall specify that no building may be constructed on Lot 2B-1 unit until such services are completed or an alternative form of security is provided. The *Covenant* shall specify that the roadway and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within 3 years of the date of plan endorsement. The *Covenant* shall be recorded at the Norfolk County Registry of Deeds at the same time the Daniels Wood II Definitive Plan Modification and this Certificate of Action/ Decision are recorded.
- B. *Alternative Performance Security*
  - 1) At such time as the Owner of Lot 2B-1 wishes to secure a building permit to construct a house on Lot 2B-1, the security provided by the *Covenant* shall be replaced by one of the types of performance guarantees set forth in M.G.L. Ch. 41, Section 81U, which method or combination of methods may be selected and from time to time

varied by the applicant, in a sufficient amount, source and form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town Counsel. The performance guarantee shall be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:

- a. the date by which the developer shall complete construction
- b. a statement that the agreement does not expire until released in full by the Planning and Economic Development Board
- c. procedures for collection upon default.

- 2) *Amount* - The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the Daniels Wood II Definitive Plan Modification that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so. The security amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The estimate shall also include the cost to maintain the roadways and infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a twenty-five percent (25%) contingency.

- C. *Adjustment of Performance Guarantee* – At the developer's written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Planning and Economic Development Board upon the partial completion of the roadways and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the Daniels Wood II Definitive Plan Modification that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the Mass Highway Department. The estimate shall also include the cost to maintain the roadways, stormwater management system and other infrastructure in the event the developer fails to adequately perform such.

The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus a twenty-five percent (25%) contingency.

- D. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

### 13. **Project Completion**

- A. **As-Built Plans** – Upon completion of all work included on the plan and specified in the Decision, the Applicant or its assigns shall have prepared and provide as-built construction plans of the roadways, utilities. Such as-built plans shall be prepared in accordance with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted. The as-built plans shall be determined to be complete and approved by the Planning and Economic Development Board. The Applicant or its assigns shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The Applicant may be directed to pay any reasonable associated costs, as may be determined to update the Medway GIS/ Assessor's maps relative to this development.
- B. **Certification of Completion and Compliance** – A Letter of Completion and Compliance signed under oath by the applicant or its assigns and signed and stamped by a Professional Engineer registered in the Commonwealth of Massachusetts, who shall attest and certify that all facets of the subdivision work including roadway and all infrastructure was constructed and completed in strict compliance with the approved and endorsed the *Subdivision Rules and Regulations*, shall be provided to the Board.
- C. Certificate of Compliance from the Medway Conservation Commission relative to any Order of Conditions for the site.
- D. Proof of taxes paid to the Town of Medway for Lot 2B-1 and Parcel A by the applicant or its assigns.
- E. Sign-offs from the Planning and Economic Development Board, the Town's Consulting Engineer, Medway Fire Department, Medway Police Department and other Town departments/boards/ committees with jurisdiction.



- F. The project's design engineer shall provide a signed statement verifying that the roof drain system for the constructed house is of adequate size to accommodate all of its stormwater runoff.
- 14. All other provisions/conditions of the Daniels Wood II Definitive Subdivision Plan Certificate of Action dated April 29, 2008 which have not been changed due to this Certificate of Action shall also apply.

**General Conditions**

- 15. **Expiration of Appeal Period** - Prior to plan endorsement, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk's office.
- 16. **Payment of Balance of Fees/Taxes** - Prior to plan endorsement, releases, security adjustments or plan modifications, the Applicant shall pay the balance of any outstanding plan review and construction services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations or fees due the Town of Medway pertaining to these properties. The Applicant shall also provide proof from the Medway Town Treasurer/Collector that all real estate taxes are current to that date for all property included in this development.
- 17. **Order of Conditions** - Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all "Order of Conditions" as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the Definitive Open Space Plan that may be required under the "Order of Conditions" shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a modification to the Definitive Plan. The Planning and Economic Development Board reserves the right to work with the issuing authority to accomplish any mutually acceptable modifications to the "Order of Conditions" that may be deemed appropriate by the Planning and Economic Development Board and the Town's Consulting Engineer. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty (20) day appeal period must be received from the Town Clerk's office before the Planning and Economic Development Board endorses the plan modification.

Additionally, upon issuance of any "Order of Conditions" requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

18. **Construction Account** – Inspection of roadway, infrastructure and utility construction by the Town's Consulting Engineer and review of legal documents by Town Counsel is required. Prior to plan endorsement, the Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer. A construction account shall be established with the Medway Planning and Economic Development Board prior to plan endorsement. The Applicant shall provide supplemental payments to the Town of Medway, for reasonable construction inspection and legal services, upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed, municipal services are installed, the as-built plan is reviewed and all legal documents associated with this development have been reviewed and determined to be satisfactory.
19. **Restrictions on Construction Activities** - During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following restrictions on construction activity shall apply:
  - A. Outside construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m. including truck and machine start-up and movement.
  - B. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
  - C. There shall be no off-site tracking of materials. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create a hazardous or deleterious conditions for vehicles, pedestrians or abutting residents.
  - D. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.
20. **Modifications to Plan and/or Decision** – The Board, on its own motion on the petition of the Applicant or any person interested, may modify or amend or require a change in the Definitive Plan and/or the associated Certificate of Action. All of the provisions of the *Medway Subdivision Rules and Regulations* relating to the submission and approval of a plan shall be applicable to the approval of a modification or amendment to the Certificate of Action. Any changes are subject to the *Rules and Regulations* in effect at the time a modification or amendment is sought.
21. **Compliance**
  - A. All construction shall be as specified in the approved Daniels Wood II Definitive Plan and this Modification and shall be constructed in full compliance with the *Subdivision Rules and Regulations* and all applicable

local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

- B. The Planning and Economic Development Board shall use all legal options available to it, including referral of any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action to ensure compliance with this Decision.

**XIII. APPEALS** – Appeals, if any from this Decision shall be made to the Superior Court or to Land Court in accordance with M.G.L. Chapter 41, Section 81BB, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Medway Town Clerk.

## **DANIELS WOOD II DEFINITIVE SUBDIVISION PLAN MODIFICATION CERTIFICATE OF ACTION**

**Date of Action by the Medway Planning and Economic Development Board:**

\_\_\_\_\_

**AYE:**

**NAY:**

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**Date Signed:** \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

\_\_\_\_\_  
Date

**Date Filed with the Town Clerk:**

**Copies To:**

Fred Sibley  
Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering  
Trish Brennan, Conservation Agent  
John Emidy, Building Commissioner  
Bill Fisher, Board of Health  
Thomas Holder, DPW  
Suzanne Kennedy, Town Administrator  
Will Naser, Assessor  
Melanie Philips, Treasurer/Collector  
Barbara Saint Andre, Petrini & Associates Town Counsel  
Dave Travalini, Conservation Commission  
Paul Trufant, Fire Chief  
Jeffrey Watson, Police Safety Officer  
Maryjane White, Town Clerk  
Gino Carlucci, PGC Associates  
Dave Pellegrini, Tetra Tech Rizzo

*March 16, 2010 Medway Planning and Economic Development Board  
Approved – March 23, 2010*

## **Medway Agricultural Commission Proposed General Bylaw**

*Draft 3-11-10 – Prepared by Medway Planning and Economic Development*

ARTICLE : To see if the Town will vote to amend the General By-laws of the Town of Medway by adding a new Section 2.\_\_\_\_ to Article II Town Officers and their Duties as follows:

### **Section 2.\_\_\_\_ – Agricultural Commission**

- (a) There shall be established a Medway Agricultural Commission consisting of at least 5 and no more than 9 individuals.
- (b) The Agricultural Commission will have the following duties and responsibilities:
  - 1. Act as a spokesman for the Medway farming community.
  - 2. Advise the Town's elected officials, appointed boards/committees, Town staff and the community at large, by request or on its own initiative, on issues, projects and activities relating to agricultural lands and farming in the community, including land acquisitions and other land transactions. This may include the presentation of oral or written testimony at public meetings and hearings before any Town Board or Committee.
  - 3. Encourage the pursuit of agriculture in Medway by working to preserve, revitalize and sustain Medway's agricultural enterprises, rural character and farming traditions.
  - 4. Promote agricultural based economic opportunities in the community
  - 5. Serve as representatives, advocates, educators, facilitators and/or mediators in the resolution of disputes relating to agricultural issues within the community. Any such recommendations shall be advisory and any such agreements are entered into voluntarily by the parties involved.
  - 6. Work to preserve, protect and improve private and public agricultural lands & resources.
  - 7. Pursue all initiatives appropriate to creating, retaining, and sustaining an agricultural community in Medway including farm based recreational activities and agri-tourism opportunities.
  - 8. Engage in projects and activities to promote farming including educational programs and community events.
  - 9. Develop, propose and comment on warrant articles, policies and procedures, and rules & regulations from the perspective of advocating and promoting agriculture concerns.

10. Report on its projects and activities on an annual basis within the Town's Annual Report.
  11. Perform such other duties as the Board of Selectmen may determine in response to the need for encourage agriculture in Medway or as may be authorized by other town bylaws.
- (c) The Agricultural Commission shall be appointed by the Board of Selectmen following an active recruitment process. Committee members shall serve 3 year staggered terms with one-third of the first members appointed for a 3 year term, one-third for a 2 year term and the remaining initial members appointed for a 1 year term. Thereafter, each member shall serve for 3 years or until his successor has been appointed. Vacancies shall be filled by the Board of Selectmen based on the recommendations of the Commission. To maintain the staggered cycle of terms, appointments to fill vacancies shall be based on the unexpired term of the open position.
- (d) Members of the Agricultural Commission shall either reside in the community or own agricultural property in Medway *(or be an owner's designated representative)*. A majority of the Agricultural Commission members shall be actively engaged in the business of farming or related agricultural industries. The remaining members shall have a background or demonstrated interest in farming. Non-voting associate members who are supporters or friends of agriculture may also be appointed for 1 year terms.

Or to act in any other manner related thereto.

**March 23, 2010  
Medway Planning and Economic Development Board Meeting  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:03 pm.

**CITIZEN COMMENTS**

Mr. Yorkis presented the Board with information regarding three options for the Neelon Lane property.

The first plan showed the right-of-way from Village Street on Neelon Lane. This right-of-way would be for an 18' wide paved surface. The P cul-de-sac would provide the ability for the vehicles to turn around.

The second plan shows that the P cul-de-sac can be constructed entirely on land that is part of the purchased property. There will be no change to the open space.

The third plan shows that the P-cul-de-sac which would be built by the applicant on adjacent property owned by Beth McDonald. This would have adequate frontage. There will be a new fire hydrant on Neelon Lane, along with a twenty foot utility easement connecting to Cherokee Lane. A new fire hydrant would be located at the end of Cherokee. A ten foot wide gravel pathway would be used for emergency vehicle and pedestrian access. The third plan has been reviewed by the Town of Medway Fire Chief Paul Trufant and the Police Sergeant Jeff Watson.

Mr. Yorkis also communicated that he has met with all three parties whose driveways are located on Neelon Lane. He also informed the Board that the exact width is not 100% clear at this point.

The Board members had comments in regard to the plans. Member Rogers indicated that he is not opposed to this, but a lot is going on with this plan. Member Gay is not sure about the presented options, but he is concerned about Neelon Way and the flip flop of the turn around.



Mr. Gay informed Mr. Yorkis that he would like to make sure that the same kind of information is presented on all the plans and that the proposals are consistent.

Chairperson Rodenhiser noted that the road and right of way width is of concern, along with the access for emergency vehicles. Another concern is the traffic going down the street. Member Spiller-Walsh would like the design to allow for some vista views by some creative stacking of units. Member Tucker noted that there is too much to fit in at this property.

Abutter Kaplan of 221 Village Street was concerned about the width of the street.

The Chairman informed the abutter that those issues will be addressed once the official submittal is presented to the Board.

### **PROPOSED ZONING ARTICLES**

The Board reviewed the draft articles for Green Communities Work – Definitions. Affleck – Childs will be presenting these definitions to the Energy Committee at their meeting on Wednesday evening. The definitions have been reviewed by Town Counsel. The Board was in agreement with the definitions as presented in the draft of March 17, 2010. The Board is also comfortable with the amendments to the Medway Zoning Bylaw, Section V. Use Regulations, Sub-Section M., Industrial I Zoning District by adding items j and K to paragraph #1, and subsection N, Industrial II by deleting e) in paragraph 1 and replacing it with the noted revision. Items h) & i) in paragraph #1. Under Industrial III Zoning District items g & h will be added to paragraph #1 under allowed uses.

The section in relation to the Site Plan Review was reviewed and it was noted that the inclusion of a definition was recommended.

### **Article Pertaining to Sign Regulations:**

The Board reviewed the sign definitions and would like the Section regarding Temporary Banner Type (20) to indicate 32 square feet instead of 24 square feet. The discussion continued in relation to the exempt signs. It was recommended that under (23) Contractor's temporary lawn sign that these not exceed a total of 4 square feet and not the 12 square feet proposed. The Board was comfortable with the "Now hiring" signs. Under (25), Signs for community based organizations, it was suggested that there not be a maximum of six signs per organization. In relation to the temporary product promotional signs, member Tucker questioned if the Board wants to regulate this? The Chairman concurred asking if the Board really wants to limit at this time. After discussion, it was suggested that this be removed. The Board was comfortable with numbers (27) and (28). The discussion next moved to the prohibited signs. Under (k), it was recommended that the word outside be included. The Board would like it indicated that signs are prohibited for Home Based Occupations/Home Based Businesses.

### **Sign Standards – All Zoning Districts:**

The Board was comfortable and agreement with the highlighted suggestions as presented in Sections a), j), l), m), q), r), and s). Under Section m), member Gay wanted to make sure that the

setbacks are not encroached upon. The Table 1A titled Agricultural and Residential Districts 1 & 11 will be updated based on the suggestions. Gino Carlucci will assist with this.

**Article Pertaining to Home Based Businesses:**

The Board further reviewed the article pertaining to the Home Based Businesses dated March 17, 2010 draft. Under Section e) number 4, the Board would like it to indicate parking for no more than two vehicles. The rest of the wording can be deleted.

**Exterior Lighting:**

The Board was in receipt of the most recently revised copy of the Exterior Lighting Draft Article dated March 23, 2010. This was read and reviewed by the Boards. Member Tucker will further look into researching the current requirements in relation to the standards for the control of glare and light trespass. Under this section, the non-residential properties shall not exceed 0.1. The Board discussed the hours of operation for illumination. Member Rogers felt that 11:00 pm was too late. It was noted that there is an allowance for security lighting.

**HOUSING PRODUCTION PLAN:**

Mr. Carlucci provided changes to the previous version of the Housing Production Plan. He communicated to the Board that this was voted and accepted by the Board of Selectmen with the proposed changes. The change included updating the Table of Contents. The year was also revised to indicate 2010. Under page 22, the 21E sites were further explained. Mr. Carlucci will add a few sentences providing clarification to the 21E sites which were not noted in the report.

**KINGSON LANE**

The Board is in receipt of a letter from the Woodside Condominium Association dated March 23, 2010. The letter asks the Board to consider Kingston Lane as a public road. There is nothing on the original 40B Comprehensive Permit decision which makes reference to it being accepted at a public road. The residents have been maintaining it through the years as a private way.

- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to not recommend that the Town should accept this as a public way.**

**WILDEBROOK ROAD**

A letter written by Christine Jorgenson, who resides at 6 Wildebrook Road, requested that the Planning and Economic Development Board consider acceptance of Wildebrook Road, First Colony Drive and Summit Road. The letter makes reference that the streets did not meet town approval and the bond was held by the Town. The Board would like to have Town Counsel review this letter. The Chairman is not in favor of accepting these streets. Member Tucker agrees and notes that the homes were not built to the construction standards.

**BIRCH HILL - Final Release Subdivision Performance Guarantee:**

The Planning and Economic Development Board signed the paperwork for the Certificate of Completion and Final Release of Subdivision Performance Guarantee for Birch Hills Acre Subdivision and will allow a full release of Performance Guarantee.

**TOWN FACILITY MANAGEMENT COMMITTEE**

- On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to appoint Tom Gay to the Town Facility Management Committee.

**PEDB MEETING MINUTES:**

- On a motion made by Chan Rogers and seconded by Karyl-Spiller-Walsh, the Board voted unanimously to approve the minutes of March 16, 2010 as written. Member Gay abstained as he was not present for the 3/16/10 meeting.

**FUTURE PEDB MEETINGS:**

The next meetings scheduled are: April 13 & 27, 2010.

The 2010 Annual Town is scheduled for Monday, June 14, 2010.

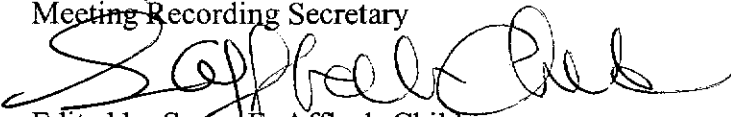
**ADJOURN**

- On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn at 10:15 pm.

The meeting was adjourned at 10:15 pm.

Respectfully Submitted,

  
Amy Sutherland  
Meeting Recording Secretary

  
Edited by Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

**April 13, 2010  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:**

Associate Member John Williams  
Susy Affleck-Childs, Planning & Economic Development Coordinator

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:00 pm.

**Public Hearing Continuation:**

7:15 PM      Daniels Village ARCPUD – Betty McCall Vernaglia

Mrs. McCall informed the Board that she is no further ahead than months ago and that the time allotment for this has essentially run out. She is not sure what to do. Mrs. McCall informed the Board that this was a poorly written agreement. There has been no new additional material supplied to the Board. Mrs. McCall would like to have the Board hold off until the next meeting before making a decision.

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to extend and continue the meeting until April 27, 2010.**

**Committee Appointments:**

- **On a motion made by Bob Tucker, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to appoint Andy Rodenhiser to the Medway Economic Development Committee through June 30, 2011.**  
(Andy Rodenhiser abstained from vote.)

**Engineering Services Contract - Request for Proposal:**

The Board is in receipt of the Request for Proposal for Engineering, Plan Review and Construction Inspection Services. The deadline for proposals is April 28, 2010.

**Claybrook II Subdivision Research:**

The Board is in receipt of a memorandum dated April 8, 2010 from Susy Affleck-Childs regarding the street acceptance issues in the Claybrook II Subdivision. The memo makes a recommendation to have Tetra Tech Rizzo conduct a site inspection, develop an updated punch list and prepare a bond estimate.

Resident, Mr. Zawalich of 7 Wildebrook Road, was present to discuss the subdivision. He was inquiring about street acceptance. The current bond account amount is \$42,190. The construction observation account balance is \$3,928.25. The Chairman informed the resident that the recourse is against the developer and that the Board will have Tetra Tech do a site inspection.

- **On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to request that Tetra Tech Rizzo perform a site inspection in an amount to not exceed \$3,938.25.**

**Correspondence:**

**Letter from Stephen Barrasso, 2 Spruce Road:**

A letter was sent from Mr. Barrasso regarding the water run-off problem at 2 Spruce Road. The Board would like the problem identified and inform the developer of the correction measures which should be taken. The Board would like a letter sent to Mr. Barraso informing him of the action of the Board. The Board would also like this copied to Ralph Costello. The Board would like Susy Affleck-Childs to seek clarification about the potential outcomes. It was recommended that the Town Engineer be utilized to assist with this. The Board would also liked clarified the easements in relation to the culverts. The Board would like to send a letter sent to the DPW, Developer, and Engineer to inform all that there are issues at this site.

**Letter to Medway ZBA: Fox Run Farm 40 B project:**

The Board reviewed the PEDB's letter which was sent to the Zoning Board of Appeals on March 30, 2010. This letter makes recommendations and suggests that another modification to the Comprehensive Permit may be helpful.

**Other Correspondence:**

The Board is in receipt of a public hearing notice for the Medway Zoning Board of Appeals which will take place on Wednesday April 14, 2010. The applicant, NWG Auto Repair, requests that a Special Permit be granted for a drive thru for a HoneyDew Donuts. The address is 71 Main St. The Board is in agreement that this is a traffic concern and is dangerous. Member Rogers and Spiller-Walsh plan to go to the ZBA meeting and will express the Board's concerns.

Member Gay wanted to inform the Board that he can no longer serve as the Zoning Board of Appeals liaison due to his work schedule.

**Woodside Condominium Association:**

The Board is in receipt of a memo which was sent to Mr. Mike Leone and signed by the Chairman of the Planning and Economic Development Board. The letter references that the Board will not recommend Kingson Lane as a public way.

**2010 Annual Conference – Mass Association of Planning Directors**

- **On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to authorize Susy Affleck-Childs to attend the 2010 Annual Conference in Plymouth, MA in June.**

### **Task Force Reports**

#### **Design Review Committee:**

Member Spiller-Walsh – The Design Review Committee met last week. This was a productive meeting. Mr. Steinhoff was present with his architect. The plans for 146 Main Street had excellent architectural details. The layout works and the Committee will be addressing the landscaping with buffers.

#### **Minutes:**

- **On a motion made by Chan Rogers and seconded by Karyl-Spiller-Walsh, the Board voted unanimously to approve the minutes of March 23, 2010 as written.**

#### **Future Meetings:**

The next meetings scheduled are: **April 27, May 11 & 25, 2010.**

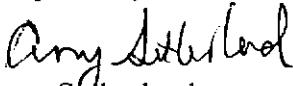
The 2010 Annual Town is scheduled for Monday, June 14, 2010.

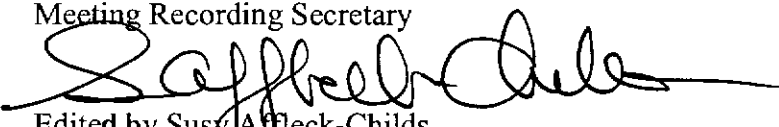
#### **Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn at 8:15 PM.**

The meeting was adjourned at 8:15 PM.

Respectfully Submitted,

  
Amy Sutherland  
Meeting Recording Secretary

  
Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator

**April 27, 2010 Meeting  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Bob Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams, Andy Rodenhiser

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development Coordinator  
Dave Pellegri, Tetra Tech Rizzo

The Vice Chairman opened the meeting at 7:00 pm.

**Board Business:**

Member Rogers wanted to bring to the Board's attention that there is a piece of property on Oakland Street that has 10 unregistered cars with an accumulation of junk surrounding the property. Aerial pictures were provided. Member Rogers feels that the proposed (abandoned property) article written by John Emidy (for consideration at the 2010 annual town meeting) really needs to be passed or reworked to address situations such as this. The Selectmen have asked the Planning Board to include the article and incorporate a portion of time to address the article in its upcoming zoning public hearing. Member Spiller-Walsh would like a copy of the photographs.

**Public Hearing Continuation:**

7:15 PM Daniels Village ARCPUD – Betty McCall Vernaglia

Mrs. McCall informed the Board that she has not made any progress and would like to have the Board grant a continuance for two months.

Member Tucker suggested that Mrs. McCall seek an extension until July 30, 2010 and the Board continue the hearing until June 22, 2010.

- **On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted unanimously to continue the public hearing until June 22, 2010 and to grant an extension until July 30, 2010.**

**Informal Discussion – Beth McDonald:**

Possible private way subdivision – 9 Neelon Lane.

Don Nielson of Guerriere and Halnon was present on behalf of Ms. McDonald.

Ms. McDonald presented a concept plan. The Board does not have a formal preliminary subdivision plan submitted, but Ms. McDonald is looking to extend Neelon Lane as a small private way to establish frontage to allow for the creation of 2 additional house lots. (Neelon Lane is presently an undersized public way.) The applicant would be requesting waivers to allow for 18 feet road width to extend Neelon Lane to Lot 2 driveway. The roadway will continue from 2<sup>nd</sup> lot driveway to the driveway for the 3<sup>rd</sup> lot (#9 Neelon Lane) with 14 feet width. The private road base/binder would exist of gravel base with 2<sup>nd</sup> coat of road grind and top coat of crushed blue stone. The request is for consideration on the quantity and depth of underlayment where this is access for 2 homes and would not be a public street. This is proposed to be held as a permanent private way. The road parcel would be owned mutually by all 3 lots as a Homeowner's Association. The plan for runoff water would be the existing 8" drainage line with two catch basins. These would need to be cleaned out and re-assessed. The roof runoff details would need to be included in plans. There would be sections of permeable pavement requested on sloped sections of private drive by Lot#3 to handle runoff vs. asphalt paving. The run-off details would also need to be included. The use of rain garden and surface drainage was discussed. The official Neelon Lane width (public way) needs to be clarified.

Member Spiller-Walsh is not sure about the stormwater. She would like further clarification of the stormwater on a bigger footprint house than what is shown.

Ms. McDonald does have the professional certification and can design rainwater gardens for this.

Member Gay provided Member Spiller-Walsh with documentation for the dimensions for the roadway width from the sheets Mr. Yorkis had previously provided to the PEDB for the informally proposed and adjacent Charles River Acres OSRD development (17.6' and 13.3' on Village Street (pavement), and right of way is 20'. Further clarification will be needed.

Dave Pellegrini inquired if they have met with the Town's public safety departments. It was communicated that the applicant has not at this point, but will once this process proceeds further.

Susy Affleck-Childs did note that they are going to need several waivers and the waivers are only to be granted if they are in the best interest of the Town. Discussion occurred about the applicant providing a public walkway easement on her property along the Charles River for the enjoyment of the public.

**Pine Meadow II – Gary Feldman:**

Discussion re: cul-de-sac island construction specifications.

Mr. Gary Feldman was present and had contacted Dave Pellegrini from Tetra Tech Rizzo. It has been noted that the drawing for the truck apron around the landscaped island in the cul de sac as included in the endorsed Pine Meadows II Definitive Subdivision Plan is not consistent with Detail CD-9 Cul-de-sac typical section in Medway's *Subdivision Rules and Regulations*. The Regs specify that truck aprons are to be constructed with pavers and flush mounted granite curbing. Mr. Feldman is looking for some guidance as the approved plan is not detailed. The Board wanted to also address the language which needs to be included to address the truck apron around the landscaped island. The Board discussed this and would like to go with sloped granite



curbing on the inside. The concrete truck apron would have a broom finish. Dave Pellegri will determine the appropriate concrete strength and provide those specs to Susy. This change is considered as a field change and will be reflected on the as-built plans. A letter will be drafted informing Mr. Feldman of the requirements as set by the Board

The applicant will be making a formal request for an extension on the May 11, 2010 PEDB meeting.

**Claybrook II Subdivision:**

The Claybrook II Subdivision plans were given to Dave Pellegri along with the old punch list. A site inspection will be taking place next week with Dave Pellegri and Tom Holder of DPS.

**Engineering Consultant Proposals:**

The Engineering Consultant proposals are due on Wednesday, April 28, 2010 at 11:00 am. The review team will begin work on these as soon as possible.

**Zoning Public Hearing:**

The Zoning Public Hearing has been scheduled for Tuesday, May 18, 2010. The Board would like own counsel to be present. Susy will follow-up and make the request.

**GIS Funding:**

Susy Affleck-Childs organized a demonstration on GIS for town staff. The company is called PeopleGIS. The Capital Improvements Committee has recommended funding to establish a GIS during fiscal year 2011 as part of the capital budget. It will be considered at town meeting in June.

**Affordable Housing:**

There will be bus trip on Saturday, May 1, 2010 to visit affordable housing developments in Lincoln, Sudbury, Wayland and Sherborn. There will 12 people attending including representatives from Zoning Board of Appeals, School Board, Board of Selectmen, and Economic Development Committee.

**Design Review Committee:**

- 146 Main Street/Dick Steinhoff is working with the Design Review Committee. He is working on an AUOD Special Permit Application.
- Cumberland Farms will meet with Design Review Committee for a informal meeting on May 3, 2010 at 7:45 pm.

**EDC Meeting:**

The April EDC meeting was productive. There were representatives from Mass Development and Mass Office of Business Development who provided presentations to the committee.

**Town Hall Office Space:**

There is construction taking place to move some offices. Susy's office will remain the same but the entire corner is being reworked to house all the land use permitting offices.

**495 Business Park:**

Andy Rodenhiser, Tom Holder, Dave Pellegri, and Susy Affleck-Childs met to discuss road ideas for 495 business park connection to West and Farm Streets. Tetra Tech will work on some drawings.

**Zoning Board of Appeals Meeting:**

There will be a continued public hearing on a special permit submittal for a drive thru donut shop for 71 Main Street. This meeting is scheduled for May 5, 2010 at 7:30 pm.

**Town Facility Management Study Committee**

Member Gay informed the Board that he has been sworn in has not heard anything further about the committee meetings.

**Minutes:**

- **On a motion made by Chan Rogers and seconded by Karyl-Spiller-Walsh, the Board voted unanimously to approve the minutes of April 13, 2010 as written.**

**Future Meetings:**

The next regular meetings scheduled are: **May 11 & 25, 2010.**

DRC Meeting – Informal Discussion with Cumberland Farms  
(Monday, May 3, 2010)

Special Planning & Economic Development Board Meeting – Zoning Public  
Hearing (Tuesday, May 18, 2010 – 7:00 p.m.)

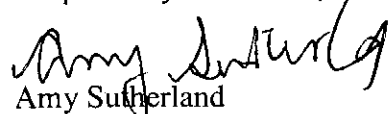
The 2010 Annual Town is scheduled for Monday, June 14, 2010.

**Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to adjourn at 9:10 PM.**

The meeting was adjourned at 9:10 PM.

Respectfully Submitted,



Amy Sutherland

Meeting Recording Secretary



Edited by Susy Affleck-Childs

Planning and Economic Development Coordinator

**May 11, 2010 Meeting  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Dave Pellegri, Tetra Tech Rizzo

The Chairman opened the meeting at 7:00 pm.

**Board Business:**

**2-4 Main Site Plan:**

The Board has a draft copy of the Master Signage Plan dated May 6, 2010. The members reviewed the draft.

The Board is in receipt of a memo dated May 6, 2010 from the Medway Assessors Office regarding their approval of location address changes for 2, 6, 8 Main Street (Route 109). The memo makes reference that those changes have been made in the Assessor's database. The Board also reviewed a memo dated May 5, 2010 from Ellen Rosenfeld, Trustee authorizing Robert Potheau permission to use the address of 6 Main Street with her new number being 8 Main Street.

- **On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted to close the public hearing. Andy Rodenhiser abstained.**
- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted to accept the final draft sign plan as written. Andy Rodenhiser abstained.**

✶ Susy Affleck-Childs will draft the site plan decision for the Board's consideration.

**Claybrook II Subdivision:**

The Board is in receipt of a bond estimate for Claybrook II Subdivision. David Pellegri, P.E.- Tetra Tech Rizzo also provided a memo dated May 7, 2010 which provides an in depth narrative

along with photographs in relation to the updated inspection including a new punch list and bond estimate for the incomplete items and noting current issues that should be repaired or resolved. The unit prices for the estimate were taken from the latest information provided by the Massachusetts Highway Department. The total project cost estimate was \$56,868.75.

Mr. Pellegri informed the Board that a meeting with TTR employee Steven Bouley and DPS Director Tom Holder took place on May 4, 2010 to discuss the current conditions on site.

The members were informed that there is currently \$42,000 in the bond fund.

The members discussed the pavement and how it is cracking in several locations throughout the roadway. Mr. Pellegri communicated that there is more severe settlement and cracking in the pavement between the drainage structures. These were viewed on the photographs #15, #17, #27, and #37. Member Tucker would like to get the compaction results. He believes that there may have been inadequate compaction.

The existing grate on Wildebrook Road was discussed. The current grate is too large for the manual maintenance. This will need to be replaced.

Mr. Pellegri also indicated that the pipes in the headwall are covered with sediment and the rip-rap apron is not visible. This was shown in photograph #4. These will need to be cleaned of all sediment. The detention basins are in need of maintenance.

Member Tucker wants the number for the seeding/landscaping to be increased. It appears to be low. Mr. Pellegri will do a lump sum for that item.

Member Rogers would like inflation over the years to be noted in the estimate. It was also communicated that the developer should pay \$100,000 to get this project up to the acceptance standards. If the developer does not fix all of this, the Town will have to bear some responsibility since this project was approved over ten years ago and has not been completed. The managing of the process was not followed through by the developer.

Member Tucker would still like to see developers use an insurance bond instead. He would like Mr. Pellegri to note the “must fixes” versus the minor fixes.

Member Gay wants to make sure that when the Board reaches accommodations for other applicants that the Board must be specific with the policy.

Mr. Pellegri will provide the Board with an updated bond estimate which will be forwarded to Town Counsel. He will also provide a roadway layout.

The Board further discussed the sewer pump station in this subdivision. Mr. Pellegri would like to get documentation about who is responsible for the maintenance. Currently, he was not able to access into the sewer pump station, but did note that the generator is rusting in places. The Town has indicated that it will not be accepting the gravity sewer or the pump station when the

roadway and drainage is accepted by the Town. There needs to be clarify about who is responsible for the maintenance.

Member Spiller-Walsh commented that the Town must decide what standard is the Town going to accept for roads and this is a policy issue. Susy Affleck-Childs responds that the Board of Selectmen wants recommendations from this Board.

The Board was in agreement that Mr. Pellegrini should create a list of the all the critical items which need to be addressed along with including a punch list of items which could be fixed through the DPW.

**ANR Plan 100 Summer St:**

The Board is in receipt of an application prepared for Seacord Realty Trust c/o Stephanie Seacord. The plan was prepared by Paul N. Robinson Associates, Inc. of Millis, and is dated April 26, 2010.

The ANR plan proposes to divide an existing property with 419,230 square feet of area (about 9.6 acres) into 2 lots each with just over 44,000 square feet and 180 square feet of frontage on Summer Street and leaving a parcel of 7.60 acres (open Space parcel C) with frontage on Adams Street.

Gino Carlucci provided comments indicating that the plan as prepared meets the requirements for endorsement.

- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to endorse the plan as presented.**

**Informal Discussion Joe Greene, NWG Automotive Repair & Steve Lawton re: Properties at 71 Main St. and 76 Holliston St:**

The Board had an informal discussion with Mr. Greene who owns NWG Automotive Repair at 71 Main Street. He is looking to add drive-thru Honey Dew Donut shop at the site. The current building has a total square footage of 800 ft. Mr. Greene is looking to keep the gas pumps and propane on site. He would like to put the diesel into the ground in the future.

Member Rogers communicated that his background is traffic engineering and with two movements needed for the 30 customers that would be a total of 60 movements. With this amount of traffic added to that area, it would be extremely detrimental to the traffic flow through this intersection. The signals at this area are currently timed and working.

Member Tucker would also like to see a traffic study done. He was wondering about what will happen with the traffic going in and out of the gas pump area. Mr. Tucker was also inquiring about when is the peak time?

Mr. Greene indicated that the peak time is between 3:00 pm - 6:00 pm. The second busiest time is in the morning.

Susy Affleck-Childs communicated that there would essentially be a convenient store, gas pump, auto repair, and a drive-through at this location, all of which would need parking. Affleck-Childs was also inquiring about the placement of the drive-through window and the site queuing of the cars.

The representative from Honey Dew indicated that 7 to 9 cars are usually queued up on site. 30 cars in an hour is very good.

Chairman Rodenhiser wants to know how he plans to control the traffic with all the uses. This is a tough burden to prove with both safety and traffic issues. He also recommends that Mr. Greene and the other representatives attend an EDC meeting to discuss ideas.

Member Spiller-Walsh suggested to Mr. Greene that he look at a redesign with all three lots.

Member Tucker suggested that Gino Carlucci provide Mr. Greene with a copy of the study which was completed which looked at land use development options along route 109.

Tony Biocchi, a member of the ZBA was present. He communicated that if Mr. Greene were to acquire land in the back, this would make it easier for the flow. He could go for a Special Permit. The Zoning Board of Appeals can't consider easements.

The members all voiced their concern over the traffic issues at this site. Member Gay noted that he is not opposed to the possible redevelopment of the site. Mr. Gay recommended that he speak with the Economic Development Committee and Design Review committee and get some ideas from them.

### **CORRESPONDENCE:**

The Annual Dinner for the Medway Business Council will take place on May 20, 2010 at Restaurant 45. Featured speaker is Dennis Crowley regarding the Medway 300<sup>th</sup> anniversary celebration.

### **Pine Meadow Subdivision:**

Mr. Feldman has requested an extension to complete the Pine Meadow II Subdivision. Tetra Tech Rizzo will conduct a site inspection and update the bond estimate and the Board will consider extending the completion deadline at the May 25, 2010 meeting.

### **Franklin Creek:**

Susanna Vajentic requested another extension to complete the infrastructure work at Franklin Creek. Tetra Tech Rizzo will conduct a site inspection and update the bond estimate and the Board will consider extending the completion deadline at the May 25, 2010 meeting.

### **Affordable Housing Committee:**

The Affordable Housing Committee has conducted a formal RFP process to solicit proposals from professional consultants to develop a 5 year implementation strategy and budget for the

Medway Affordable Housing Trust fund. There were seven proposals received. The Affordable Housing Committee voted unanimously at its May 5, 2010 meeting to recommend the Town contract with Jennifer Goldson and Elizabeth Rust for the specified work. That contract will go to the BOS at its 5-17-10 meeting.

**Facility Management Study Committee:**

Member Gay informed the Board that the first meeting of the new Town Wide Facility Management Study meeting is scheduled for May 18, 2010.

**Zoning Articles Public Hearing:**

The Zoning Articles Hearing will take place on Thursday, May 27, 2010. The Board would like town counsel to be present.

**Affordable Housing:**

Member Gay reported on the May 1<sup>st</sup> bus trip to the Lincoln, Sherborn, Sudbury and Wayland to look at various ideas in relation to Affordable housing. In addition to Susy and Tom, the attendees included representatives from the Zoning Board of Appeals, School Board, Board of Selectmen, and Economic Development Committee. The trip included viewing four different developments. Member Gay communicated that there was real validity in each approach. There was material provided at this trip and Susy Affleck-Childs will make sure to get it to the Board for review. This trip provided all with clarified ideas on what affordable housing can look like.

**School Building Committee:**

Member Tucker informed the Board that there was a meeting held with the School Building Committee. The project discussed was the repairing of the Middle School. The State has endorsed the architect selection. The Committee is now working on negotiating pricing with the selected architect.

**Design Review Committee:**

- 146 Main Street/Dick Steinhoff is working with the Design Review Committee. He is working on an AUOD Special Permit Application. Susy Affleck-Childs informed the Board that they can expect to see an application submittal within the next 4 to 5 weeks.
- Cumberland Farms met with Design Review Committee on May 3, 2010. This was a productive meeting. The Cumberland Farms companies along with four representatives were at the meeting to discuss the site and landscaping possibility.

**EDC Meeting:**

The EDC had a meeting on May 4, 2010. The Town was been notified of an award of \$40,000 for technical assistance for the Bottlecap lots through MassDevelopment. They will provide services to the town. The next EDC meeting is scheduled for Tuesday, June 1, 2010.

**Zoning Board of Appeals Article:**

Chairman Rodenhiser informed the Board that there was a meeting with himself, the Chairman of the Zoning Board of Appeals, and Town Counsel in regards to the ZBA's proposed warrant article. The warrant article involved language about the appeal process. This article was

reviewed and articulated by Counsel that the language in the article as presented will cause more problems and confusion for residents. It is understood that the ZBA has withdrawn the article.

**GIS:**

Member Gay is assisting with the researching of GIS companies. There was a web demonstration on May 10<sup>th</sup> from a company from Connecticut. It was noted that the contract must include the training and support to staff.

**Engineering Proposals:**

The review team will begin looking at the proposals for engineering consultant next week.

**Minutes:**

- **On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to approve the minutes of April 27, 2010 as written. (Member Chan Rogers and Andy Rodenhiser abstained from vote)**

**Future Meetings:**

The next regular PEDB meeting is scheduled for **May 18, 2010. No meeting on May 25<sup>th</sup>.**

Special Planning & Economic Development Board Meeting – Zoning Public Hearing  
(Thursday, May 27, 2010 – 7:00 p.m.)

The 2010 Annual Town is scheduled for Monday, June 14, 2010.

**Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn at 10:08 PM.**

The meeting was adjourned at 10:08 PM.

Respectfully Submitted,

  
Amy Sutherland  
Meeting Recording Secretary

  
Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator



**Tuesday, May 18, 2010  
Planning and Economic Development Board Meeting  
Medway Town Hall - 155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:** Tom Gay, John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development  
Coordinator  
Gino Carlucci, PGC Associates

The Chairman opened the meeting at 7:00 pm.

**PUBLIC HEARING - Proposed Amendments to Medway General Bylaws:**

The Public Hearing for proposed Medway General Bylaw Amendments was opened by Chairman Rodenhiser.

- **On a motion made by Bob Tucker, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to waive the reading of the public hearing notice.**

**Regulation of Abandoned and Foreclosed Properties**

The proposal is to amend the Medway General Bylaws Article 12, by adding a Section 12.25 – Registration and Maintenance of Abandoned and/or Foreclosing Residential Properties. Section 12.25 includes the enforcement authority of the Inspector of Buildings/Building Commissioner of the Town of Medway.

Medway Building Commissioner John Emidy was present to discuss the proposed bylaw. He explained that this bylaw will pertain to only residential property which is not being used or occupied as a residence. The purpose of this is to address the increasing number of foreclosed and abandoned properties. The Building Commissioner indicated that there are currently cataloged approximately 6 abandoned and 25 foreclosed properties. The Board received a packet with photographs noting properties which would be covered by this bylaw. It was further explained that any violation of this bylaw could result in a civil action violation and possibly a fine under 21D where tickets could be written out by the Building Commissioner. Mr. Emidy noted that the draft bylaw was reviewed also by the Fire Chief and Police Chiefs and they are in full support of it.

Member Rogers notes that the pictures in the packet help to prove the case for this bylaw.

Member Tucker communicates that he believes this is a good first step.

### **Establishment of Medway Agricultural Committee.**

Member Spiller-Walsh is comfortable with the wording of the Bylaw and has no issue with recommending the adoption of this. She recommended that when this amendment is presented at Town Meeting, a clear synopsis of the presentation of details of this should be communicated to the residents.

- **On a motion made by Chan Rogers, and seconded by Karyl-Spiller Walsh, the Board voted unanimously to close the public hearings.**
- **On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to recommend the General Bylaw Amendments as presented.**

### **Pine Meadow II Subdivision:**

The Board will look at the updated bond estimate and will address the developer's request to extend the completion deadline. This will be discussed further at the May 27, 2010 meeting.

### **Franklin Creek:**

The Board will look at the updated bond estimate and will address the developer's request to extend the completion deadline. This will be discussed further at the May 27, 2010 meeting.

### **Granite Estate Open Space and Drainage Parcels:**

The Board reviewed a map noting the land locked parcels on Granite Estates. The Town meeting will take an action on this. These two parcels were not noted as accepted when the street was accepted in 2003/2004. The Board would like to keep all options open and not limit the larger parcel to being used for open space. Affleck-Childs will speak with Town Counsel about what steps need to be taken next.

### **Preparations for Zoning Bylaw Amendments Public Hearing:**

The Public Hearing on proposed amendments to the Zoning Bylaw will take place on Thursday, May 27, 2010. The Board would like Town Counsel to be present. Affleck-Childs will have handouts available. Member Tucker will address the lighting bylaw.

### **Fox Run Farms 40B development**

The ZBA has modified the 40B decision for this development. Affleck-Childs reports there are some inconsistencies between the original decision and the modification as to whether this roadway will be public or private. The ZBA wishes the Planning and Economic Development Board to manage the construction inspection process. Affleck-Childs would

like the Board to be aware that before any construction inspections are started, we should have clarity on expectations about this roadway. We don't want another situation like Kingson Lane. The PEDB sent a letter to the ZBA requesting clarification, but has not heard back from them.

Member Tucker wanted to know why the Zoning Board of Appeals is not able to utilize Tetra Tech Rizzo.

Affleck-Childs noted that they can use Tetra Tech Rizzo. However, the Planning Board does have more experience with making sure that the administration of the process takes place in relation to the construction standards. The Board would like a copy of the decision and also copy of the letter which was sent to the Zoning Board of Appeals.

#### **Route 109 Redevelopment Plan**

One of the Board members wanted follow-up from Mr. Carlucci about whether the 109 study information was sent out to Joe Greene at NWG Auto Repair/71 Main Street. Mr. Carlucci indicated that he has not sent this out but will do so.

#### **Construction Reports:**

Member Tucker would like to inform Tetra Tech Rizzo that if an observation is made by the consultant, there needs to be resolution noted within the report to hold the contractor accountable.

#### **146 Main ST Adaptive Use Overlay District application**

Mr. Steinhoff is making excellent progress on compiling the application. Affleck-Childs communicated to Mr. Steinhoff that the Town's engineering firm could look at the submittal prior to it being reviewed by the Board. The purpose of this is to only save time and make the process more efficient. The Board thinks this is a good idea making sure the cost is not incurred by the Board. The cost of this will be paid by Mr. Steinhoff.

#### **GIS Meeting:**

There is a meeting about the GIS system on Thursday, May 27th at 9:00 am with People GIS.

#### **Minutes:**

- On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted **unanimously** to approve the minutes of May 11, 2010

#### **Future Meetings:**

The next meetings scheduled are:

Special Planning & Economic Development Board Meeting – Zoning Public Hearing  
(Thursday, May 27, 2010 – 7:00 p.m.)

The 2010 Annual Town is scheduled for Monday, June 14, 2010.

**Adjourn:**

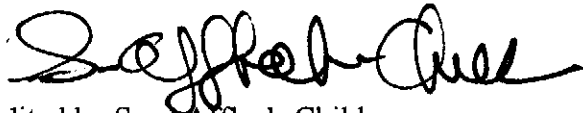
- **On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn at 8:15 PM.**

The meeting was adjourned at 8:15 PM.

Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary



Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator

**May 27, 2010 Meeting  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT :** John Williams

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Dave Pellegrini, Tetra Tech Rizzo  
Fran V Hutton Lee, Administrative Secretary, PED

The meeting was called to order at 6:32 pm by Vice Chair Bob Tucker. (Andy Rodenhiser arrived late.)

**Pine Meadow II Subdivision – Request to extend completion deadline & evaluate updated bond estimate**

Gary Feldman representing the owners of the Pine Meadow subdivision was present, requesting an extension of one year for completion of the development. As well, there was an update of the bond estimate prepared by Tetra Tech Rizzo.

Chan Rogers moved to approve the request for an extension, seconded by Karyl Spiller-Walsh.

There was discussion on the motion.

Bob Tucker – Is it going to start? Or restart?

Gary Feldman – Yes, we already have.

There was general discussion on the state of the development. Chan Rogers and Gary Feldman discussed the artificial sod for erosion control measures, and the situation regarding “parcel A”.

Chan Rogers amended his motion that the extension be for one year, seconded by Karyl Spiller-Walsh. The request was approved unanimously.

Susy Affleck-Childs – Now we need to deal with the bond reduction.

Chan Rogers moved that the Bond be reduced to \$135,000, seconded by Karyl Spiller-Walsh. The motion passed unanimously.

Bob Tucker asked Dave Pellegrini about the numbers on the bond reduction and the costs. Dave said that the numbers were not a problem, the cost were for unit costs, which were pretty straight forward, as opposed to repair costs.

There was discussion on the rock wall and its extension and slope. Gary Feldman asked about the small parcel to be deeded to the neighbor. What is they don't accept it?

Susy Affleck Childs – We have a plan and a decision. We must go by that.

Tom Gay Agreed and noted that if the neighbor (Nick Turi) does not agree, the parcel returns to the owner.

Susy pulled up the decision to check the language. She also noted that they need to maintain \$3,000 in the construction account; currently there is less than \$2000.

Mr. Feldman agreed the funds due the Town for the CO fund could be taken from the bond reduction.

Karyl Spiller Walsh moved to require the six foot transition granite curbs per the engineers report, seconded by Chan Rogers. The motion was approved.

**Franklin Creek Subdivision – Request to extend completion deadline/evaluate updated bond estimate**

Andy Rodenhiser asked Dave Pellegrini if he'd had a chance to evaluate and update the bond estimate.

Dave reported that the updated bond estimate is valued at \$48,688.

Bob Tucker asked if the costs were up to current values, and if Dave had made sure the unit values and costs were increased. Dave Pellegrini said they had been increased.

Chan asked if the subdivision was on the west side of Franklin Street. Bob Tucker and Andy Rodenhiser replied that it was on the east side.

Tom Gay asked the current value of the bond, and Susy Affleck-Childs reported the current balance is \$46,982.

Andy Rodenhiser asked if we needed a motion to be made to increase the bond, and Susy Affleck-Childs replied that we do. Andy asked if there were any questions.

Susanna Vajentic said that they understood. She stated that everything was the same, one house had been sold, and they were on track. Susy Affleck Childs noted that some of the new home owners had already been to Town Hall to pick up recycling bins.

Susanna Vajentic asked if the retaining wall was still necessary, or if there could be a reduction on it. Dave Pellegrini said we needed to look at the plan. Susy Affleck Childs said that they might be able to do a minor modification of the plan in regards to the wall. Dave Pellegrini said they should submit a sketch from their engineer.

Andy Rodenhiser suggested the Vajentics discuss the wall with the engineer (or contractor???). He asked if the board was ready to vote on the bond increase knowing that a minor modification may be coming later to reduce the bond.

Bob Tucker moved that the bond estimate be approved, seconded by Karyl Spiller-Walsh and the motion passed unanimously. However, the Board decided to not require payment of the \$1706 differential at this time.

It was observed that the silt fence was fine, and but the hay bales were now the issue. Dave Pellegrini noted that removal of the hay bales was a Conservation issue, which Susy Affleck-Childs reiterated, noting that the board could not tell the Vajenticis that it was okay to remove the hay bales, that was matter for the Conservation Commission. She pointed out that the Conservation Commission was meeting next week Thursday.

#### **2-4 Main Street - Review Draft Decision – Site Plan Modification for Phase III work**

Susy – Bob Poteau can't be here tonight. If the board cannot vote tonight on this decision, there is a request from Bob to extend the deadline for action. (Susy passes out drafts of the site plan decision.)

Andy Rodenhiser – Are there any issues?

Susy – Bob Poteau had a comment on the project description; he suggested different language. He suggested that we not specify the specific business name (Metro West Auto Sales), just the business in general as the business is a tenant and may change.

Andy Rodenhiser – Where is the water going to go? Is he tearing down a building?

Susy Affleck Childs and Karyl Spiller-Walsh noted that it was always the plan to demolish the building.

Gino Carlucci – There will not be a significant increase in paving, going where the building was.

Tom Gay – There will also be a seven by fifteen foot planting area around the sign.

Susy Affleck-Childs – Is there anything else to discuss?

Karyl Spiller-Walsh - Page 5.

Susy Affleck-Childs – Was it safe driveways?

Karyl Spiller-Walsh – Yes, or was it comments on the site plan, number fourteen.

Susy Affleck-Childs – We should make note that there are three existing driveways.

Karyl Spiller-Walsh – The new plan and signage makes for safer entrances and exits and three different addresses.

Bob Tucker – We worked with abutters, assessors, working to make it as safe as we can given the circumstances and existing site conditions.

Susy Affleck-Childs – It's different when there is a virgin/undeveloped site versus one already in progress, retro-fitting a less than ideal.

Andy Rodenhiser – Going forward we are not likely to let this happen again.

Karyl Spiller-Walsh – This was begun before any of us were on the board. Not safe, but safer. We need to word this for our comfort zone as well.

Tom Gay – Note that the access points are as far apart as possible.

Susy Affleck-Childs – I'll work on the language.

Chan Rogers – On page ten was it your intent to have or/(slash)?

Susy Affleck-Childs – Yes.

Bob Tucker – Lets renumber to 4 and eliminate the slash.

Susy Affleck Childs – Back to the bottom of page seven...work to be done...paving, high berm...Bob has requested a completion date of 9-21-1012 to be done.

Bob Tucker – I suggest we go with this date.

Andy Rodenhiser – I thought he would be done in October this year.

Susy Affleck-Childs – That was the previous phase.

Tom Gay – He can't get a Certificate of Occupancy until all phases are complete.

Bob Tucker – Well, do we ask to be given a real date when he expects to be done, and not keep coming back for extensions?

Dave Pellègri – What is a high berm?

There was discussion regarding the high berm.

Tom Gay – As a condition of occupancy all Phase 2 and 3 must be complete.

Karyl Spiller-Walsh – That is a comfort zone.

There was discussion about the paving as part of phase 3.

#### **Claybrook II – Discussion on updated bond estimate and next steps**

Andy Rodenhiser – Are you okay with updated estimate?

Dave Pellegrì – With repairs, quantities give off a different idea. So I did a lump sum, so okay.

Susy Affleck-Childs – There is a memo from Town Counsel Barbara Saint Andre with recommendations on how to proceed. Unlike the standard joint passbook account, this was a tri-party agreement. The bank cannot reduce it without permission of the town. Barbara suggests drafting a letter and getting it rolling.



I'd like to suggest June 22 for a public hearing. We need to give them an amount of time to deposit additional security. In the meantime I've been in touch with the VP of Lending at Middlesex Bank( Doug Rosenau), expressed our concerns, considering taking the bond. They are researching to find the account.... This is very old, from the 1990's.

There was discussion regarding the bank looking into finding the parties – David Franchi.

Bob Tucker – Send the bank a registered letter as well.

Susy Affleck-Childs – I spoke with Christine Jorgensen (neighbor on Wildebrook Road). I told her we are working on it. I'll include her on the letter as well.

#### **Kingson Lane - Report on meeting**

Andy Rodenhiser reported on a meeting he had with Dennis Crowley and Dave D'Amico (who was on the Zoning Board of Appeals at the time the 40B comprehensive permit was issued) and Mike Leone of the Condo Association regarding the possibility of street acceptance. Mike was unaware of the association's prior efforts to secure street acceptance. Andy related the discussion with the individual. He said that the board has no desire to entertain the issue again. The condo owners bought the property that way, and any claim is against their own attorney.

#### **Applegate Farm Subdivision - Discussion**

There was discussion regarding the Construction Inspection report from Dave Pellegrini.

Bob Tucker – This needs a resolution.

Andy Rodenhiser – Should we send a letter?

There were several yes responses.

Andy Rodenhiser – Is there a motion to accept the engineers suggestions?

There was discussion on the motion.

Bob Tucker – (quoting) "It is anticipate"...who is, and what...who's judgment?

Dave Pellegrini – Yes we can follow up with that.

Bob Tucker – I want it addressed; if you don't concur with corrective actions...want to see words to justify actions and who is making the judgments.

Susy Affleck-Childs – Someone needs to be very directive here with the developer.

Andy Rodenhiser – Susy is correct...needs a letter...has material that needs to be removed...no inspections.

Dave Pellegrini - ...needs a final degrade

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Approved – June 22, 2010

Andy Rodenhiser – The intent is to dump on the raised grade and bulldoze down the hill.

Bob Tucker – He was told up front and he chose to ignore us.

Dave Pellegrini - I think he wants to put more material down to get people in to see the lots.

Susy Affleck Childs – So call him on it now.

Dave Pellegrini – Can't move anything 'til inspections.

Chan Rogers – Where'd he come from? He won't last long pulling that kind of crap.

Andy Rodenhiser – If we can do this, let's show him he cannot do this sort of thing. We need to be aggressive.

There was discussion regarding the silt from the Applegate property from the last flooding.

Andy Rodenhiser – Yes.

Bob Tucker – Yes. Look at it.

Andy Rodenhiser – Have him put down stakes then take it all out.

Dave Pellegrini – The stakes tell me where I am vertically and horizontally.

Andy Rodenhiser – If there was trust that had been built on past practices we might give him leeway.

Chan Rogers – How much was put down without inspection?

Dave Pellegrini – All of it.

Andy Rodenhiser – Close to 1000 yards, twenty 10 wheelers dumped in, just dumped.

#### **Planning and Economic Development Coordinator's Report**

Susy Affleck-Childs - We had another demonstration with Peoples GIS. DPW attended this time and Tom Gay too.

Tom Gay – Look at the options, do the pros and cons. I attended the first meeting of the Town-Wide Facilities Management meeting...three out of eight members didn't show, the selectman representative did not show. It was a less than stellar meeting. They meet again June 7.

#### **Other Business**

##### **Town Engineer Selection**

Chan Rogers – Who is the Planning Board representative for the town engineer?

May 27, 2010 Planning and Economic Development Board meeting minutes  
Approved – June 22, 2010

Susy Affleck Childs – I am. Interviews will be on June 10<sup>th</sup>. We've narrowed it down to 5 candidates. The initial review committee was myself, Tom Holder, Bill Fisher, Bob Tucker, and Trish Brennan (the ConCom Agent who recently resigned). We are hoping to have another ConCom agent...encourage that concept.

Chan Rogers – Sorry to hear she is gone. Wish her well.

### **2B Oak St – Thayer House**

Susy Affleck Childs – The Community Preservation Committee is looking for proposals on the Thayer House at 2B Oak St. I have informed Habitat for Humanity of the property and they have looked at it.

There was general discussion regarding the property, the house, the open space there, and the tree which several noted should be saved.

### **Public Hearing - Proposed amendments to Medway Zoning Bylaw**

Andy Rodenhiser moved to wave the reading of the notice, seconded by Bob Tucker. The motion passed unanimously. The public hearing notice is attached.

Rondi Chapman (from FinCom) – Article 30, about the Green Community article, FINCOM had a problem with the term “biomass.”

There was discussion as to what the term means and what might or might not be included in biomass, and what might or might not be burned as biomass.

Rondi Chapman – FinCom's problem is with half of biomass.

Gino Carlucci reads from the proposed article. Susy Affleck-Childs points out the section on electrical energy generation. Tom gay noted the controls on the system.

Andy Rodenhiser – I'm opposed to “Not In My Back Yard.” We produce it. We are trying to enable legislation here.

Rondi Chapman – I'm opposed to biomass.

Andy Rodenhiser – It is green because it is carbon neutral.

Rondi Chapman – It is?

Karyl Spiller-Walsh – Perhaps we need an energy expert.

There was more discussion about what was or was not included in biomass, what may or may not be burned during the process, and where the biomass Medway produces ought to be processed if not in Medway.

Karyl Spiller-Walsh – Can't throw out the baby with the bathwater.

Tom Gay – Take out the word “waste.”

Andy Rodenhiser – Is there a motion to take out waste?

Karyl Spiller-Walsh moved that the Planning Board recommend that word “waste” be removed from Article 30, seconded by Chan Rogers. The motion passed unanimously.

Rondi Chapman – Article 35: FinCom voted to hold on that one...to be determined by the selectmen. Article 37: Home based business...can't put out own shingle...FinCom is opposed to the regulation that a home based business cannot have a sign.

Bob Tucker – Not in a residential zone.

Rondi Chapman – FinCom says that if an attorney, accountant, or social worker wants to hang their own shingle, then why not?

Andy Rodenhiser – Where does it stop? Contractors, bulldozers, mulch, trucks in and out.

Bob Tucker – If they want a business, they should go into a business area.

Andy Rodenhiser – We don't want people to move out of commercial space. If they can't afford the overhead they should be working for someone else.

There was discussion regarding the advantages and disadvantages of signs for home based businesses. It was noted that since home based businesses would be allowed, it makes it easier to find the business while driving, if there is a sign. This is a safety issue. It was also noted that the person's name and house number on the home was enough.

Susy Affleck Childs – Signs are currently allowed in the ARI and ARII zoning districts.

Andy Rodenhiser – Really... How much?

Susy explained that eight square feet was currently allowed and the language she had originally suggested was to reduce the size, but not eliminate all signs for home based businesses.

Rondi Chapman – There ought to be a middle ground.

Susy Affleck-Childs – I had language in...I'll write it up for the next meeting. Four square feet...if we are going to put it back in, we need to put it back in both Articles 35 and 37.

Andy Rodenhiser – Are there any other issues?

Bob Tucker – Regarding wind turbines on page 21 of the warrant. I this to allow or not allow?

Susy Affleck-Childs – They want you to call out one of the types.

Gino Carlucci – The state wants the language...they want us to call out...the minimum

Bob Tucker – What do we currently allow?

Andy Rodenhiser – Electrical power

Bob Tucker – What are we allowing? I don't understand the 250K power. I have no idea what we are trying to accomplish then.

Susy Affleck-Childs – That we will allow large scale solar power generation in Industrial II.

Bob Tucker – I understand that.

Karyl Spiller-Walsh – As Gino said, we need to call out, an official call out, one to officially qualify.

Bob Tucker – Do we need to be specific?

Andy Rodenhiser – We need to say 250K, the minimum to meet state qualifications.

Susy Affleck-Childs – By saying it this way it meets state requirements for Green Community Designation.

Chan Rogers – I don't see any reason not to do it now.

Andy Rodenhiser – What is the largest one in the state?

Bob Tucker – The one in Northborough is the largest in the state.

Andy Rodenhiser – What do you want to know? Are we good with it? Are we moving on? Good.  
There was discussion regarding today's announcement regarding Green Community designation; 35 communities in Massachusetts have achieved it.

#### **Discussion regarding the Energy Committee's comments regarding the Draft Zoning Articles**

Susy Affleck-Childs passes out a memo with comments from the Energy Committee. Regarding article 30, it was recommended removing redundant language. Andy Rodenhiser pointed out that it was the State's language "fuel cells that use renewable energy." Susy Affleck-Childs said she would confirm that.

Bob Tucker noted 4:b of Article 38. Susy noted it was related to the wind article. The Energy Committee suggested that after the word "neighborhood" that "flicker, shadow, or other" be added.

Tom Gay suggested adding the language in 4 instead.

Andy Rodenhiser noted that it already said "no nuisance."

Susy Affleck-Childs – They wanted to be sure that nuisances specific to wind generation were noted. Tom's suggestion is good.

Andy Rodenhiser – Good, put it in there.

Bob Tucker – Are we setting a minimum size of wind turbine that doesn't require a permit? You can buy small prepackaged ones that shouldn't require a special permit. Raise the bottom threshold to 2000 watts. So exempt anything 2000 watts and below. That is 2 kW.

Susy Affleck-Childs – Let's see where it makes the most sense to put that in. I think in site standards.

Tom Gay – This changes what we just did.

There was discussion about how far from the lot line a wind generator should be, and why.  
Bob Tucker shared some pictures of turbines on his phone.

Gino Carlucci read from the article then stated you could change "reduce" to adjust" – then "A" becomes the guideline.

Susy Affleck Childs – Do we need more work on this?

Gino Carlucci – Zoning Board of Appeals may reduce or increase.

Andy Rodenhiser – Do we need to wait?

Susy Affleck-Childs – Go with Gino's language...keep open.

Karyl Spiller-Walsh – We need to see how we can incorporate this.

Tom Gay – Should we say "adjust" not increase or decrease?

Gino Carlucci – Okay.

There was more discussion on New England and wind turbines integrating into typically New England neighborhoods. Karyl mentioned having designer Paul Lukesz come to Medway to speak about this matter.

Susy Affleck-Childs – There was comment from the Energy Committee regarding the language on page 10 of the draft wind bylaw ...under review process, any petition for this be referred to whichever committee. The Energy Committee felt it shouldn't specifically mention them.

Andy Rodenhiser – We need to tell the ZBA who an application should be referred.

Bob Tucker – Building permit needed...inspections can require engineer.

Susy Affleck-Childs – As long as the Energy Committee exists, I feel the Zoning Board of Appeals should send a special permit proposal for a wind turbine to the Energy Committee for review.

Andy Rodenhiser – Are there any other comments...any comments Barbara?

Barbara Saint Andre – I'm looking forward to those wind turbines.

Karyl Spiller-Walsh – I think we need to point out why this is on the warrant. Right now just a building permit is needed.

Susy Affleck-Childs – This creates some level of review process.

May 27, 2010 Planning and Economic Development Board meeting minutes  
Approved – June 22, 2010

**Minutes**

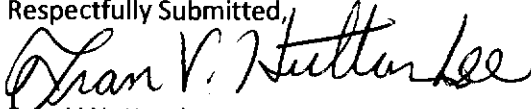
A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh, and the Board voted unanimously to approve the minutes of the May 18, 2010 meeting.

**Adjourn**

A motion to adjourn was made by Karyl Spiller-Walsh, seconded by Tom Gay, and approved unanimously.

The meeting was adjourned at 9:35 PM.

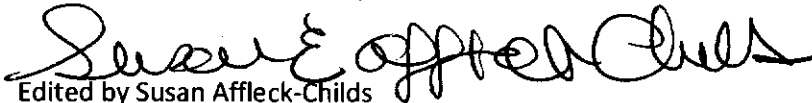
Respectfully Submitted,



Fran V Hutton Lee

Administrative Secretary

Planning & Economic Development



Edited by Susan Affleck-Childs

Planning and Economic Development Coordinator

**REVISED (2) – May 7, 2010**

**NOTICE OF PUBLIC HEARING**  
**Town of Medway – Planning & Economic Development Board**  
**Proposed Amendments to Medway Zoning Bylaw &**  
**Medway General Bylaws**

Pursuant to the Medway Zoning Bylaw and M.G.L. Ch. 40A, Section 5, ***the Medway Planning and Economic Development Board will conduct a public hearing on Thursday, May 27, 2010 at 7:15 p.m.*** in Sanford Hall, at Medway Town Hall, 155 Village Street, Medway, MA to receive comments and deliberate on a series of proposed amendments to the *Medway Zoning Bylaw* (last update published October 19, 2009). The Board will also hear comments on proposed amendments to the *Medway General Bylaws*. Proposed amendments will be considered at the June 14, 2010 Annual Town Meeting. The subject matter of the proposed amendments is indicated below. Warrant article numbers are subject to change.

**MEDWAY GENERAL BYLAWS – Proposed Amendments**

ARTICLE 24: Amend the Medway General Bylaws by adding a new Section 12.25 to Article 12 Penal Laws regarding the registration and maintenance of abandoned and/or foreclosed residential properties.

ARTICLE 27: Amend the Medway General Bylaws by adding a new Section 2.21 to Article II Town Officers and their Duties to establish the Medway Agricultural Commission.

**MEDWAY ZONING BYLAW – Proposed Amendments**

ARTICLE 25: In SECTION III. Administration, revise the text in Sub-Section D. Board of Appeals, paragraph 1 Appeals, by revising the text to state that parties aggrieved by actions, orders, permits or decisions of the Inspector of Buildings, other administrative officials, town boards, committees or commissions (as such pertain to zoning) may appeal such actions to the Zoning Board of Appeals.

ARTICLE 31: In SECTION II. Definitions, add definitions for *Manufacturing, Alternative Energy, Renewable Energy, and Research & Development Facilities*.

ARTICLE 32: In SECTION V. Use Regulations, Sub-Section M. Industrial District I, revise the text to add research and development facilities and facilities for the manufacturing of renewable or alternative energy products to the list of allowed uses.

ARTICLE 33: In SECTION V. Use Regulations, Sub-Section N. Industrial District II, revise the text to add research and development facilities, facilities for the manufacturing of renewable or alternative energy products, and electric power generation including renewable or alternative energy generating facilities such as ground mounted solar photovoltaic installations to the list of allowed uses.

ARTICLE 34: In SECTION V. Use Regulations, Sub-Section O. Industrial District III, revise the text to add research and development facilities and facilities for the manufacturing of renewable or alternative energy products to the list of allowed uses.



ARTICLE 35: In SECTION V. USE REGULATIONS, Sub-Section C. Site Plan Review and Approval, add item e) to paragraph 5 General Requirements to require developers to provide sidewalks along the frontage of properties being developed/redeveloped which are subject to site plan review and approval.

ARTICLE 36: In SECTION V. USE REGULATIONS, Sub-Section R. Sign Regulation, make a series of amendments in Paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 regarding definitions, sign exempt from regulation, prohibited signs, sign standards, sign permit application, special permit provisions and non-conforming signs.

ARTICLE 37: In SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, delete 3. b) Glare and insert a new Paragraph 7 Exterior Lighting Regulations.

ARTICLE 38: Make a series of amendments pertaining to Home Based Businesses as follows:

- In SECTION II DEFINITIONS, add definitions for *Commercial Motor Vehicle* and *Home Based Business*
- In SECTION V. USE REGULATIONS, Sub-Section E. Agricultural Residential District I, Paragraph 1, delete item b. regarding home offices for recognized professions and replace it with a reference to a new Sub-Section AA Home Based Businesses; and delete item c) (5) regarding customary home occupations and reorder the remaining items.
- In SECTION V. USE REGULATIONS, Sub-Section F. Agricultural Residential District II, Paragraph 1, delete item b) regarding home offices for recognized professions and replace it with a reference to a new Sub-Section AA Home Based Businesses; and delete item c) (4) regarding customary home occupations and reorder the remaining items

ARTICLE 39: In SECTION V. USE REGULATIONS, add a new Sub-Section Z. Small Wind Generation to allow for the installation of small wind energy systems by special permit from the Zoning Board of Appeals.

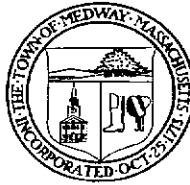
The complete text of the proposed amendments is on file with the Medway Town Clerk, Medway Town Hall, 155 Village Street, Medway, MA and may be inspected Monday through Thursday from 8:00 a.m. to 4:00 p.m. and Fridays from 8:00 a.m. to 1:00 p.m. The information may also be viewed online at the Planning and Economic Development Board pages <http://www.townofmedway.org>.

Interested persons or parties are invited to review the proposed amendments, attend the public hearing, and express their views at the designated time and place. Written comments are encouraged and may be sent to the Medway Planning and Economic Development Board, 155 Village Street, Medway, MA 02053 or emailed to: [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org). For further information, contact Medway's Planning and Economic Development office at 508-533-3291.

*Andy Rodenhiser*

Planning & Economic Development Board Chairman

To be published in the *Milford Daily News*: Tuesday, May 11, 2010 and Tuesday, May 18, 2010.



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk.*  
*Karyl Spiller-Walsh*  
*Cranston R. Rogers, P.E.*  
*John W. Williams, Associate Member*

May 27, 2010

***SITE PLAN DECISION***  
***2-4 Main Street Site Plan Modification – Phase 3 Work***  
***Approved with Conditions***

You are hereby notified that on May 27, 2010, at a duly called and properly posted meeting, the Medway Planning and Economic Development Board, after reviewing the application and information compiled during the public review process which commenced August 29, 2009 (*the date of application submittal*), voted 3-0 (Rogers, Tucker and Spiller-Walsh) on a motion by Chan Rogers and seconded by Robert Tucker to approve with conditions as specified herein, the application of Robert Potheau of Medway, MA to modify a previously approved site plan for 2-4 Main Street, Medway, MA as such pertains to Phase 3 building renovation work. Members Rodenhiser and Gay abstained from voting as they had not attended all the public hearings.

This Decision includes the following sections:

- I. Project Location
- II. Background
- III. Project Description – Proposed Modification
- IV. Procedural Summary
- V. Index of Site Plan documents
- VI. Testimony
- VII. Findings
- VIII. Special Conditions of Approval
- IX. General Conditions of Approval

**I. *PROJECT LOCATION*** - The application pertains to the property known as 2-4 Main Street, an approximately 5.5 acre parcel located in the Industrial I zoning district, as shown on Medway Assessors Map 6-4, Parcel 6-479. The property is owned by Robert Potheau of Medway, MA. The parcel is bounded on the south by Main Street/Route 109; it abuts the Medway/Millis town line.

**II. *BACKGROUND*** - The overall site plan for this multi-phased development was previously approved by the Medway Board of Selectmen as follows:

Vote on Site Plan Approval:	January 10, 2005
Certificate of Site Plan Approval Signed:	January 24, 2005
Site Plan Endorsed:	January 24, 2005

The redevelopment of 2-4 Main Street site was approved to be completed in three phases.

**Phase 1** includes construction of a new 4,032 sq. ft. building at the *easterly* end of the site for Metro West Auto Sales in conjunction with the installation of associated stormwater drainage facilities and parking. *Phase 1* work was carried out during the summer/fall of 2006.

**Phase 2** includes renovation of the existing two story industrial building at the *westerly* end of the parcel and site improvements to the area immediately in front of and to the west of that building. *Phase 2* work commenced during the summer of 2007 and was to be completed by September 21, 2008 (pursuant to a 7/10/07 Planning Board vote and 7/18/07 written extension of the site plan completion deadline). *Phase 2* site improvements were to include the following:

1. Enlarge the westerly curb cut on Main Street/Route 109 from 20' to 30'.
2. Install stone faced retaining walls including wheelchair ramp, walkway and stairs in front of the existing two story industrial building at the *westerly* end of the property.
3. Excavate and install parking lot infiltration and associated stormwater drainage equipment and structures for the new parking area to be constructed in front of the existing two story industrial building at the *westerly* end of the property.
4. Install landscaping and security lighting.
5. Pave the new parking area.

For the *Phase 2* building renovation component, the Board of Selectmen's 1-24-05 site plan decision required the applicant "to submit detailed building renovation design plans for the Planning Board's review and approval" before any building permit could be issued for exterior improvements to the building (except for roof replacement). Per the Planning Board's 7/18/07 extension of the site plan completion deadline for *Phase 2* site work, submittal of plans for the *Phase 2* building renovation were to be handled as a *Plan Modification* to the previously approved site plan in accordance with Section V. C. Site Plan Review and Approval of the *Medway Zoning Bylaw*, as amended.

*Phase 2* building renovation plans were submitted on May 16, 2008 and approved by the Planning and Economic Development Board on May 27, 2008. At this time, *Phase 2* work is largely completed.

**Phase 3** of this redevelopment project was to address the multiple buildings in the center area of the parcel. The submittal of plans for *Phase 3* was to be handled as a *Plan Modification* to the previously approved site plan in accordance with Section V. C. Site Plan Review and Approval of the *Medway Zoning Bylaw*, as amended.

**III. PROJECT DESCRIPTION/PROPOSED MODIFICATION** - The scope of this site plan modification pertains to the **Phase 3 work** to address the middle area of the site and the development and adoption of a Master Signage Plan for this multi-tenant development. The applicant will demolish the existing, dilapidated, approximately 2,500 square foot, one-story, non-conforming block building that sits very close to the Main Street roadway. The existing 2 story block

building with gambrel roof and the attached 1 story front storage building facing Route 109 on the westerly end of the 2 story building will remain in place. The existing wooden fence and concrete block wall located immediately to the west of the site's residential structure will be removed and replaced with approximately 100 linear feet of decorative white vinyl fencing. The southern façade of the westerly portion of the remaining 1 story building façade (approximately 42 linear feet) that faces and is visible from Main

Street and which is outside of the fence shall be refaced with NOVA brick surfacing materials similar in color to the brick surfaces used elsewhere on the site. The present gravel driveway in front of the fence will be graded and paved in bituminous materials for use as a display area for an additional 5-6 autos for sale. Other site work includes the installation of three 7' by 15' planting areas for business and development signs.

#### **IV. PROCEDURAL HISTORY- Phase 3**

- A. August 26, 2009 – Application to modify an approved site plan was filed with the Medway Planning & Economic Development Board.
- B. August 31, 2009 – Public Hearing notice was filed with the Town Clerk. The hearing was advertised in the *Milford Daily News* on September 8 and 15, 2009. Abutters were notified by certified mail on September 3, 2009.
- C. September 22, 2009 – Public Hearing commenced. The public hearing was continued to October 13, 2009, March 9, 2010 and May 11, 2010 at which time the hearing was closed.
- D. Action Deadline Extensions – At its 10-27-10 meeting, the Planning and Economic Development Board approved the applicant's request to extend the action deadline to April 1, 2010. At the March 9, 2010 meeting, the Board approved the applicant's request to extend the action deadline to May 30, 2010.

#### **V. INDEX OF SITE PLAN DOCUMENTS**

- A. The Phase 3 site plan modification application for 4 Main Street included the following:
  - *4 Main Street Modification of Site Plan*, dated July 31, 2009, prepared by Merrikin Engineering of Millis, MA and Colonial Engineering of Medway, MA.
  - Free-standing Sign Plan Drawings dated September 3, 2008, prepared by Jack Knight Sign
  - Wall Signs Drawing (westerly building), dated September 15, 2008, drawn by Henry Marcel
- B. During the course of the public hearing process, the following additional documents were submitted:
  - Project Description dated August 27, 2009 prepared by owner Robert Potheau
  - 4 Main Street Proposed Signs Plan of Land, dated September 18, 2009 prepared by Merrikin Engineering.
  - Phase 3 Front View drawing dated September 21, 2009, unidentified designer

- Draft Master Sign Plan dated October 9, 2009, revised October 13, 2009, revised March 9, 2010, revised May 7, 2010.
- Revised Master Sign Plan dated May 7, 2010.

**VI. TESTIMONY** - In addition to the site plan application materials submitted and provided during the course of our review, the Planning & Economic Development Board received written or verbal testimony from:

- Robert Potheau, owner.
- Letter dated September 18, 2009 from Claudette and John McNeil, 107 Oakland Street
- Review letter dated September 18, 2009 from Gino Carlucci, PGC Associates, the Town's Consulting Planner.
- Email communication dated September 10, 2009 from Patricia Brennan, Medway Conservation Agent.
- Memorandum dated May 6, 2010 from Will Naser, Medway Principal Assessor, authorizing the use of 2, 4 and 6 Main Street addresses for this parcel.

**VII. FINDINGS** – The Planning & Economic Development Board must determine whether the proposed site plan modification constitutes a suitable development based on conformance with the purposes of Site Plan Review as specified in the *Zoning Bylaw* and with the various site development standards and criteria set forth in the *Site Plan Rules and Regulations*. The Planning & Economic Development Board, at its meeting on May 27, 2010, on a motion by Chan Rogers seconded by Robert Tucker voted 3-0 (Rogers, Tucker and Spiller-Walsh) to approve the following **FINDINGS** regarding the site plan modification for 2-6 Main Street. Members Rodenhiser and Gay abstained as they had not attended all the public hearings.

**ZONING BYLAW – Section V. C - Site Plan Review & Approval**

- (1) Are the buildings, uses and site amenities properly located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods?  
*The site is already developed and one building will be torn down while landscaping will be added to the site. Therefore, the Board finds that this criterion is met.*
- (2) Are the construction and renovation of buildings and the installation of site amenities thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the *Design Guidelines*?  
*The building to be torn down is severely deteriorated so its removal and upgrading of the building behind it represents an improvement over existing conditions. The addition of the landscaping also enhances the site. Therefore, the Board finds that this criterion is met.*
- (3) Are adjacent and neighboring properties protected from nuisance and harmful effects caused by noise, fumes, and the glare of headlights and other light sources generated by uses on the development site?

*Since the proposed project represents minor changes in the site and its use, there will be no appreciable increase in harmful effects. Therefore, the Board finds that this criterion is met.*

- (4) Are significant natural features on a development site (i.e. hills, water bodies, wetlands, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats, and other areas of aesthetic and ecological interest) preserved with as minimal site disturbance as possible?  
*The site is already developed so there are no natural features to preserve. Added landscaping will enhance the site. Therefore, the Board finds that this criterion is met.*
- (5) Are off-street loading facilities and methods for unloading vehicles, goods, products materials and equipment incidental to the normal operation of the establishment(s) on the development site conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view?  
*Loading and unloading is currently done off-street, and this existing practice will continue. Therefore, the Board finds that this criterion is met.*
- (6) Are facilities for the storage, handling and disposal of sewage, refuse and other solid wastes resulting from the normal operations of the establishment(s) on the development site provided and adequately screened from public view?  
*The site is connected to the Town sewer system. There is no change in the handling of wastes. Therefore, the Board finds that this criterion is met.*
- (7) Are pedestrian ways, access driveways, loading and parking facilities properly designed for the convenience and safety of customers, employees and the general public?  
*There are few pedestrian facilities on the site but there is a sidewalk in front of it. The access driveways and parking facilities are adequate and one driveway will be enhanced by removal of the existing building as well as with improved signage and added landscaping. Therefore, the Board finds that this criterion is met.*
- (8) Is convenient and safe access for fire-fighting and emergency rescue vehicles provided to and within the development site in relation to adjacent streets?  
*Adjacent streets are adequate for emergency vehicles. The parking lot and access driveways also provide adequate emergency access. Therefore, the Board finds that this criterion is met.*
- (9) Are satisfactory methods for drainage of surface water to and from the development site provided?  
*There is already a drainage system on site. The amount of impervious surface will not increase appreciably with the additional paving since the existing building is also being removed. Therefore, the Board finds that this criterion is met.*
- (10) Are public ways and private drives properly designed to be constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development site?  
*The amount of new traffic to be generated by the addition is minimal. The public and private ways provide an adequate level of service. Therefore, the Board finds that this criterion is met.*
- (11) Have the effects and impacts of the proposed use of land or structures on vehicular and pedestrian traffic, municipal services and utilities, roadways, parking, drainage,

environmental quality, water resources, signage, lighting, and community economics, character, values, amenities and appearance been identified and evaluated?

*Since the project is simply removal of an existing building from an already-developed site and use, its impacts on traffic and municipal services will be minimal. Therefore, the Board finds that this criterion is met.*

- (12) Have site design modifications been proposed and evaluated to lessen the negative and harmful impacts?

*Landscaping improvements and improvements to an existing building have been proposed which, along with removal of the deteriorated building, will enhance the site. Therefore, the Board finds that this criterion is met.*

- (13) Have reasonable conditions, limits, safeguards and mitigation measures been established?

*The landscape and site improvements are adequate in light of the nature of the project. Therefore, the Board finds that this criterion is met.*

**SITE PLAN RULES AND REGULATIONS** – The Planning and Economic Development Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Rules and Regulations*, unless specifically waived. In making its decision, the Board shall determine the following:

- (14) Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?

*The site has three existing access driveways and they are appropriate for the proposed uses and difficult topographical configuration of the site. Improved signage and revised street addresses (using 2, 4 and 6 Main Street as authorized by the Board of Assessors) will improve the safety of the site's access. There is no traffic impact on residential areas. Therefore, the Board finds that this criterion is met.*

- (15) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?

*The primary change is removal of a deteriorated building as well some landscaping and improvements to an existing building. Therefore, the Board finds that this criterion is met.*

- (16) Is reasonable use made of building location, grading and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g. waste removal) from public views or from (nearby) premises residentially used and zoned.

*There is no new outside storage. Removal of the existing building and the added landscaping will soften the visible intrusion of this commercial building and use. Therefore, the Board finds that this criterion is met.*

- (17) Is adequate access to each structure for fire and service equipment provided?

*There is adequate access for emergency service to the buildings on site. Therefore, the Planning finds that this criterion is met.*

- (18) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?

a) the volume of cut and fill;

- b) the number of trees to be removed with particular care taken with mature trees and root systems;
- c) the visual prominence of man-made elements not necessary for safety;
- d) the removal of existing stone walls;
- e) the visibility of building sites from existing streets;
- f) the impacts on waterways and environmental resource areas;
- g) soil pollution and erosion;
- h) noise.

*The volume of cuts and fills is minimal, no trees will be removed, the visual prominence of the man-made elements will change minimally, no stone walls will be removed, the visibility of the building to be remain will be improved with the removal of the building in front of it. impact on waterways and environmental resources will not be affected, and the impact on soil pollution and erosion and noise will be unchanged. Therefore, the Board finds that this criterion is met.*

- (19) Is pedestrian and vehicular safety both on the site and egressing from it maximized?  
*The site has pedestrian access via sidewalks across its front... The three access driveways provide for vehicular safety on site and they maximize egressing from the site. Therefore, the Board finds that this criterion is met.*
- (20) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?  
*There are no natural or historic features on this site to incorporate. However, the removal of the deteriorated building and the added landscaping will improve the site. Therefore, the Board finds that this criterion is met.*
- (21) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?  
*As conditioned any added exterior lighting will avoid glare on adjoining properties and minimize light pollution. Therefore, the Board finds that this criterion is met.*
- (22) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.  
*The proposed work is within an already-developed area and is located to the front of the site adjacent to Route 109. Appropriate measures are being taken to protect resource areas. A new Order of Conditions will be required prior to the start of work. Therefore, the Board finds that this criterion is met.*

**VIII. SPECIFIC CONDITIONS** – Approval of this site plan modification for the Phase 3 work is subject to the following specific conditions:

- A. **Scope of Work** - The Phase 3 site plan is approved for the scope of work described herein in Paragraph III. Project Description and as shown on the endorsed Phase 3 site Plan.
- B. **Plan Revisions** - Prior to endorsement, the *4 Main Street Modification of Site Plan*, dated July 31, 2009 shall be further revised as follows:



1. The plan endorsement signature box on all plan sheets shall be revised; delete reference to the Board of Selectmen and replace with reference to the Planning and Economic Development Board
  2. A reference to the approval dates of all prior site plan decisions and the endorsement dates for all previous site plans for this site shall be added to the cover page (Sheet 1).
  3. The Plan Title throughout the plan set shall be revised to **4 Main Street Site Plan – Phase 3**.
  4. The list of waivers on the cover (sheet 1) shall be removed.
  5. A revised Phase 3 Front View drawing shall be added to the plan set as Sheet 9. The 9/21/09 Phase 3 Front View drawing shall be modified as follows:
    - Remove all sign details
    - Add photo of planned fencing design.
  6. An illustrative landscaping plan for the base of the three free-standing signs shall be added to the plan set. Include specifications for plant, hardscape materials and exterior lighting. Specify dimensions.
  7. Show the final plan revision date on the cover page (Sheet 1).
  8. The text and drawings for the Master Signage Plan and the associated drawings shall be assembled as supplemental sheet(s) to the plan set for Phase 3.
- C. **Completion of Previously Approved Site Plan Improvements** – The remaining elements of the Phase 2 site work will be completed by September 21, 2012. These include the installation of a high berm across the back and the finish paving coat on the parking areas.
- D. **Master Signage Plan** – The Master Signage Plan dated May 7, 2010 was approved by the Planning and Economic Development Board on May 11, 2010. Before plan endorsement, the drawings associated with the Master Signage Plan shall be revised as follows and attached to it.
1. Wall Signs drawing dated September 15, 2008 by Henry Marcel
    - Rename drawing – 6 Main Street Wall Signs; remove text re: Development #3.
    - Eliminate text in note #1. Replace text to reference details of the Master Signage Plan for size, type, lighting and design specifications.
    - In each of the boxes above the 4 storefront entrances, remove text regarding wall sign dimensions and lighting.
    - Revise drawing date
  2. Development Signs drawing dated September 3, 2008 by Jack Knight
    - Include a title at the top of the drawing – Freestanding Signs, 2-6 Main Street

- Rename the drawing as described in the title box (bottom right hand corner) – Freestanding Signs for 2-6 Main Street, Medway, MA
  - Delete text re: Development #1, #2 and #3.
  - Revise address for middle sign (Development #2) drawing to 4 Main Street
  - Revise address for western most sign (Development #3) drawing to 6 Main Street
  - Correct dimensions of each sign to reflect specific text of Master Signage Plan. All 3 signs are not the same.
  - Revise drawing date
- E. **Addresses** – The Board of Assessors has authorized the use of 2, 4 and 6 Main Street as addresses for the businesses associated with the 3 curb cuts on Main Street.
- F. **Construction**
1. **Time** - Construction work at the site and in the building shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. No construction shall take place on Sundays or legal holidays.
  2. **Construction Traffic/Parking** – All parking for construction and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on Main Street/Route 109.
  - 3). **Construction Materials/Debris** - There shall be no tracking of construction materials/debris onto any public way. Sweeping of the roadways adjacent to the site shall be done as needed to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for vehicles, pedestrians and neighborhood residents. In the event any construction debris is carried onto a public way, the applicant shall be responsible for all clean-up of the roadway within 24 hours of its occurrence.
- G. **Construction Inspection** - Planning & Economic Development Board members, its staff or its designated agents shall have the right to inspect the site at any time, for compliance with the provisions of this Decision. Inspectors may include Town employees or consultants.
- H. **Plan Compliance**
1. The Applicant shall construct all improvements in compliance with the approved and endorsed site plan and modifications.
  2. Any construction work that deviates from this and the previous site plan decisions shall be a violation of the Zoning Bylaw. The Board or its agents may use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with this decision and its conditions.

3. The Conditions of Approval are enforceable under Section V. C. 12 of the Medway Zoning Bylaw (non-criminal disposition) and violations or non-compliance are subject to the designated fine.
- I. **Plan Changes** – Any change to the approved site plan for Phase 3 shall necessitate a further modification of the site plan requiring Planning & Economic Development Board approval pursuant to SECTION V. C. 8 of the Medway Zoning Bylaw. Whenever additional reviews by the Planning & Economic Development Board, its staff or consultants are necessary due to proposed site plan modifications, the Applicant shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing if required including legal notice and abutter notification. If the proposed revisions affect only very limited aspects of the site, the Planning & Economic Development Board may reduce the scope of the required review, public notice and waive part of the filing and review fees.
- J. **Schedule for Project Completion** – The Planning and Economic Development Board's approval of this site plan modification for the Phase 3 work shall lapse after one (1) year of the grant thereof if substantial use has not commenced except for good cause. Construction shall be completed by the applicant or its assignees within two (2) years of the date of plan endorsement.

Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Planning & Economic Development Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing and hearing have been held.

- K. **Occupancy Permit** - Prior to the issuance of an occupancy permit for the building at the center of the parcel which is the subject of this Phase 3 site plan modification, the applicant shall:
  1. secure a written **Certificate of Site Plan Completion** from the Planning and Economic Development Board that all Phase 2 and 3 work was completed in strict compliance with the approved and endorsed site plan modification, this decision and any conditions thereto, and provide such certification to the Inspector of Buildings; and
  2. complete all Phase 2 and 3 site improvements and provide **written certification from a Professional Engineer** registered in the Commonwealth of Massachusetts that all Phase 2 and 3 construction work and site improvements have been completed in strict compliance with the approved and endorsed site plan, the decision and any conditions thereto; and
  3. submit six (6) copies of an **As-Built Plan**, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Planning & Economic Development Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the approved site plan and any

modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.

Or the applicant shall provide suitable security/performance guarantee acceptable to the Town, to the Board's satisfaction, to cover the costs of all remaining work. Such amount shall be determined by the Board based on recommendation of the Town's Consulting Engineer.

- L. **Prior Decisions** - All other conditions/provisions of the Board of Selectmen's January 11, 2005 Site Plan Certificate of Approval, the Planning Board's July 17, 2007 memorandum approving a time extension for completion of Phase II site construction, and the Phase 2 site plan modification decision from May 2008 shall remain in force.
- M. **Resource Area Protection** - According to the Conservation Agent, the property has an expired Order of Conditions. The applicant will need to file for a new Order of Conditions before they can undertake any construction or site work occurring within the Outer Riparian Zone. The applicant shall provide the new Order of Conditions to the Board.
- N. **Site Lighting** – Other than emergency lights required by the Building Code and exterior lights to illuminate the three free-standing signs, no additional exterior lighting is proposed or authorized for the building or the site.
- O. The area in front of the fence will be graded and paved in bituminous materials for use as a display area for 5-6 additional automobiles. It shall not be used for customer parking.

#### IX. GENERAL CONDITIONS OF APPROVAL

- A. **Appeal** – Any person aggrieved by the Planning & Economic Development Board's Decision may appeal such to the court within twenty (20) days of the date the Decision is filed with the Town Clerk.
- B. **Plan Endorsement** - Within thirty (30) days after the Planning & Economic Development Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan modification drawing reflecting all required revisions, if any, to the Planning and Economic Development Board to review for compliance with the Board's *Decision* before plan endorsement. All plan sheets shall be bound together in a complete set.
- C. **Fees/Taxes** - Prior to endorsement of the Phase 3 site plan by the Planning & Economic Development Board, the Applicant shall pay the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering and planning consultants, and any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses. The Applicant's failure to pay these fees in their entirety shall be reason for the Planning & Economic Development Board to withhold plan endorsement.
- D. **Construction Standards** - All construction shall be in full compliance with all applicable local, state and federal laws, including but not limited to the Americans

with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

*Approved by the Medway Planning & Economic Development Board:* \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning & Economic Development Coordinator

\_\_\_\_\_  
Date

**COPIES TO:** David D'Amico, DPS  
Bill Fisher, Board of Health  
Will Naser, Board of Assessors  
David Travalini, Conservation Commission  
Melanie Phillips, Treasurer/Collector  
John Emidy, Building Commissioner/Zoning Enforcement Officer  
Paul Trufant, Fire Department  
Jeff Watson, Police Department  
Gino Carlucci, PGC Associates  
Robert Potheau

**June 8, 2010  
Planning and Economic Development Board Meeting  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Karyl Spiller-Walsh, Tom Gay and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:**

Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:00 pm.

**Board Business:**

**Elect PEDB Officers:**

**Chairman:**

- On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to elect Andy Rodenhiser as Chairman to the Planning and Economic Development Board.

Andy Rodenhiser agreed to serve again as Chairman.

**Vice Chairman:**

- On a motion made by Andy Rodenhiser and seconded by Tom Gay, the Board voted unanimously to appoint Bob Tucker as Vice Chairman to the Planning and Economic Development Board.

Bob Tucker agreed to serve again as Vice-chairman.

**Clerk:**

- On a motion made by Bob Tucker and seconded by Andy Rodenhiser, the Board voted unanimously to appoint Tom Gay as Clerk to the Planning and Economic Development Board.

Tom Gay agreed to serve again as Clerk.

**Committee Liaison List:**

The Board was provided a list noting the various Board/Committee liaison positions.

Member Gay informed the Board that he is no longer able to serve as the liaison for the Zoning Board of Appeals. Andy Rodenhiser has agreed to serve as that liaison.

Board members signed up for various liaisons. Susy will finalize the list and distribute.

Susy Affleck-Childs reported that the Town of Medway is seeking a Conservation Agent. Member Rogers would like it noted that the Conservation Agent should work with the clients and also the Town. The Town of Holliston and Medway were sharing an agent.

**PUBLIC HEARING - Proposed Amendments to Medway Zoning Bylaw**

Susy Affleck-Childs distributed recommended additional amendments to the zoning bylaw proposals under consideration. These changes are based on the PEDB's discussion at the May 27, 2010 public hearing. Susy also distributed drafts of the motions to be used at Town Meeting.

**Article 35 – Sign Regulations**

Member Tucker noted that he is not comfortable with the wording of the light fixture item on page 26 of 43 of the warrant – Paragraph 7. j (6). After review of the Board, it was agreed upon that this item be eliminated.

A draft of the proposed Revised Table 1 for Article 35 was presented. This Table included provisions for signs in the Agricultural and Residential Districts I & II – development signs, resident identification signs, home based business signs, and signs for pre-existing/non-conforming uses. Some of the members are uncomfortable with allowing a freestanding type of sign for a home based business. The Board agreed to eliminate the option for a freestanding sign for home based businesses. They would like to allow for a projecting sign with a maximum of six square feet of sign surface area, two-sided from the ground. The members were in agreement with this.

The members were provided a list of the businesses which are currently holding business certificates issued by the Town Clerk. These certificates are held for four years. It was noted by Chairman Rodenhiser that it may be beneficial to have the list categorized by Industrial/Residential/Commercial. He will be inquiring whether this could be done.

**Article 36 – Exterior Lighting**

The Board was in agreement with the wording of Article 36.

**Article 37 – Home Based Businesses**

The Board was in agreement with the language that stipulated that “except as specifically provided in Section V. Sub-Section R. of the Medway Zoning Bylaw.”

The Board is changing the Home Based Businesses article to provide current business practices. The purpose of this is to make the language clearer.

#### **Article 38 – Small Wind Systems**

The Board was in agreement with the definition of a “Small Wind Energy System”. The members were also in agreement with the replacement of certain words.

Member Spiller-Walsh believes that the issue with this article will be how high and how big these will be. She believes that there needs to be a translation of what the visual representation should be provided with these numbers.

Affleck-Childs reminds the Board that none of this is allowed by right.

Member Rogers notes that the physical dimensions of this are the main concern.

#### **Article 30 – Definitions**

The Board reviewed the definitions which were revised. For the definition of renewable energy, “organic plant and waste materials” will be replaced with “organic plant materials”. Also, the words “that use renewable energy” will be deleted after “fuel cells”.

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to close the public hearing on proposed amendments to the Medway Zoning bylaw.**

#### **Article 29 – Designation of Priority Development Sites**

The Board is in agreement that this article is to approve the filing of an application with the Massachusetts InterAgency Permitting board to designate parcels of land in the Industrial I, II, and III zoning districts as specified in the warrant as priority development sited under MGL, Chapter 43 D, as recommended by the Planning and Economic Development Board.

#### **Article 28 – Acceptance of Parcel D at the Ishmael Coffee Estates**

The Board is not in a position to act on this at this point. The Board will wait for a determination from Conservation Commission. It was recommended that the Board dismiss Article 28.

- **On a motion made by Karyl Spiller-Walsh and seconded by Tom Gay, the Board voted unanimously to dismiss Article 28.**

#### **Article 27 – Acceptance of two parcels in the Granite Estates Subdivision**

Affleck-Childs informed the Board that she has communicated with Town Counsel and the wording of the motion is to read to accept as a gift from Granite Estates Inc. two parcels of land in the Granite Estates subdivision as described in the warrant to be used for general municipal purposes, as recommended by the Planning and Economic Development Board.

- **On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to authorize the wording of the motion as recommended by Town Counsel.**



**Article 26 – Establish an Agricultural Committee**

- On a motion made by Karyl Spiller-Walsh and seconded by Bob Tucker, the Board voted unanimously to approve this article as written.

**Warrant Articles as Presented:**

- On a motion made by Tom Gay and seconded by Chan Rogers, the Board voted unanimously to approve the Warrant Articles as written.

**Town Wide Facilities Study Committee Meeting:**

Member Gay attended the first meeting of the committee. There was no representation from the Town Administration. The newly appointed committee seeks some direction from the Board of Selectmen and Town Administrator as to duties and mission.

**Community Preservation Committee (CPC) Meeting:**

At its June 7 meeting, the CPC discussed at length what to do with 2B Oak Street. Apparently, the BOS will be hosting a meeting later this summer to discuss options.

**Correspondence:**

The Medway Affordable Housing Trust Planning Workshop is scheduled for Tuesday, July 20, 2010 6-9 pm. The PEDB is encouraged to attend.

**Minutes:**

- The minutes of the May 27, 2010 meeting will be tabled until the next meeting.

**Future Meetings:**

The next meetings scheduled are: June 22, July 13, and July 27, 2010.

The 2010 Annual Town is scheduled for Monday, June 14, 2010.

**Adjourn:**

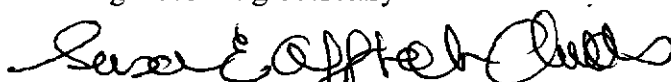
- On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn at 9:00 PM.

The meeting was adjourned at 9:00 PM.

Respectfully Submitted,

  
Amy Sutherland

Meeting Recording Secretary



Edited by Susy Affleck-Childs

Planning and Economic Development Coordinator

**June 14, 2010  
Planning and Economic Development Board Special Meeting  
Medway High School – Room 112 A  
88 Summer Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams and Karyl Spiller-Walsh

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:**

Susy Affleck-Childs, Planning and Economic Development Coordinator

The Chairman opened the meeting at 6:08 p.m.

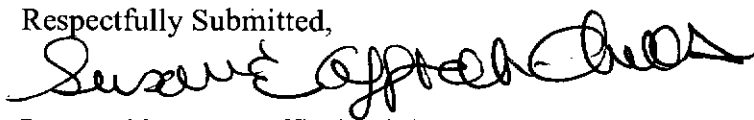
Chairman Rodenhiser explained that the Board needed to address Article 27 regarding acceptance of the donation of two parcels in the Granite Estates Subdivision. Late last week, Town Moderator Mark Cerel informed the Town Administrator that he was not comfortable with the proposed language of the motion for Article 27 to accept these parcels for general municipal purposes. He feels it is too broad compared to the actual warrant article language (Parcel A for stormwater management/drainage purposes and Parcel B for open space/conservation purposes). The BOS and the PEDB have discussed some possible roadway extension options near Parcel B (to encourage economic development) and would like to have some future flexibility to use this parcel for drainage or roads if needed and not be limited by the open space/conservation use. Andy and Susy met with Paul Yorkis as Vice President of Granite Estates Inc. to discuss this issue. The original subdivision decision for Granite Estates will need to be modified as it specifically states that Parcel B is to be used for open space purposes.

Andy and Susy recommended the PEDB revise the motion so that only Parcel A is accepted at this time. The motion should be silent on Parcel B.

A motion was made by Bob Tucker, seconded by Chan Rogers, to revise the Board's position on Article 27 to recommend that only Parcel A be accepted at this time. The motion passed with all members voting in favor.

The Board then attended the 2010 Town Meeting which concluded at 9:25 p.m. at which time the PEDB meeting was automatically adjourned.

Respectfully Submitted,



Prepared by Susy Affleck-Childs  
Planning and Economic Development Coordinator

**June 22, 2010**  
**Medway Planning and Economic Development Board**  
**Medway Town Hall**  
**155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Karyl Spiller-Walsh, Tom Gay and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates Planning Consultant

The Chairman opened the meeting at 7:00 pm.

**Committee Appointments**

**Open Space Committee:**

On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to appoint Jim Sullivan, Jim Wickis, Glenn Murphy and Bruce Hamblin to the Open Space Committee as regular members through June 30, 2012.

**Design Review Committee:**

On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to appoint Mary Weafer, Matt Buckley, and Rachel Walsh to the Design Review Committee regular members through June 30, 2012.

On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to appoint Dan Hooper to the Design Review Committee as an associate member through June 30, 2011.

**Economic Development Committee:**

On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to appoint Ray Himmel, Ken Bancewicz, Carolyn Chodat, and Kent Scott to the Economic Development Committee as regular members through June 30, 2012.

**Daniels Village ARCPUD:** (Public Hearing Continuation)

Betty McCall Vernaglia, the property owner, informed the Board that the attorney has given a 30 day notification (of another buyer) to a prospective local buyer who has had a long standing interest in the property. NO response has yet been received from the prospect.

**On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to continue the public hearing for Daniels Village ARCPUD to July 13, 2010 at 7:15 pm.**

The applicant stated she is inclined to now withdraw the project from further ARCPUD special permit consideration. She will be submitting a letter to formalize her plans.

It was agreed that Susy would check with Town Counsel to determine if there are any additional steps for withdrawal.

**Informal Site Plan Review: (Town of Medway Department of Public Services - Highland Street Water Tank)**

Director of Public Services, Tom Holder, along with a representative from Weston and Sampson provided a synopsis of the plans to install a new municipal water tank at 14 Highland Street. The abutters within 500 feet of this location were notified of this agenda item. The purpose of notification was to have the abutters learn more about the plans for this site. (See attached copy of abutter notice.)

The Town's recent Water System Master Plan identified that the water quality of the existing tank was such that the tank needs replacement. The existing tank will be demolished. The replacement tank is designed as an 800,000 gallon bolted glass-fused steel tank. The construction will commence during September 2010 and will be completed by February 2011. The site work will include a landscaped buffer with screening between the new tank and the road. The Board discussed the color of the water tank. It was communicated by Mr. Holder that the tentative color will be dark blue to blend in with the natural environment. The slopes can be changed so that catch basins are not needed on the bottom. There will be a chain linked fence along with seven foot high barbed wire around the tank. There will be a barrier swing gate set in from the roadway. Rain water will go into the water flow pipe. The design plan is currently being reviewed by the MassDEP. Once approved, this will go out to bid in August.

Member Tucker wanted to make sure that the mitigation measures for construction will be consistent with the town bylaw including noise control. He felt it would be helpful to notify the abutters to inform them of what will be occurring. Mr. Holder agreed to do so.

Member Tucker also wanted to make sure that the lighting is not going to be an issue with abutters. Affleck-Childs will provide an electronic copy of the new bylaw to Tom Holder and he will forward it to Weston and Sampson in relation to the lighting.

**Brian Adams, 2 Milford St.:**

Mr. Adams had three questions:

How will this tank get into the area?

How tall will this be?

Will core samples be done?

It was communicated by Weston and Sampson that the tank will be constructed from the convex sheets and built on site. It will be 90 feet tall. The core samples were also completed.

**CORRESPONDENCE:**

- The Board is in receipt of a memo in relation to the 495 MetroWest Partnership. Their annual conference is to be held Friday, June 25, 2010 at the Milford Doubletree Hotel.

**Selection of Town Consulting Engineer**

Affleck Childs informed the Board that there was a meeting on June 10, 2010 to interview five engineering firms. There was a vote taken to continue with Tetra Tech Rizzo. This has been communicated to the Town Administrator. The next step is to finalize contracts hopefully in time for the July 6<sup>th</sup> BOS meeting.

**Claybrook II Subdivision: Subdivision Default Determination:**

The Board was in receipt of a copy of letter dated June 2, 2010 addressed to Mr. Jon Delli Priscolli, Trustee and Mr. Phillip Was, Trustee of Claybrook II Development Trust from the Board. See attached. The letter addressed the incomplete status of the Claybrook II Subdivision. The letter also makes note that the Town's consulting engineer, Tetra Tech Rizzo, had reviewed the subdivision to determine what items have not been completed in conformance with the Board's Subdivision Rules and Regulations. The inspection determined that construction of ways and installation of municipal services have not been completed. The bond estimate was updated. See attached. The amount of subdivision surety now totals \$65,867.50. The Board requires that the applicant deposit an additional \$23,677 so that the total surety on deposit will equal this amount. The letter informed the applicant that a public hearing was to be held on June 22, 2010 to determine if the development is in default. The applicant was invited to attend the public hearing.

The Board was in receipt of a letter dated June 21, 2010 from First Colony Development Co., Inc. (Attached) This letter noted that there will not be a representative attending the June 22<sup>nd</sup> PEDB meeting. It also noted that neither First Colony Development Co., Inc. nor any other related entity has any responsibility or liability financially or otherwise to have maintained the Claybrook II subdivision improvements.

**Christine Jorgenson, 6 Wildebrook Rd.:**

Ms. Jorgenson wanted clarification on the release of money.

**On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to make the following findings pertaining to the Claybrook II subdivision**

- there remains outstanding work in the Claybrook II subdivision to complete the construction of the subdivision infrastructure as set forth in the Claybrook II Subdivision Certificate of Approval dated April 23, 1996, and as shown on the Claybrook II Definitive Subdivision Plan endorsed on June 11, 1996, and
- the Board has adopted the construction estimate dated May 18, 2010, prepared by Tetra Tech Rizzo, Inc. to complete construction of the Claybrook II infrastructure in accordance with the Claybrook II Subdivision Certificate of

Action, the Claybrook II Definitive Subdivision Plan and the *Board's Subdivision Rules and Regulations*; and

- based on that estimate, the Board has determined that the amount of subdivision surety required under G.L. c. 41 §81U for the Claybrook II subdivision now totals \$65,867.50; and
- there is a Tri-Party agreement (dated May 7, 1997) executed by the developer, the Medway Planning Board and Middlesex Savings Bank which is holding \$42,190 in security for this subdivision; and
- at its meeting on May 27, 2010, the Board scheduled a public hearing for June 22, 2010 to determine whether the developer (Claybrook II Development Trust) is in default under the provisions of the Subdivision Control Law; and
- on June 2, 2010, the Board informed the developer (by certified mail) and Middlesex Savings Bank of the June 22, 2010 public hearing and of the additional \$23,677 of surety that was required to be deposited with the Town by June 22, 2010 in accordance with the Subdivision Control Law so that the balance of the surety held by the Town would equal the estimated cost to complete the subdivision; and
- the developer responded with a letter dated June 21, 2010 stating that he has no responsibility or liability for the subject subdivision and that he would not attend the June 22, 2010 public hearing; and
- the Claybrook II Development Trust c/o First Colony Development Company of Marlborough, MA is in default of its obligation to complete the Claybrook II subdivision because the required work is not completed and the required security has not been provided; and
- therefore, the Board has reasonable grounds to seize the subdivision security in order to complete the construction of ways and installation of municipal services in accordance with the Board's Claybrook II Subdivision Certificate of Action, the Claybrook II Definitive Subdivision Plan and the Board's *Subdivision Rules and Regulations*.

**Request for Bond Reduction – Ishmael Coffee Estates Subdivision:**

The Board is receipt of a letter dated June 20, 2010 from the Medway Conservation Commission to Anderson & Kreiger LLP regarding the certification of the vernal pool at the Ishmael Coffee Estates subdivision. See attached. The memo notes that at the Conservation Commission meeting on June 17, 2010 the Commission voted in favor of lifting the enforcement order dated 6/3/04. This frees up the Planning and Economic Development Board to release the remaining \$20,000 subdivision bond.

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh the Board voted unanimously to release the \$20,000 bond and accept Parcel D in the Ishmael Coffee Estates for open space/conservation purposes.**

Susy noted that this will allow this parcel to be placed on the warrant for a special summer or the fall town meeting for town meeting to formally agree to accept this parcel.

**Irene Streifer, 37 Board Acres Farm Road:**

The Board is in receipt of a letter dated June 14, 2007 from Mrs. Streifer. See attached. The letter is in regards to Broad Acres Farm Rd. Mrs. Streifer feels that the Board should have a meeting with the residents to discuss the easement and street acceptance issues. The Chairman communicated that this is a private way and it is up to the residents of Board Acres Farm Road to organize amongst themselves to address the issues.

Mrs. Streifer also noted that the Town has no plans of accepting the development until the issues are resolved. Mrs. Streifer also would like to speak directly with the town attorney and Chairman of the Board. The Chairman communicated that he does not want to have any private conversations. He wants all opinions about Broad Acres Farm Road to be discussed publically. As far as the Town Attorney contacting the Streifers, the town attorney's will not contact the Streifers since this is a matter between them and the developer. The Chairman did inform the Streifers that the Town is seeking a claim against the developer. Mrs. Streifer wanted further clarification about how the Town will help residents? The Chairman indicated that the town is trying to help the residents by pursuing the claim against the developer.

The Board expressed its willingness to meet with neighbors, but that meeting would have to be organized by them.

Affleck-Childs will provide a list with the recent issues to the Streifers, but it will be their responsibility to set up a meeting with the residents.

**Minutes:**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to approve the minutes of May 27, 2010 and June 8, 2010 meetings.**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to approve the minutes of June 14, 2010. (Karyl Spiller-Walsh abstained from voting as she was not present at the June 14<sup>th</sup> meeting.)**

**Future Meetings:**

The next meetings scheduled are: **July 13, and July 27, 2010.**

**Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn at 9:15 PM.**

*Minutes of June 22, 2010 Meeting*  
*Medway Planning & Economic Development Board*  
*Approved – July 13, 2010*

The meeting was adjourned at 9:15 PM.

Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary



Edited by Susy Affleck-Chills  
Planning and Economic Development Coordinator





**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*  
*John W. Williams, Associate Member*

**ABUTTER NOTIFICATION**

**INFORMAL SITE PLAN REVIEW - Highland Street Water Tank**

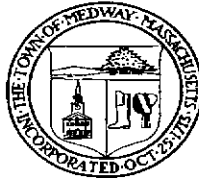
During its meeting on Tuesday, June 22, 2010, the Planning and Economic Development Board will review the Town of Medway's plans to install a new municipal water tank at 14 Highland Street. This agenda item is scheduled for 7:30 p.m. The meeting will take place at Medway Town Hall, 155 Village Street. You are being notified of this meeting because you own property within 500 feet of the 14 Highland Street location and we wanted to give you an opportunity to learn more about the Town's plans for this site.

**BACKGROUND** - As a result of the Town conducting an inspection of its two existing water storage facilities, it was determined that the water tank located at 14 Highland Street was beyond its designed useful life and furthermore was cause for water quality concerns. This tank was also identified in the Town's Water System Master Plan as needing replacement. The fall 2009 Town meeting authorized funding for the design and construction of a replacement tank and for the demolition of the existing deteriorated tank. A hydraulic analysis of the Town's water system concluded that the Highland Street parcel housing the existing tank was the most favorable location for the replacement tank.

**CONSTRUCTION** - The replacement tank is designed as an 800,000 gallon bolted glass-fused steel tank to be located behind the existing tank further away from the road. On the reverse side of this notice, we have printed the site plan. The proposed schedule has construction commencing during September 2010, new-tank installation completed in February 2011 and old-tank demolition completed in May 2011. Upon removal of the existing tank, site work will include a landscaped buffer with screening between the new tank and the road.

We hope you will attend this meeting. You will be given an opportunity to ask questions and provide comments to the Medway Department of Public Services. Photographs depicting the type of water tank will be shown. Please contact the Medway Department of Public Services at 508-533-3275 if you have any particular questions about the proposed water tank.

508-533-3291  
[planningboard@townofmedway.org](mailto:planningboard@townofmedway.org)



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*

Mr. Jon Delli Priscolli, Trustee  
Mr. Philip Wax, Trustee  
Claybrook II Development Trust  
c/o First Colony Development Co., Inc  
929 Boston Post Road East  
Marlborough, MA 01752

***Certified Mail #:*** \_\_\_\_\_  
***Return Receipt Requested***

RE: Claybrook II Subdivision

Dear Messrs. Delli Priscolli and Wax,

At its meetings on May 11, 18 and 27, 2010, the Medway Planning and Economic Development Board discussed the incomplete status of the Claybrook II subdivision in Medway. This subdivision includes Wildebrook Rod, First Colony Drive and Summit Road.

For the record, the following details pertain to the Claybrook II subdivision:

Planning Board approval:	April 23, 1996
Planning Board plan endorsement:	June 11, 1996
Plan Recording:	October 11, 1996 – Plan #725 (A of 3) of 1996, Book 443
Surety for the Claybrook II subdivision:	\$42,190 – Middlesex Savings Bank (tri-partite agreement executed May 7, 2010).

In early May, the Board directed its consulting engineer, Tetra Tech Rizzo, to review the subdivision to determine what items have not been completed in conformance with the Board's *Subdivision Rules and Regulations* and the Claybrook II Certificate of Approval. Mr. David Pellegrini, PE of Tetra Tech Rizzo (the Town's consulting engineer) and Mr. Tom Holder, Medway's Director of Public Services conducted a site inspection on May 4, 2010. An inspection report dated May 7, 2010 and an updated bond estimate dated May 18, 2010 were prepared. Copies of both documents are attached.

The Board has determined that the construction of ways and installation of municipal services in accordance with the Claybrook II Certificate of Approval and Definitive Subdivision Plan have not been completed. The amount of subdivision surety required under G.L. c. 41 §81U for the Claybrook III subdivision now totals \$65,867.50. The Board hereby requires the applicant to deposit \$23,677 in additional surety with the Board in accordance with the Subdivision Control Law and the *Medway Subdivision Rules and Regulations* so that the total surety amount will equal this amount. Said additional surety is to be deposited with the Town or verified as on account by June 22, 2010.

At its May 27th meeting, the Board voted to hold a public hearing during its June 22, 2010 meeting as to whether the developer of the Claybrook II Subdivision is in default under the Subdivision Control Law and the *Medway Subdivision Rules and Regulations*, for failure to complete the construction of ways and installation of municipal services in accordance with the Claybrook II Certificate of Approval and the *Medway Subdivision Rules and Regulations* and to notify you and Middlesex Savings Bank of the hearing date. The hearing is scheduled for 8 p.m. and will take place during the Board's regular meeting at Medway Town Hall, 155 Village Street. This letter serves as that notification.

At the hearing, you will have the opportunity to be heard personally and/or through your counsel as to whether the subdivision should be found to be in default. The Board will discuss and determine whether it should take the surety that is being held for the subdivision in order to carry out uncompleted work as specified in the Claybrook II plans and decision.

Thank you for your attention to this matter. ***Please confirm that you or your representative will attend the June 22, 2010 meeting of the Medway Planning and Economic Development Board.***

Best regards,

Andy Rodenhiser, Chairman

cc: Maryjane White, Town Clerk  
Barbara Saint Andre, Town Counsel  
David Pellegrini, P.E., Tetra Tech Rizzo  
Melanie Phillips, Medway Treasurer/Collector  
Doug Rosenau, Middlesex Savings Bank  
Christine Jorgensen for the Claybrook II Home Owners Association

Medway, MA

### Claybrook II Bond Estimate

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
<b>BITUMINOUS CONCRETE</b>					
488.01	Demo and Disposal of Existing Storm and Pavement Preparation for New Storm	1,000	FT	3.00 \$/FT	\$ 3,000.00
478.2	Hot Mix Asphalt Storm - Modified	1,000	FT	5.00 \$/FT	\$ 5,000.00
488	Hot Mix Asphalt (Shoulder/Road Repair)	14	TON	85.00 \$/TON	\$ 1,190.00
	Crack Sealing	7,500	SY	2.00 \$/SY	\$ 15,000.00
	<b>Subtotal</b>				<b>\$ 24,190</b>
<b>BITUMINOUS CONCRETE</b>					
681	Curb Inlet Removed and Re-set	4	EA	125.00 \$/EA	\$ 500.00
	<b>Subtotal</b>				<b>\$ 500</b>
<b>AGGREGATE</b>					
161	Gravel Borrow (Bikar's Sub-Grade Repair)	2	CY	25.00 \$/CY	\$ 50.00
683.2	Rip-Rap	4	CY	81.00 \$/CY	\$ 324.00
	<b>Subtotal</b>				<b>\$ 374</b>
<b>DRAINAGE</b>					
223	Frame and Grate (Double Catch Basin)	5	EA	620.00 \$/EA	\$ 3,100.00
223.2	Frame and Grate (Removed and Discarded)	5	EA	60.00 \$/EA	\$ 300.00
187.01	Removal and Disposal of Drain Pipe Sediment	100	FT	5.00 \$/FT	\$ 500.00
127.8	Removal and Disposal of Drain Structure Sediment	55	CF	125.00 \$/CF	\$ 6,875.00
	Detention Basin Maintenance	1	LS	10,000.00 \$/LS	\$ 10,000.00
	<b>Subtotal</b>				<b>\$ 21,435</b>
<b>LANDSCAPING</b>					
766	Seeding (Slope Repair)	12	SY	1.50 \$/SY	\$ 18.00
	<b>Subtotal</b>				<b>\$ 18</b>
<b>SIGNAGE</b>					
761	Street Name Sign	4	EA	70.00 \$/EA	\$ 280.00
	<b>Subtotal</b>				<b>\$ 280</b>
<b>Project Subtotal</b>					<b>\$ 46,296.00</b>
<b>Contingency</b>					<b>\$ 11,573.76</b>
<b>Site Total</b>					<b>\$ 57,869.76</b>
<b>Project Total</b>					<b>\$ 57,869.76</b>

**Notes:**

1. Unit prices are taken from the latest information provided on the Massachusetts Highway Department website. They utilize the Mass Highway weighted bid prices (Combined - All Districts) for the time period 5/2009 - 5/2010.
2. Refer to Subdivision Review Letter Dated 5/7/10 prepared by Tetra Tech Rizzo for additional issues which do not have dollar values assigned above.
3. Mass Highway pricing for crack sealing was not available, therefore prices were taken from 2008 construction bid results from another Massachusetts municipality.
4. Exact quantities for the amount of material were not measured and are approximate values.

PS:21583\127-21583-09006\Doc\Estimates\2010-05-07\Claybrook II Bond Estimate)

P2

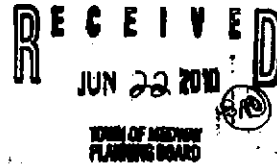
## **First Colony Development Co., Inc.**

929 Boston Post Road East  
Marlborough, MA 01752  
508-481-6095 \* Fax 508-460-0578  
E-mail: [stangordon@firstcolonydev.com](mailto:stangordon@firstcolonydev.com)

June 21, 2010

### **SENT BY FEDERAL EXPRESS**

Mr. Andy Rodenhiser, Chairman  
Town of Medway Planning & Economic Development Board  
155 Village Street  
Medway, MA 02053



RE: Claybrook II Subdivision (the "Subdivision")

Dear Mr. Rodenhiser:

To say that I am surprised to have been on the receiving end of your June 2<sup>nd</sup> correspondence is certainly an understatement.

Without prejudice to any legal rights and with no admission of liability of any type or kind, I would comment as follows:

The Certificate of Approval that you refer to was issued on or about April 23, 1996.

This means that the Subdivision is over 14 years old.

My recollection is that the last lot was conveyed in 2001 or 2002; again, over eight or nine years ago.

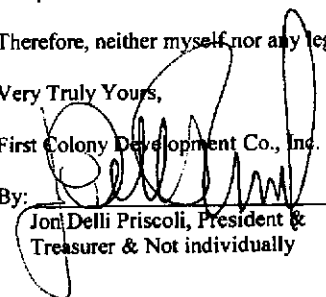
Without commenting upon the cost(s) set forth in the Tetra Tech Rizzo report, the pictures that are attached to the report are certainly not shocking due to the passage of so much time. I imagine that somebody has been plowing the snow during the winter over the past decade, and maybe that is really who you should be contacting.

However, please be advised that neither I nor any other related entity has any responsibility or liability financially or otherwise, to have maintained the subdivision improvements, never mind to repair the same.

Therefore, neither myself nor any legal counsel will be appearing at your meeting.

Very Truly Yours,

First Colony Development Co., Inc.

By:   
Joni Delli Priscoli, President &  
Treasurer & Not individually

508-533-3291  
[planningboard@townofmedway.org](mailto:planningboard@townofmedway.org)

**TOWN OF MEDWAY  
CONSERVATION COMMISSION**  
155 Village Street  
Medway, MA 02053

June 20, 2010

Anderson & Kreiger LLP  
Mr. Arthur Kreiger  
One Canal Street, Suite 200  
Cambridge, MA 02141

**Re: Ishmael Coffee Estates, Certified Vernal Pool #3664**

Dear Mr. Kreiger:

Please be advised at the June 17, 2010 Conservation Commission meeting, the Board found the above referenced Vernal Pool to be functioning and have voted 4 in favor, 1 opposed to lifting the enforcement order dated 6/3/04.

This should provide the documentation needed for the Planning Board to release the \$20,000 bond and accept Parcel D for open space/conservation purposes.

Please do not hesitate to contact me if you have any questions.

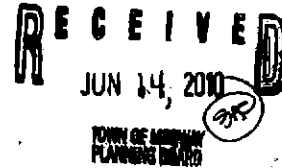
Sincerely,

David Travalini  
Chairman  
/bis

508-533-3291  
[planningboard@townofmedway.org](mailto:planningboard@townofmedway.org)

June 9, 2010

Andy Rodenheiser  
Town of Medway Planning Board  
155 Village Street  
Medway, Ma 02053



Ref: 37 Broad Acres Farm Rd.

Dear Mr. Rodenheiser,

I left a message the end of April on Suzie's voicemail, which indicated that I would like to speak with you. She has since said that she passed that message on to you. As of today I am still awaiting a call from you.

In reference to the Planning Board Meeting of Dec. 8, 2009, there was a lengthy discussion about the outstanding issues regarding the lack of easements not only in relationship to our property but that of numerous others within Country View Estates and Broad Acres. There was discussion to the fact that the remaining bond money was spent along with an additional \$40,000 of tax payer's money to fix the issue at the corner of Summer Street and Broad Acres Road; it appears that the town approved the release of bond money before making sure that the right size pipe was installed by the developer.

At the December meeting it was also mentioned by Karyl Spiller-Walsh that the board should consider having a meeting with the individuals who live within the two development who have easement issues, to speak with them about the fact that the Town has no plans on accepting the development until such time as ever the easement and other issues are resolved. It was also mentioned, that the board should consider speaking with the residents about the fact that they, the homeowners, may want to establish a Homeowners Association to allow for the residents to cover the cost of snow removal, street cleaning and repair, storm drain and sewer cleaning/repairs, as well as the upkeep and repairs to the fore bay and retention pond on our property.

There was also mention by Karyl Spiller-Walsh that she had a concern that our house may have been built too close to the ponds; the original easement for the ponds on the plans approved in 1999 show that the easement runs either under our eaves or into our fireplace which is in our living room. At this point in the discussion, it was mentioned that the board should consider going into an Executive Session to discuss these issues.

According to the General Law 39 on Open session, Chapter 30A Section 11A 1/2, clause 6 or 7 the residents who the Executive Session is about are to be formally invited to attend, and that presented with the option, this right can only be waived upon agreement (#2).

As of present, we have not been informed of any plan that the Board has for holding any further discussion concerning the development or our property. I have been informed that the town has no intention of submitting the development as a part of the warrant articles for approval for the

508-533-3291

[planningboard@townofmedway.org](mailto:planningboard@townofmedway.org)

upcoming meeting. I would point out in passing however that there is in fact no easement of record or otherwise for the drainage detention facilities located on our property and hence, no easement line has ever been established. We are presently in litigation with the developer to establish the scope, location and duties of the parties regarding an easement for the discharge of drainage and storm-water onto our property.

The Town has made it a point to dismiss any communication with our attorneys and us, which is extremely frustrating. For years now we tried to work with the town and the developer, Greg Whelan to resolve the issues not only with our land but within the development, because of the town's refusal to accept an easement for the ponds on our property until the development was finished.

Unfortunately, even working with three different boards over the years, there has been an obvious disagreement with the board members themselves as to how to proceed with all of the outstanding issues within the development. Despite the fact that the town promised oversight and backing to us and the residents of two other developments to prevent what we already know to be the reason why other sub-divisions in this town, have not and will not be approved for acceptance by the town boards, we never received it, and because of that we now have numerous costly and unresolved issues.

As a resident taxpayer of the Town of Medway, I am requesting written notification from the board as to the status of the outstanding issues within the development, and on-going plans to meet with the residents of the two developments to discuss what the town and residents need to do to resolve these issues.

Irene Streifer



37 Broad Acres Farm Road

Medway, Ma 02053

Cc: Town of Medway Board of Selectmen

Suzanne Kennedy, Town Administrator

508-533-3291

[planningboard@townofmedway.org](mailto:planningboard@townofmedway.org)



**July 13, 2010  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Bob Tucker, Karyl Spiller-Walsh, and Tom Gay.

**ABSENT WITH NOTICE:** Andy Rodenhiser, Chan Rogers

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:**

Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates (Planning Consultant)  
Dave Pellegri, Tetra Tech Rizzo (Engineering Consultant)

Vice Chairman Bob Tucker opened the meeting at 7:00 pm.

**Board Business:**

**Fiscal Year 2010 Commonwealth Capital Application:**

Gino Carlucci has prepared the Town's FY 2010 Commonwealth Capital Application. See attached. At the Town meeting of June 14, 2010, Medway approved Zoning Bylaw amendments specifying by-right locations for clean energy and solar energy generation facilities. The Town is also pursuing Green Communities designation. The Town's work on the Habitat for Humanity house was helpful as was the acquisition of 50 Winthrop Street and the community farm project. The application totaled 83 points. We'll have to wait to hear back from the State on Medway's score. One of the goals for next year is to implement low impact development standards which will earn the Town additional points for its Commonwealth Capital score.

**Conservation Agent:**

Susy Affleck-Childs has taken part as a member of the interview team to hire a Conservation Agent who will work part-time for the Town of Medway. There were 6 people interviewed. The review team recommended three people to continue with the interview process. Next step is interviews with the Town Administrator

**PUBLIC HEARINGS:**

**Daniels Village ARCPUD:**

The Board is in receipt of an email communication from property owner Betty-McCall-Vernaglia dated Monday, July 12, 2010 requesting that the Board consider her request to withdraw the Daniels Village ARCPUD project without prejudice. A copy of that email note is attached. The email also communicates that Ms. McCall-Vernaglia has signed a letter of intent with The Trust for Public Land hoping to reach an agreement for a portion of the land off Winthrop Street which would be kept as open space.

**On a motion made by Tom Gay and seconded by Karyl-Spiller-Walsh, the Board voted unanimously to approve the property owner's request to withdraw without prejudice the project entitled Daniels Village ARCPUD.**

**On a motion made by Tom Gay and seconded by Karyl-Spiller-Walsh, the Board voted unanimously to close the public hearing for the Daniels Village ARCPUD.**

**Steinhoff Office Building - Site Plan Review Consultant Services Estimate**

The Board is in receipt of two proposals for consulting services for the Steinhoff Office Building. The first proposal is from Tetra Tech Rizzo in the amount of \$4,550.00. This was broken down into tasks one through four. The second proposal is from PGC Associates in the amount of \$760.00. A copy of each proposal is attached.

**On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to approve the proposal from Tetra Tech Rizzo in the amount of \$4,550.00 and the second proposal from PGC Associates in the amount of \$760.00 for Review of the Steinhoff Office Building Adaptive Use Overlay District project and plans.**

**Applegate Farm Subdivision**

Ralph Costello, developer and property owner  
Bill Canesi, Canesi Brothers Construction

The Board had sent a letter to Mr. Ralph Costello Cedar Trail Realty Trust, dated July 7, 2010, regarding the Applegate Farm Subdivision. A copy of that letter is included with these minutes. The Board noted four concerns regarding the site. The Board would like the contractor to repair sections of the roadway which have washed out due to the heavy rain. The Board would like additional crushed stone installed at the entrances. This will then be verified by Tetra Tech Rizzo. The second concern involved the need for stakes to be installed with elevations delineating finish grade of the base material. Dave Pellegrini from Tetra Tech Rizzo explained that a sieve test was done and accepted.

The Board is in receipt of a letter dated July 13, 2010 from GLM Engineering, the developer's engineering consultant. This letter references and addresses the concerns raised in the Board's July 7<sup>th</sup> letter. GLM indicated that a site inspection was done to review the items of concern more specifically the silt running off the site onto an adjacent property. GLM recommends that a hay bale dike be placed across the existing flow path approximately 100 feet up gradient from the abutting property. The consultant noted that additional crushed stone had been installed at the Coffee Street intersection with the new subdivision roadway. GLM also indicated that the sieve analysis of the roadway gravel was completed and results were provided to Tetra Tech Rizzo and the Board.

The Board would like to obtain a copy of the SWP permit to address the stormwater issues. The designated inspector should be Rob Truax of GLM and this permit needs to be provided to the Board.

Mr. Costello applicant noted that the issues related to the culvert under Ellis Street will be handled separately. He will write a letter to the Medway DPW and have them look at this and see if they have a resolution. The applicant believes this is a separate issue.

Dave Pelligri noted that the abutter had mentioned the Ellis Street culvert problems in his letter to the Board. Dave mentioned that he is not clear about evidence about the elevation and the catch basins. This will need to be clarified about where they will go.

The Vice Chairman reminded Mr. Costello to keep the entrances in good repair. Mr. Carlucci asked if a street opening permit was given. The applicant noted that the application has been filed.

Mr. Pellegri will follow-up on any remaining issues and report back to the Board. Mr. Pellegri will meet on site with Bill Canesi shortly.

**Special Town Meeting August 9, 2010:**

Susy Affleck-Childs has prepared two articles for the August 9, 2010 Town Meeting.

The first article is to see if the Town will vote to authorize the Board of Selectmen to accept as a gift from Granite Estates Inc. one parcel of land totaling 3.53 acres identified as Parcel B on the *Granite Estates Definitive Subdivision Plan* dated November 1999. This is known as 13 RTulip Way.

The second article is to see if the Town will vote to authorize the Board of Selectmen to accept as a gift from Granite Estates Inc. one parcel of land totaling 58,006 identified as Parcel D on the *Modified Ishmael Coffee Estates Definitive Subdivision plan* dated July 30, 2004. This is known as 6 Independence Lane.

**CORRESPONDENCE:**

There will be an Affordable Housing Trust Planning Workshop on Tuesday, July 20, 2010 from 6:00 - 9:00 pm at the Medway Senior Center. The Board is encouraged to attend. See attached flyer.

The Board is in receipt of a letter from Irene Streifer dated June 22, 2010 regarding Country View Estates. See attached letter.

**25 Milford Street:**

A representative of WD Jaguar, LLC was present along his Attorney Jim Krumsiek to discuss the situation at 25 Milford Street. Reference communication received July 12, 2010 which is attached. In November 2006, the Board endorsed the Rolling Hills Definitive Subdivision Plan. This plan was for a three lot private way subdivision in the AR2 zoning district. The newly created Lot 1 included the existing house for the parcel. Lot 1's frontage included 100 feet on Milford Street with the remaining amount on the new roadway (Harmony Lane). The original property owner (Olga Guerrero) executed a standard Subdivision Covenant with the Board on November 28, 2006. She then conveyed Lot #1 to a new owner. The new owner of Lot 1

defaulted upon the mortgage and the lender foreclosed. The present owner, WD Jaguar, LLC, took title via foreclosure not knowing that the Covenant applied to the front lot and could not be released. The main issue is that WD Jaguar has entered into a purchase agreement to sell the house to first time home buyers, but cannot do so because the purchaser's attorney and lender will not proceed without a release of Lot 1 from the Covenant by the Board. WD Jaguar, LLC would like the Board to release Lot 1 from the terms of the Covenant.

The Board is in agreement that they are not comfortable with releasing Lot #1 from the Covenant. The developer has not constructed the private roadway. Because of that, the Board believes Lot #1 does not conform to the 150' frontage requirement. It appears that the first conveyance of lot #1 occurred in error as the attorneys and lenders involved did not require the lot release. Planning Consultant Carlucci provided a memo indicating five foreseeable scenarios to the situation. See attached.

The Board advised that the owner could go to the Zoning Board of Appeals to seek a variance for frontage.

Mr. Carlucci also communicated that the Attorney requests a release from the obligations of the future homeowner's association. It is his recommendation that this obligation remain in place.

### **Construction Reports:**

#### **Franklin Creek Subdivision**

The Board is in receipt of a memo date June 22, 2010 from Tetra Tech Rizzo. The memo recommends that the retaining wall included on the Franklin Creek Definitive Subdivision Plan be constructed as originally shown. A copy of that communication is attached.

#### **Pine Meadows Subdivision**

Dave Pelligri indicated that there was an issue with the utility pole. The cul-de-sac is being installed and is going well. Expansion joints have also been put in for the concrete apron around the cul-de-sac island.

#### **Restaurant 45 Site Plan**

A memo from David Faist from Faist Engineering, Inc. dated July 8, 2010 was presented to the Board. A copy is attached. The memo makes reference that they are certifying to the best of their knowledge that all building and site work are complete and in compliance with the approved "Site Plan – Restaurant 45-Pad Site, #45 Milford Street. An as-built plan has been provided. Member Gay will do a site visit in preparation for the Board's consideration of a Certificate of Site Plan Completion at the next meeting.

### **Minutes:**

**On a motion made by Karyl Spiller-Walsh and seconded by Tom Gay, the Board voted unanimously to approve the minutes of the June 22, 2010 meeting.**

**Future Meetings:**

The next regular Board meetings are scheduled for:

**July 27, and August 10 & 24, 2010.**

Affordable Housing Workshop

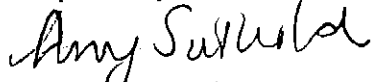
Tuesday, July 20, 2010, 6:00 pm @ Medway Senior Center

**Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to adjourn at 9:00 PM.**

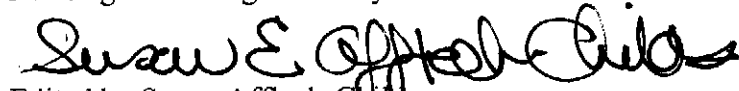
The meeting was adjourned at 9:00 PM.

Respectfully Submitted,



Amy Sutherland

Meeting Recording Secretary



Edited by Susan Affleck-Charles

Planning and Economic Development Coordinator

## FISCAL YEAR COMMONWEALTH CAPITAL APPLICATION - PDF Created On 6/29/2010

Original Application

Municipality: MEDWAY Address: 155 Village Street Medway, MA 02053 Date: 6/22/2010 10:07:00 AM

Name/Title: Susy Affleck-Childs Planning and Economic Development Coordinator Email: saffleckchilds@townofmedway.org Phone: 508-533-3291  
Municipal applicants will need to provide evidence of having met or made a binding commitment to the following criteria. Note: If electronic files were submitted to document compliance with the criteria last fiscal year (FY 09) these files should be referenced but need not be resubmitted with an FY10 application.

PLAN FOR & PROMOTE LIVABLE COMMUNITIES & PLAN REGIONALLY (19)		Existing	Commit
1	<b>Current Master Plan <u>OR</u></b>	(6) ●	(0) ○
	Supporting File: 177 - 2009 Master Plan TOC.pdf. A new master plan was adopted in May, 2009. The Table of Contents is attached.		
	<b>Executive Order 418 Community Development Plan; <u>OR</u></b>	(4) ○	(0) ○
	<b>Current housing plan <u>AND</u> current DCS-approved Open Space and Recreation Plan; <u>OR</u></b>	(3) ○	(0) ○
	<b>Current housing plan <u>OR</u> current DCS-approved Open Space and Recreation Plan</b>	(2) ○	(0) ○
1a	<b>Commitment to complete a Master, 418, Housing, or Open Space &amp; Recreation Plan by Dec. 31, 2010</b>	(0) ○	(2) ○
1b	<b>Funding or regulatory actions implementing 2 specific Plan recommendations since July 1, 2007</b>	(3) ●	(1) ○
	Supporting File: 177 - Housing Proction Plan TOC.pdf. Supporting File: 177 - Water System TOC.pdf. Goal 1 of the Housing section was to complete a Housing Production Plan. This completed and approved by DHCD in June, 2010. Goal 1 of the Public Facilities section was to commission a Water Master Plan. This was completed in January, 2010. The Table oc Contents of these are attached.		
2	<b>Water resource plan: Source Water Protection, Water Conservation, Comprehensive Wastewater, or Integrated Water Resource Management</b>	(3) ●	(1) ○
	Supporting File: 177 - Water System TOC.pdf. A Water System Master Plan was completed in January 2010. A copy of the Table of Contents is attached.		
3	<b>Execution of a compact or MOU, provision of funding, or regulatory change to attain a regional or intergovernmental goal since July 1, 2007</b>	(3) ○	(1) ○
4	<b>Adoption of the Community Preservation Act</b>	(4) ●	(2) ○
	Adopted in 2001		
ZONE FOR & PERMIT CONCENTRATED DEVELOPMENT AND MIXED USE (26)		Existing	Commit
5	<b>Zoning for mixed-use in an applicable location</b>	(4) ●	(2) ○
	Section V-W of the Zoning Bylaw creates an Adaptive Use Overlay District for an area that lies on Main Street abutting the Town's primary commercial center, largest park and includes an old mill building. The district allows limited commercial uses and 1 or 2 apartments within existing houses in the district. The district was amended in 2007 to allow multifamily housing in the mill building for up to 25% of its total area.		
5a	<b>If mixed-use zoning is a DHCD approved 40R District or for Transit Oriented Development (TOD)</b>	(2) ○	(1) ○
5b	<b>Building permit issued for a mixed-use development since July 1, 2007</b>	(2) ○	(0) ○
6	<b>Zoning for accessory dwelling units (ADU)</b>	(3) ●	(1) ○
	These are allowed by special permit from the ZBA in both the AR-I and AR-II districts.		
6a	<b>Occupancy permit issued for at least one accessory dwelling unit since July 1, 2007</b>	(2) ●	(0) ○
	Permits for ADU's were issued on 8/7/07 and 5/29/08.		
7	<b>Zoning allowing by-right multi-family dwellings (not age restricted)</b>	(3) ●	(1) ○
	Section V-T of the Zoning Bylaw provides for open space development by special permit. Multi-family units are allowed as part of an open space development with no additional permitting.		
7a	<b>If zoning allows by-right multi-family dwellings of 4 or more units (not age restricted)</b>	(3) ●	(1) ○
	Section V-T limits multifamily buildings to 5 units each, but there is no maximum number of buildings.		
8	<b>Zoning for clustered development / Open Space Residential Development (OSRD)</b>	(3) ●	(1) ○
	Section V-T allows open space development.		
8a	<b>If cluster is mandated, by-right, or includes a density bonus</b>	(2) ○	(1) ○
8b	<b>A cluster development has been permitted since July 1, 2007</b>	(2) ●	(0) ○
	Another open space development, Williamsburg condominiums was approved in 2010. It consists of 18 multi-family units.		
EXPAND HOUSING OPPORTUNITIES (21)		Existing	Commit
9	<b>Zoning requiring the inclusion of affordable units (IZ)</b>	(3) ●	(1) ○
	Medway adopted an inclusionary zoning bylaw (Section V-X) in 2008. It requires any project of 3 or more units to provide 15% affordable, with provisions to comply off-site or with a payment into the Affordable Housing Trust Fund in lieu of the units.		
9a	<b>Building permits issued for affordable units under an inclusionary bylaw/ordinance since July 1, 2007</b>	(2) ○	(0) ●
	Infrastructure for the first development with inclusionary units is under construction, but no building permits have yet been issued.		
10	<b>Increased housing stock by 50-99% or more of state goal</b>	(3) ○	(0) ○
	<b>100% or more of state goal</b>	(4) ○	(0) ○
11	<b>66 % or more of new units produced using a listed smart growth technique</b>	(4) ○	(0) ○
12	<b>Attainment of Housing Production certification (.5% of housing units) <u>OR</u></b>	(4) ○	(0) ○
	<b>Attainment of a Chapter 40B threshold</b>	(5) ○	(0) ○
13	<b>Production of housing units on municipal land or with municipal funding since July 1, 2007</b>	(3) ●	(0) ○
	A building permit was issued to a non-profit housing organization for an affordable housing unit on Town land in 2009.		
MAKE EFFICIENT DECISIONS & INCREASE JOB AND BUSINESS OPPORTUNITIES (11)		Existing	Commit

Original Application

Municipality: MEDWAY Address: 155 Village Street Medway, MA 02053 Date: 6/22/2010 10:07:00 AM

Name/Title: Susy Affleck-Childs Planning and Economic Development Coordinator Email: saffleckchilds@townofmedway.org Phone: 508-533-3291

Municipal applicants will need to provide evidence of having met or made a binding commitment to the following criteria. Note: If electronic files were submitted to document compliance with the criteria last fiscal year (FY 09) these files should be referenced but need not be resubmitted with an FY10 application.

14	<b>Redevelopment Strategy: (a) inventory, (b) remediation, revitalization, or reuse strategy, or (c) site planning</b>	(4) ●	(2) ○
	Medway amended its Adaptive Use Overlay District (Section V-W of the Zoning Bylaw) in 2007 to allow housing to be part of a mixed use development in an old mill building that is being renovated.		
15	<b>Approved 43D Priority Development Site or provision of a (a) financial, or (b) regulatory redevelopment incentive</b>	(4) ●	(2) ○
	Medway has adopted 43D and at its June 14, 2010 Town Meeting designated several additional parcels as Priority Development Sites.		
16	<b>Adoption of permitting best practices</b>	(3) ●	(1) ○
	Medway has adopted a user's guide to permitting, permitting flow charts, a pre-application process, a project technical review team, and physical proximity of professional staff.		
<b>PROTECT LAND AND ECOSYSTEMS (21)</b>		Existing	Commit
17	<b>15-25% of town area protected [by a Chapter 184-type restriction or Article 97] OR</b>	(4) ○	(0) ○
	<b>25% or more of town area protected</b>	(5) ○	(0) ○
18	<b>Land protected via a restriction or fee acquisition alone or with a land trust since July 1, 2007</b>	(4) ●	(0) ○
	The Town acquired 14 acres at 50 Winthrop Street on December 31, 2008 using CPA funds.		
19	<b>Existence of an agricultural commission</b>	(3) ●	(1) ○
	An Agricultural Commission was established at Annual Town Meeting on June 14, 2010.		
20	<b>Adoption of a Right-to-Farm bylaw/ordinance</b>	(3) ○	(1) ○
21	<b>Stewardship plan for a municipal forest</b>	(3) ○	(1) ○
22	<b>Transfer of Development Rights (TDR) or other zoning for agricultural, forestry, or natural resource conservation</b>	(3) ○	(1) ○
<b>USE NATURAL RESOURCES WISELY (8)</b>		Existing	Commit
23	<b>Adoption of a bylaw, ordinance, or regulation that encourages the use of Low Impact Development (LID) to address stormwater</b>	(4) ○	(2) ○
24	<b>Implementation of the 2006 Massachusetts Water Conservation Standards</b>	(4) ○	(2) ○
<b>PROMOTE CLEAN ENERGY (9)</b>		Existing	Commit
25	<b>Implementation of energy efficiency measures</b>	(3) ●	(1) ○
	The town has taken a number of energy efficiency measures since 2006. These include: new boiler, windows and insulation in Town Hall, replaced all light fixtures with high efficiency units, replaced all mercury vapor street lights with high pressure sodium, replaced all traffic lights with LED's, replaced all CRT monitors in Town Hall with LED, purchased light vehicles (pickups and cars) to replace heavy vehicles whenever possible, replaced window AC units with ductless split AC system, reconfigured heating system in Town Hall for improved flow. The Town is also pursuing Green Communities designation.		
26	<b>Production or purchase of renewable energy</b>	(3) ●	(1) ○
	The Town has installed solar panels on the high school roof and pursuing adding them to the middle school as well.		
27	<b>Clean energy regulations and incentives</b>	(3) ●	(1) ○
	At its Town Meeting of June 14, 2010, Medway approved zoning bylaw amendments specifying by-right locations for clean-energy R&D or manufacturing in its industrial districts and solar energy generation facilities in one of its industrial districts.		
<b>PROVIDE TRANSPORTATION CHOICE (9)</b>		Existing	Commit
28	<b>Regulations requiring or actions to facilitate bicycling and walking since July 1, 2007</b>	(3) ●	(1) ○
	Section V.B.6 of the Zoning Bylaw (adopted in Fall, 2007) requires that parking areas of 40 or more vehicles must provide bicycle racks at a rate of 1 bike per 20 parking spaces. In June 2010, it adopted a bylaw requiring that sidewalks be provided along the frontage of commercial sites.		
29	<b>Regulation requiring or completion of a context sensitive transportation project since July 1, 2007</b>	(3) ○	(1) ○
30	<b>Regulations requiring or implementation of innovative transportation measures since July 1, 2007</b>	(3) ●	(1) ○
	Medway has taken steps to reduce parking requirements. In 2007, it adopted a zoning amendment allowing the ZBA to reduce parking requirements when it could be documented that fewer spaces are needed. Also in 2007, it allowed "compact" spaces to be used so that less impervious surface could be used to provide the same number of spaces. In 2008, it reduced the number of spaces required from 1 per 200 square feet to 1 per 300 square feet in its primary commercial district. Also, in September of 2007 bus service from Medway to the Norfolk commuter rail station was initiated.		
<b>ADVANCE EQUITY (6)</b>		Existing	Commit
31	<b>Actions that promote fair housing since July 1, 2007</b>	(3) ○	(1) ○
32	<b>Actions that promote environmental equity since July 1, 2007</b>	(3) ○	(1) ○
<b>PROMOTE SUSTAINABLE DEVELOPMENT VIA OTHER ACTIONS (10)</b>		Existing	Commit
33	<b>Existence of or commitment to additional local measures or actions 2, 4, 6, 8, OR 10</b>	(10) ○	(0) ○
	<b>See explanation above</b>	(8) ●	(0) ○

## FISCAL YEAR COMMONWEALTH CAPITAL APPLICATION - PDF Created On 6/29/2010

Original Application

Municipality: MEDWAY Address: 155 Village Street Medway, MA 02053 Date: 6/22/2010 10:07:00 AM

Name/Title: Susy Affleck-Childs Planning and Economic Development Coordinator Email: saffleckchilds@townofmedway.org Phone: 508-533-3291  
 Municipal applicants will need to provide evidence of having met or made a binding commitment to the following criteria. Note: If electronic files were submitted to document compliance with the criteria last fiscal year (FY 09) these files should be referenced but need not be resubmitted with an FY10 application.

	Four members of the Planning Board attended the March 2008 CTPC conference. The Town completed a sewer line extension to an existing business park that allows expansion of existing businesses and greater density in the park. The Town has a pay-as-you-throw program. Medway has used funds to purchase an historic building. Medway has a demolition delay bylaw and 2 historic districts, including the Medway Village one which was designated a National Historic District in 2008. Medway had a 2008 recycling rate of 52%. The Town has Scenic Road Act protection program including 25 Scenic Roads. The Town is leasing 7 acres of 14-acre site acquired in 2008 for use an organic community farm. A shuttle bus to the Norfolk commuter rail station was established through GATRA in September 2007 and provides service from 3 locations including the commercial center. Its home occupation bylaw was amended at Town Meeting in 2010 to expand its applicability.		
	See explanation above	(6) <input type="radio"/>	(0) <input type="radio"/>
	See explanation above	(4) <input type="radio"/>	(0) <input type="radio"/>
	See explanation above	(2) <input type="radio"/>	(0) <input type="radio"/>
BONUS - 1 POINT FOR EVERY FISCAL YEAR COMMITMENT IMPLEMENTED: 0			
Applicant Information on Implemented Commitments			
6 23 Adoption of a bylaw, ordinance, or regulation that encourages the use of Low Impact Development (LID) to address stormwater No follow up on this commitment was provided.			
TOTAL: EXISTING, COMMIT AND BONUS POINTS (MAXIMUM ) Total Requested Score: 83			





**TETRATECH RIZZO**

June 29, 2010

Mr. Andy Rodenhiser-Chairman  
Planning and Economic Development Board  
155 Village Street  
Medway, MA

**Re: Proposal for Site Plan Review  
Steinhoff Office Building  
Medway, Massachusetts**

Dear Mr. Rodenhiser:

We are pleased to submit this Proposal to the Town of Medway Planning and Economic Development Board (the Client) for professional engineering services associated with the proposed Steinhoff Office Building project in Medway, Massachusetts (the Project). The objective of our services is to review the Site Plans and the drainage analysis, and provide review comments.

### **Scope of Services**

The following specifically describes the Scope of Services to be completed:

- **Task 1 Site Visit**
  - Perform one (1) site visit to review the site and its surroundings.
- **Task 2 Site Plan Review**
  - Review the storm water design and analysis associated with the proposed Site Plans prepared by The H.L. Turner Group Inc., dated June 11, 2010;
  - Review the Site Plans for compliance with the Medway Site Plan Rules and Regulations; and
  - Prepare a memorandum summarizing findings for presentation to the Medway Planning Board.
- **Task 3 Additional Reviews**
  - Review additional submittals from applicant addressing comments generated in Task 2, and comments arising at public hearings.
- **Task 4 Meetings**
  - Participate in three (3) meetings with the Medway Planning Board.



**TETRA TECH RIZZO**

### **Cost**

Our cost for the above Scope of Services will be on a time and expenses basis in accordance with Tetra Tech Rizzo's and Medway's existing contract rates. Direct expenses will be billed at a fixed fee of three and a half (3.5) percent of labor costs. We suggest that you establish a budget of \$4,550 for these services, which will not be exceeded without your approval. Please be advised that this estimate is based on our current understanding of the Project needs and is for budget purposes only. The total cost of our services will depend greatly on the completeness and adequacy of the information provided.

The breakdown of this fee by task is as follows:

<b>Task</b>	<b>Task Description</b>	<b>Fee</b>
<b>Task 1</b>	<b>Site Visit</b>	<b>\$250</b>
<b>Task 2</b>	<b>Site Plan Review</b>	<b>\$2,800</b>
<b>Task 3</b>	<b>Additional Reviews</b>	<b>\$750</b>
<b>Task 4</b>	<b>Meetings</b>	<b>\$600</b>
	<b>Labor Subtotal</b>	<b>\$4,400</b>
	<b>Expenses (3.5%)</b>	<b>\$150</b>
	<b>Total Fee</b>	<b>\$4,550</b>

### **Schedule**

We are prepared to begin work immediately upon receipt of this executed Proposal. We recognize that timely performance of these services is an important element of this Proposal and will put forth our best effort, consistent with accepted professional practice, to comply with the projects needs. We are not responsible for delays in performance caused by circumstances beyond our control or which could not have reasonably been anticipated or prevented.

### **General Terms and Conditions**

This Proposal is subject to the existing Terms and Conditions signed by Tetra Tech Rizzo and the Town of Medway. Should this proposal meet with your approval, please sign and return a copy to us for our files. Your signature provides full authorization for us to proceed. We look forward to working with you on this Project. Please contact us with any questions, or if you require additional information.



TETRA TECH RIZZO

Very truly yours,

David R. Pellegrini, P.E.  
Project Manager

Sean P. Reardon, P.E.  
Vice President

Accepted by: \_\_\_\_\_

Andy Rodenhiser  
Medway Planning and Economic  
Development Board Chairman

\_\_\_\_\_ Date

---

**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)  
gino@pgcassociates.com

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July 8, 2010

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

Re: Estimate for 146 Main Street AUOD special permit


Dear Mr. Rodenhiser

PGC Associates is pleased to present the following cost estimate to review and comment on the proposed Adaptive Use Overlay District special permit submitted by Steinhoff Realty Trust for property at 146 Main Street. The plan was prepared by the H.L. Turner Group Inc. of Concord, NH and is dated June 11, 2010 with a revision date of June 30, 2010.

<u>Task</u>	<u>Hours</u>
Prepare Estimate	0.5
Technical Review and comment on initial submittal	2.5
Attendance Planning Board meetings/hearings (2)	2.5
Review and comment on revised plans	1.5
Review/comment on special permit decision	2.5
Total	9.5
<b>Cost Estimate (@\$80)</b>	<b>\$760.00</b>

If there are any questions about this estimate, please call me.

Sincerely,



Gino D. Carlucci, Jr.

## Susan Affleck-Childs

---

**From:** Susan Affleck-Childs  
**Sent:** Tuesday, June 29, 2010 10:50 AM  
**To:** 'Betty@BettyMcV.com'; 'Bettymcv@aol.com'  
**Cc:** 'Andy Rodenhiser'  
**Subject:** Daniels Village ARCPUD

Hi Betty,

I am writing to follow-up on the discussion at last week's Planning and Economic Development Board meeting.

Based on my discussion this morning with Town Counsel, we would ask that you provide a written communication to us indicating that you are withdrawing the Daniels Wood ARCPUD project from further consideration at this time and asking the Planning and Economic Development Board to approve your request to withdraw, without prejudice.

Our incoming email is not working right now. Perhaps you could prep this as a formal letter and then fax it to me. 508-533-3287. Thanks. Call me if you have any questions.

*Susy*

**Susan E. Affleck-Childs**  
Medway Planning and Economic Development Coordinator  
155 Village Street  
Medway, MA 02053

508-533-3291

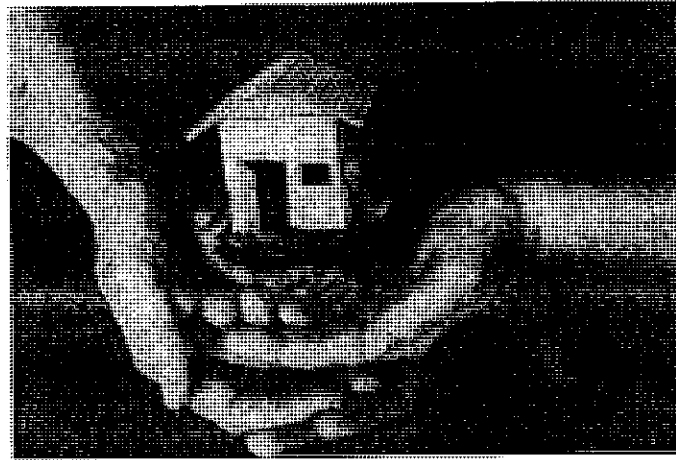
[saffleckchilds@townofmedway.org](mailto:saffleckchilds@townofmedway.org)

# Medway Affordable Housing Trust Planning Workshop

\*\*\*Hold the Date\*\*\*

Tuesday, July 20, 2010, 6-9pm

Location: Medway Senior Center  
76 Oakland Street Medway, MA



The Town of Medway invites you to participate in a public workshop.  
Your participation will help the newly appointed Board of  
the Medway Affordable Housing Trust identify goals and priorities  
for the housing trust's initiatives.

Learn about Medway's housing needs and join in a series of group  
questions, discussion, and activities.

Consultants Beth Rust of ECR Enterprises and  
Jennifer Goldson of JM Goldson community preservation + planning,

We'd like to provide you with materials ahead of time,  
so please let us know if you plan to attend.

RSVP to Jennifer Goldson  
[jennifer@jmgoldson.com](mailto:jennifer@jmgoldson.com)  
617-990-4971  
by Wednesday, July 14<sup>th</sup>, 5pm.  
(email preferred)

June 22, 2010

Andy Rodenheiser

Chairman, Medway Planning Board

RECEIVED  
JUN 28 2010

TOWN OF MEDWAY  
PLANNING BOARD

Dear Andy,

Unfortunately you as well as others on the board have not been privy to all of the ins and outs that have prevailed with the development, and unlike all of the other residents, the acceptance of an easement for our land has only been based on the acceptance of the development as a whole. And unlike the other residents we were asked/ told that we had to get Whelan to complete the punch list items.

The Town of Medway had never accepted an original O & M for the development, as no one has been able to produce it, including the original Engineer whose office I visited back in 2003.

The current board it taking the brunt of the frustration for an issue that was long started before you or most everyone else ever came on board, and we the homeowners have been with this issue now for over 8 years, and as you can see by what I have enclosed, very frustrating for us.

*a few samples*

Thank you for your assistance,

Irene Streifer

PS. Whelan's atty told us in writing that the "Town has been maintaining" the ponds within the devel. Clearly Whelan does not want to accept an easement from us as it will confirm in the eyes of the courts who is resp. for such maintenance.

COPY



TOWN OF MEDWAY  
Planning Board  
155 Village Street  
Medway, Massachusetts 02053

Matthew J. Hayes, P.E., Chairman  
Andy Rodenhiser, Vice-Chairman  
Alan DeToma, Clerk  
Karyl Spiller-Walsh  
Cranston (Chan) Rogers, P.E.

June 24, 2005

Mr. Greg Whelan  
Broad Acres Management  
1352 Main Street  
Millis, MA 02054

RE: Completion of Country View Estates

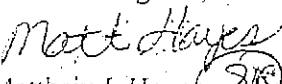
Dear Greg,

Thank you for meeting with Mark Louro, Alan DeToma and me on May 23, 2005 to review your plans and schedule for completing the Country View Estates subdivision. It was a positive and fruitful discussion. At that time, you were supplied with a set of VHB construction observation/inspection reports detailing the work that must be redone or completed. You provided a letter to us at the 5-23-05 meeting in which you stated that all three phases of the subdivision would be completed by August 31, 2005. We were very pleased to learn that you have retained a highly regarded contractor to complete the construction and repair work at Country View Estates.

Let me reiterate that the Planning Board is most eager for this subdivision to be finished. On November 30, 2005, it will be six (6) years since the Planning Board endorsed the Country View Estates definitive subdivision plan. The *Subdivision Rules and Regulations* in effect at that time specify that plan endorsement is valid for two years from the date of endorsement. Those *Regs* also provide that the developer shall request extensions, which the Planning Board may grant in two-year increments. Although you have never formally requested a deadline extension, the Planning Board's various actions over the years to set and adjust bonds for the three sections of Country View Estates have served as defacto extensions. The Planning Board last adjusted the bonds for Country View Estates on November 18, 2003. That two-year defacto extension concludes November 18, 2005. Please be advised that the Planning Board will not authorize any further bond reductions for any phase of Country View Estates until street acceptance is approved by Town Meeting. Furthermore, the Planning Board is prepared to vote to seize the Country View Estates bonds if the subdivision work at Country View Estates is not completed by November 18, 2005.

If you have any questions regarding this communication, please contact me through the Planning Board office.

With best regards,

  
Matthew J. Hayes  
Chairman



GILBERT & RENTON LLC

344 North Main Street  
Andover, Massachusetts 01810-2611

Robert J. Gilbert, Esq.  
Jeffrey B. Renton, Esq.  
Edward J. Denn, Esq.  
Matthew J. Ginsburg, Esq.

Telephone: (978) 475-7580  
Facsimile: (978) 475-1881

May 16, 2007

By First Class Mail

Ms. Susan Affleck-Childs  
Town of Medway Planning Board  
155 Village Street  
Medway, MA 02053

Barbara J. St. Andre, Esq.  
Petrini & Associates, P.C.  
161 Worcester Road, Ste. 304  
Framingham, MA 01701

Re: Detention Pond, 37 Broad Acres Farm Road, Country View Estates, Medway, MA

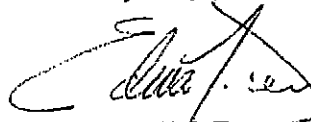
Dear Susan and Barbara:

It appears that the final hurdles to the repair and eventual acceptance of the above-referenced detention pond are agreements between the developer, the land owner, and the Town on (i) a Stormwater Management System Operation & Maintenance Plan compliant with DEP Stormwater Management Policy and (ii) a Drainage Easement Agreement covering the site of the pond. Because the developer has once again failed and refused to submit drafts of these documents, the land owner has attached its own. Please ensure that the Planning Board and its counsel receive and review these drafts prior to the June 12 hearing on them.

As I understand it, a preliminary agreement on an O&M Plan and Easement acceptable to all is a precondition to the repair of the pond which is, in turn, a precondition to its acceptance. The developer and land owner have a separate settlement which requires the developer to sign the attached drafts, so it comes down to the Town. It is essential that the Town weigh in on the drafts, though it (unlike the developer) need not sign them unless and until the pond is repaired and accepted.

Thank you for your attention to this matter.

Very truly yours,

  
Edward J. Denn

Andy  
The Town of Medway never  
approved an O & M plan in  
this development in 98/99 never  
was presented one as it was bad!

~~June 7, 2005~~ *8/*

To all residents of Country View Estates – *Greg*

This note is to inform you that the Planning Board had a PRIVATE meeting with Mr. Greg Whelan, the developer, the purpose of which was to try to remedy his lack of time spent in finishing the development. Their main purpose for this meeting, as was explained to me, was to talk to him about the possible completion of the Planning Boards' punch list. *5*

This punch list may or may not contain items, which may be of concern to you as a resident of the development. Keeping in mind, that the town is holding bond money based on costs 7 years ago. They are concerned that if they presser the developer too much they may not get anything, and the bond money would not cover the cost of bringing this development up to par for acceptance. And I need not say anything further in this area.

As a resident of this development, I was made aware of this only because we have been involved with this process since our purchase of our property as there are outstanding issues which directly affect our land and our house value.

Some of you have a personal and professional relationship with Mr. Whelan, and I am just informing you of information, which should be made available to you as a homeowner in this development and no more.

Irene Streifer

RECEIVED  
JUL 12 2010

TOWN OF MEDWAY  
PLANNING BOARD

To: Town of Medway Planning and Economic Development Board  
From: WD Jaguar, LLC  
Re: 25 Milford Street, Medway, Massachusetts

**Background:** In 2006 Guerrero & Associates, Inc. ("**Guerrero**") submitted a definitive subdivision plan of its property located at 25 Milford Street which was approved October 10, 2006 and created a three lot subdivision and private way to be constructed entitled Rolling Hills. The original lot consisted of a single family home with frontage on Milford Street; the subdivision contemplated the construction of two additional homes on two new lots situated at the rear of this home.

The Planning Board issued a restrictive covenant ("**Covenant**") on November 28, 2006 for purpose of ensuring the private way was constructed and municipal services were installed in the subdivision which was to be accomplished within 3 years by the terms of the Covenant. The Covenant also provided that Guerrero was not to convey any lots within the subdivision absent completion of the construction of the road and installation of the municipal services. The Covenant was recorded with the Norfolk County Registry of Deeds on December 5, 2006. The goal of the Covenant, presumably, was to require Guerrero to construct the private way and install municipal services so that the new homes, i.e., the homes to be constructed on the lots behind the existing home with frontage on Milford Street, would have access to a private way leading to a public way and municipal service, both without cost to the Town.

Notwithstanding the Covenant, Guerrero conveyed Lot 1 of the subdivision (the lot with the single family home with frontage on Milford Street) to Darline Rosin and Henrio Bonneau for \$370,000.00. The deed was recorded December 29, 2006 and Rosin and Bonneau financed the purchase of Lot 1 by obtaining two mortgages covering Lot 1. They subsequently defaulted upon the mortgages and the lender foreclosed upon Lot 1. WD Jaguar, LLC ("**WD**") took title to Lot 1 via foreclosure deed recorded February 19, 2010 under the mistaken belief that the Covenant did not apply to the front lot or could be released.

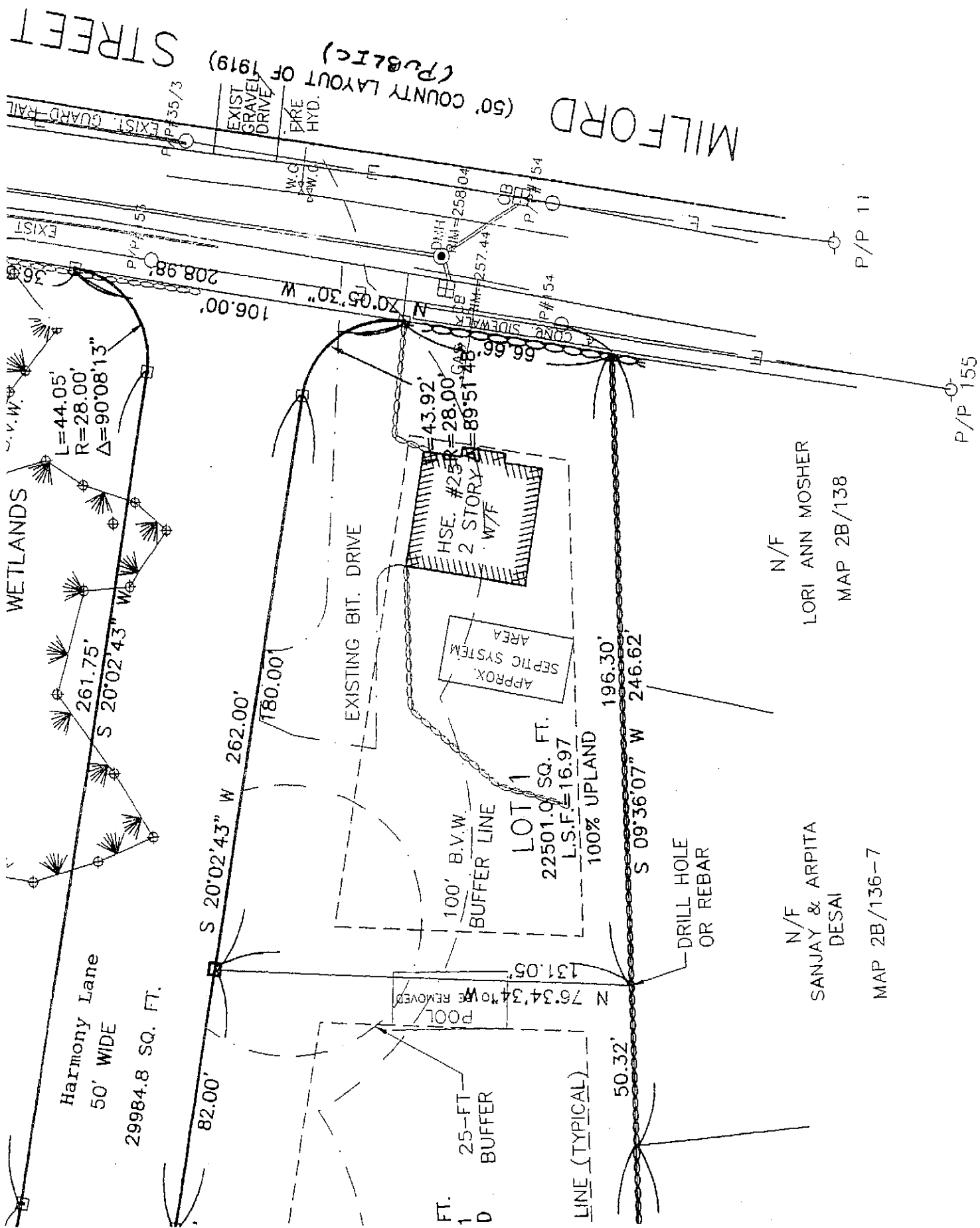
**Issue:** WD has entered into a purchase and sale agreement to sell the house to first time home buyers, but cannot do so because the purchaser's attorney and lender will not proceed without a release of Lot 1 from the terms of the Covenant. WD would like the Planning Board to release Lot 1 from the Covenant to allow the sale to proceed. To the extent applicable, WD also requests that the board relieve it from the homeowner's association as Guerrero has failed to construct the road for which the association was established.

Feb  
2010

**Justification for Requested Relief:**

- The relief requested will not compromise the purpose of the Covenant at all, because Guerrero still will not be able to sell the remaining two lots of the subdivision unless Guerrero constructs the private way and installs the municipal services, as originally intended.
- The Town can adequately condition any further development of the remaining land by requiring Guerrero to bond or otherwise secure performance so its requirements are met.
- The proposed purchasers of the property are without housing at the end of July, and need to purchase the property immediately. If they do, their ownership will benefit the Town because they will be actual owner/occupants of the property able to maintain and improve it.
- The Town will also benefit from the sale insofar as the price to be paid will likely result in an increased tax assessment on the property.
- Lastly, and perhaps most compelling, if the relief is not granted, Lot 1 may very well sit in a state of perpetual limbo, as Guerrero apparently does not have the financial resources to construct the private road and install the municipal services in its development of the rear lots, and WD is a corporate real estate investor and not an owner/occupant. That means the property will likely remain uninhabited and exposed to vandalism for an indefinite period of time, rendering it susceptible to becoming a public blight in a prominent area of town.





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**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)  
gino@pgcassociates.com

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**MEMO TO:** Medway Planning Board

**FROM:** Gino D. Carlucci, Jr.

**DATE:** July 13, 2010

**RE:** Rolling Hills/25 Milford Street Lot Release request

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A request has been received from WD Jaguar LLC for the Planning Board to release 25 Milford Street from the Rolling Hills covenant (which prohibits building permits and conveyance of lots until the roadway is completed or a performance guarantee is in place) so that the property may be conveyed to a potential buyer.

Rolling Hills is a 3-lot subdivision with a private way for which the applicant is Olga Guerrero. It consists of 3 lots, of which 1 (the site of 25 Milford Street) preexisted the subdivision. The subdivision removed a portion of the Milford Street frontage from 25 Milford Street but created new conforming frontage along the new subdivision road. Without the subdivision road, 25 Milford Street does not have sufficient frontage.

According to the information provided by the attorney for WD Jaguar, the lot was previously conveyed to buyers despite the covenant restricting such sale. Those buyers defaulted on their loan and were foreclosed on by their lender. WD Jaguar, a corporate real estate investor, then took title on February 19, 2010. The attorney says this happened under the mistaken belief that the covenant "did not apply to this lot or could be released." It is not clear how the mistaken belief that it did not apply could have developed unless the covenant was not reviewed. The possibility that it could be released was presumably a judgment call made without consultation with the Planning Board.

The request ends with a somewhat threatening tone stating that if the lot release is not approved, the property is likely to remain vacant, be exposed to vandalism and possibly become a public blight. I would hope that the new bylaw addressing this situation would limit negative impacts.

I believe that the following are the primary foreseeable scenarios:

- 1. Lot Release Denied, Property Remains Vacant** – Based on the attorney's request, this appears to be a scenario with some degree of probability. As mentioned above, it would be hoped that the new bylaw would limit the impacts of the vacancy. Since the ownership of the property is separate from the remainder of the subdivision, there is little leverage on the part of the owners for getting the road constructed. However, as corporate real estate investors, the prospect of owning a vacant property could provide some incentive to try to work something out with Olga Guerrero to get the road built.

2. **Lot Release Denied, Different Buyer Surfaces** – Just as the previous lender provided a loan for the previous buyers and then WD Jaguar assumed title without regard to the Covenant, it is possible that another buyer will surface whose attorney and lender's attorney misses the restriction against sale in the covenant. I believe this would be a highly unlikely now that the issue has come to light and would need to be disclosed.
3. **Lot Release Denied, Property is Rented** – Vacancy is not the only option if a sale is not possible. The current owners could rent the property for a period of time, presumably until such time as the subdivision road is constructed and the covenant could be released. One possible risk for the current owner is that the subdivision never gets built. The property would then remain a nonconforming lot indefinitely.
4. **Lot Release is Approved and Property Sold to Currently-Interested Buyers** – This option would presumably result in the immediate occupancy of the property. Again, the new owners would take title to a non-conforming lot. This would not be a "pre-existing non-conforming lot" since the lot was created in 2006. There is a risk that the nonconforming nature of the lot would be as much of a barrier to securing finance as the covenant is. However, there are 2 potential remedies to the nonconformity: (a) the road could be constructed as approved or (b) the ZBA could grant a variance.
5. **Subdivision Modification** – With the cooperation of the subdivision owner, Olga Guerrero, a subdivision modification could be considered that would add a condition that 25 Milford Street could be released from the covenant upon completion of minimal construction within the subdivision road layout (perhaps to driveway standards). The other 2 lots would remain fully subject to the covenant. Both the approval process and the construction would take more time than simply releasing the lot. However, it would solve the nonconformity issue, avoid releasing a lot prior to the approved conditions being met, allow clear legal status of the property and ensure that it becomes occupied in a timely manner. Presumably, if the PEDB indicates it would be favorably inclined to consider this option, WD Jaguar could rent the property to the interested buyers until the process is completed.

Finally, the attorney's request also includes a release from the obligations of the homeowner's association. I don't see any reason to do this. As long as the road is not built, there would be no maintenance costs incurred. If the road is eventually built, the owners of 25 Milford should assume its share of the responsibility as intended in the original subdivision approval.





**To:** Susan Affleck-Childs – Medway Planning and Economic Development Coordinator

**Fr:** David Pellegri, P.E.–Tetra Tech Rizzo  
Steven Bouley-Tetra Tech Rizzo

**Re:** **Franklin Creek-Retaining Wall  
Subdivision Review for Bond Release  
Medway, MA**

**Dt:** 6/22/2010

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At the request of the Medway Planning and Economic Development Board, Tetra Tech Rizzo (TTR) reviewed the attached Grade Modification Sketch dated 6/10/10 provided by Land Planning, Inc. against the Town of Medway Rules and Regulations for the Review and Approval of Land Subdivisions, the proposed plans and good engineering practice.

The review yielded the following comments:

1. By regrading the slope as shown on the sketch, the “flat” shoulder area would be decreased from 4 feet to 2 feet. This would not provide sufficient area for people to walk safely down the street since there are no proposed sidewalks. The shoulder should be built as detailed in the subdivision regulations with a 4 foot level surface.
2. The grade from the shoulder to the wetland would increase to 1:1 in some areas per the attached sketch. This violates Section 7.14.1 of the subdivision regulations stating that slopes are not to exceed 3:1.
3. Approval from the Conservation Commission should be obtained due to the steep slope within close proximity of the wetlands.

For the reasons noted in points 1 and 2 above, we recommend that the proposed retaining wall be constructed as originally shown on the construction documents. If the applicant decides to pursue further, we recommend that they obtain approval from the conservation commission prior to submitting revised sketches. Also, the applicant shall submit a formal application to modify the Franklin Creek Subdivision Plan to the Planning and Economic Development department.

If you have any questions or require additional information, please don't hesitate to contact me at (508) 903-2000.

**FAIST ENGINEERING, INC.**

600 Charlton Street · Southbridge, MA 01550

July 8, 2010

Mr. Andy Rodenhiser, Chairman  
Medway Planning And Economic Development Board  
155 Village Street  
Medway, MA 02053

**RECEIVED**  
JUL 08 2010

**Re: Restaurant 45 - #45 Milford Street- Medway, MA**  
**Professional Engineer As-Built Certification**

**TOWN OF MEDWAY  
PLANNING BOARD**

Dear Mr. Rodenhiser:

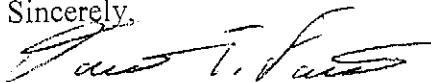
*Faist Engineering, Inc.* (FE) is writing this letter to certify that to the best of our knowledge all building and site work are complete in strict compliance with the approved "Site Plan - Restaurant 45- Pad Site, #45 Milford Street, Medway, MA" prepared by Faist Engineering, Inc. revise date June 9, 2006, endorsed by the Medway Planning Board on June 22, 2006 with the following exceptions.

- Route 109 sidewalks were changed per Mass Highway requirements (7/24/08), proposed retail building footprint reduction from 5,150 s.f. to 4,800 s.f. footprint, re-location of the new ADA handicap ramp from the front of the building adjacent to the new 1,440 s.f. restaurant lounge addition, emergency exit/entrance stairs added at the front entrance, and parking lot striping layout are complete in accordance with the "Site Plan - Restaurant 45 -Pad Site" revision date #5, 10/24/08 reviewed by the Medway Planning Board.
- Restaurant 45 pylon sign location is within striping area adjacent to the traffic signal control box and sidewalk area as shown on the As-Built Plan.
- Additional retail ladder style sign for the 4,800 s.f. retail building is located in the landscaping area adjacent to the Rte. 109 entrance/exit curbcut as shown on the As-Built Plan.
- Installation of the ten (10) "No Parking Either Side" signs is not complete on the two (2) adjacent private streets Rustic Road or Little Tree Road as the Applicant is unable to obtain permission from the owner of these private ways. The Applicant is committed to install these signs at such time these two (2) roads become accepted public ways.

This certification is based on my visual inspection of the property located at #45 Milford Street in Medway, MA (the "Site") and review of the "As-Built Survey" plan prepared by O'Driscoll Land Surveying Co. date June 30, 2010.

You can contact me with any questions or comments at (508) 765-7755. Thank you.

Sincerely,



David T. Faist, P.E.  
Principal Engineer

cc. Mark Smith, Restaurant 45  
Paul Yorkis, Patriot Real Estate



**July 27, 2010**  
**Planning and Economic Development Board Meeting**  
**Medway Town Hall**  
**155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Karyl Spiller-Walsh, Tom Gay and Chan Rogers.

**ABSENT WITH NOTICE:** Bob Tucker

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:**

Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Dave Pellegrini, Tetra Tech Rizzo  
Fran V. Hutton Lee, Administrative Secretary

The meeting was called to order at 7:05 pm.

**Public Comments – None**

Andy Rodenhiser – The Public Hearing for 146 Main Street Adaptive Use Overlay District will begin at 7:15. We will start with the instructions. Until then, is there any other business?

Dave Pellegrini – Regarding Applegate Farm (subdivision) ...Ralph Costello came in to discuss material. It will take a couple days...there are other issues...the stone at entrance, issues of erosion control, runoff.

Andy Rodenhiser – The hay bales look to be north of where the area is.

Dave Pellegrini – It is something to give definition ... to begin with the sub-grade... there are tightly packed pockets of organics that will have to be taken out.

Andy Rodenhiser – Why not require him to strip it all out.

Karyl Spiller Walsh – There would be no gain.

Andy Rodenhiser – The point is to do it right the first time.

Dave Pellegrini – He would be stripping back to imported material. There is very clear distinction between grades and materials.

Andy Rodenhiser – Are there any questions? I would like to point out there is another meeting going on tonight with members of the Economic Development Committee. They are meeting

with a representative from a company from Lafayette Hills, PA. that works with towns on biotech industrial parks. I said he should talk to Susy. I just want to report that to you.

### **Public Hearing – 146 Main Street Adaptive Use Special Permit.**

Andy Rodenhiser opens meeting at 7:15 and reads the introduction to the public hearing notice.

A motion was made by Tom Gay and seconded by Karyl Spiller-Walsh to dispense with the reading of the public hearing notice. The motion passed unanimously. The public hearing notice is attached.

Andy Rodenhiser read the instructions on how the public hearing was going to proceed. He noted that the date & time of the continuance will be noted tonight at the end of the public hearing.

Dick Steinhoff introduces himself and the project. Mr. Steinhoff is the new owner of 146 Main Street.

Dick Steinhoff – I will be moving my offices for Value Track from 133 to 146 Main Street. Jim Spaulding is with me tonight from the Turner Group. We contracted with the Turner Group six months ago because of their leadership in renewable energy. The landscaper who is out of Milford was unable to be here. Tetra Tech's questions were submitted to Jim. We started in October of last year and asked you for a definition of renovation. Then he forwarded drawings to Tetra Tech when 70% complete, and now we have the drawings you see here.

Jim Spaulding answers questions regarding Tetra Tech's comments on the initial plans.

Susy Affleck-Childs –Please, forward all correspondence to this office as well as to Tetra Tech.

Dick Steinhoff –There is good communication between Turner and Tetra Tech. One thing I'd like to address is the wind turbine.

NOTE - Susy distributes handout from Dick Steinhoff. See attached.

Chan Rodgers – How did the turbine get introduced?

Dick Steinhoff – I will explain. There are two vertical axis turbines in the drawings. I went to the abutters, and they had questions. I thought it would be good to address this. The small wind turbine bylaw was passed at the June town meeting. These work on close-to-the-ground turbulent airflow. But the building must be built first to test what kind of turbine will work best. It may not be for eighteen months.

Gino Carlucci – It may be 2 years downstream after the building is built before we get to the turbines.

Andy Rodenhiser – Gino, as a point of order, do we need a modification to this plan?

Gino Carlucci – Well, he is showing a location for it. If what he chooses fits, no modification is necessary, and you can set restrictions in the decision.

Andy Rodenhiser – But if he withdraws them?

Gino Carlucci – Then they are no longer in the site plan.

Andy Rodenhiser – Do you understand this?

Dick Steinhoff – I wanted the turbines on the site plan, but will need to test with an anemometer for three to six months.

Gino Carlucci – In the decision, we can allow for testing that can be done.

Chan Rodgers – The wind bylaw won't be legal until the Attorney General makes them legal.

Andy Rodenhiser - It is a good point to discuss them since the bylaw was approved at Town Meeting and it was based on the State's model legislation.

Karyl Spiller Walsh – If we approve attachments for the helixes, we need to see three or four alternate presentations.

Dick Steinhoff – They are not attached to the building. They are on a monopole 20-30 feet high. This design is very sensitive to turbulent wind. Attach distributed photograph.

Andy Rodenhiser – Do you want to include the turbines in the site plan?

Dick Steinhoff – Yes, with the condition that I will have to go to Zoning Board of Appeals to seek approval.

Karyl Spiller-Walsh – If they are not attached to the building they must be noted on the site plan.

Andy Rodenhiser – Need to note that they might change.

Karyl Spiller-Walsh – We can handle that. Not just footprints, but elevations.

Andy Rodenhiser – The neighbors want to see the visual impacts.

Dave Pellegrini – Need to see it in context with the other vertical elements.

Andy Rodenhiser – Are there any other comments?

Dick Steinhoff – I'll turn it over to Jim Spaulding now.

Jim Spaulding introduces himself. He is a civil engineer with the Turner Group in New Hampshire. He proceeds to describe the parcel, and present the proposed plan.

Jim Spaulding – This is to be a four office commercial building. The present building has been vacant for two years. In the mid 1800s there was a larger building attached to the current structure which burned to the ground. The old portion of the building will be restored. There will be a new building added to the old building, and 29 parking spaces with two handicapped van spaces. Municipal water and sewer serves the building.

Tom Giovangelo, 144 Main St – You think that's small?

Dick Steinhoff – Small for an office building, large for a house.

Jim Spaulding – There will be porous asphalt paving in the parking area. Roof water drains to the crushed stone layer under the parking lot.

Ted Lambert, 7 Temple St – Directly in back, are those snow storage areas?

Andy Rodenhiser – Please let him complete his presentation first before we get into questions.

Jim Spaulding continues his presentation and discusses the lighting on the plan and the lighting plan with the application.

Andy Rodenhiser – Is it in compliance with the new bylaw?

Susy Affleck-Childs – They may not be aware of the changes made in June.

Jim Spaulding – I was not aware.

Susy Affleck-Childs – I will send you a copy of the new lighting provisions in the zoning bylaw.

Jim Spaulding – Light can be down or off at night if need be. We can turn off pole lights.

Dave Pellegrini – You can't have light spill over into abutters' properties.

Jim Spaulding proceeded with discussion regarding the landscaping.

Karyl Spiller Walsh – They didn't have this when they went to the Design Review Committee.

Susy Affleck-Childs – They will need to go back before the Design Review Committee.

Jim Spaulding – There will be a sign and a flagpole out front. It is flat. It is a good site for this kind of development.

Karyl Spiller-Walsh – Also on landscaping, what happened to the 30-40 inch oak?

Dick Steinhoff – It's still there. We took out dead wood, cleaned it up, and a pine, too.

Andy Rodenhiser – Is the root ball out of the way of excavation?

Dick Steinhoff – I believe so.

Andy Rodenhiser – Show the parcel next door in the next plan iteration to show the buffer.

Dick Steinhoff – I met with the owner. There is a dip between the properties; actually, the dip is actually on the 146 Main Street property. Their parking lot is 6 feet above the dip.

Andy Rodenhiser – The dip, is it a water course?

Dick Steinhoff – There is no water in the land. It is sitting on a sand bank. It percolates.

Jim Spaulding – Do you want me to go through all the outstanding comments (from the review letters)?

NOTE – Attach review letters from Tetra Tech Rizzo and PGC Associates.

Andy Rodenhiser – No...but in writing, yes.

Chan Rodgers - People here need to know there is a list.

Andy Rodenhiser – We can provide the list to the citizens.

Andy Rodenhiser explains the process of discussion between the professional consultants Gino Carlucci and Dave Pellegrini and Jim Spaulding, and that there was no need for this discussion at the hearing.

Dick Steinhoff – There were 13 pages of question from Tetra Tech. Half have been answered. We are in the process of responding to the rest.

Andy Rodenhiser – These are all public records. Susy can provide public records upon request.

There was discussion about a large maple tree on the site.

Susy Affleck-Childs – So you are going to save it, right?

Dick Steinhoff – Yes, we will save it.

Karyl Spiller Walsh – About landscape plans...we encourage a variation of conifers and deciduous trees with variations of height and texture.

Dick Steinhoff – Exactly the instructions I gave to Carol (?????????) for the landscaping.

Karyl Spiller Walsh – Also some good sized specimen trees at the back of the site where all these properties come together.

Jim Spaulding – That's pretty much it.

Tom Gay – The 8,677 square feet for the space ...does that include mechanical and attic space?

Dick Steinhoff – Yes, I sent the electronic version of the floor plan in to Susy this morning.

Tom Gay – So the usable office space is 7257 square feet by this plan. Please explain the evidence of fire damage in the soil from boot and shoe factory.

Dick Steinhoff – We dug 6 or 7 soil holes out back. There is a 6 inch high area of ash and artifacts sitting on a sand bar. All is in the drainage report.

Andy Rodenhiser – Is there any pollution needing to be cleaned up? Most banks require that testing to be done.

Dick Steinhoff – That was not done. No one has tested to see if there is anything other than wood ash. The old building was wooden.

Tom Gay – Are you building for LEED certification?

Dick Steinhoff – No, that would cost me \$50,000 more to do that. But I am using LEED contractors who care about “green” building.

Dave Pellegrini – Are you tracking LEED points?

Dick Steinhoff – No, I am just using the LEED standards as guidance.

Chan Rodgers – I don’t have any more questions.

Karyl Spiller Walsh – It would be nice for the town to know how close we are to the LEED requirements.

Dave Pellegrini – It would be good for the town.

Jim Spaulding – We need to be careful what we say. We could apply and be turned down. There was discussion about the how things were termed, and the copyrighting of LEED terms.

Andy Rodenhiser – Anything else?

Jim Spaulding – I have elevations to show.

Karyl Spiller Walsh – I will have more landscape and Design Review Committee questions.

Andy Rodenhiser – Are there any questions from the public?

Ted Lambert – My concern is water. This spring there was quite a lot. Is it all sand and goes down, but the grade is front to back.



Andy Rodenhiser – Turner will provide the drawings and Tetra Tech will review them. Water will be accounted for on site. The storm water plan is all part of the calculations, and all storm water must be drained on site.

Ted Lambert – My concern is when the ground is frozen, melting snow, and the snow storage abuts my problems. When the ground is frozen where will the water go?

Dave Pellegrini – You have water (volume and flow) pre and post development. You have flow now, you will still have flow, but no more than you had before. We will look at snow storage. I don't see a problem with the storm water. Crushed stone has voids and does not lend itself to frosts, and the porous asphalt drains well.

Jim Spaulding – There are lots of studies on porous asphalt. It is much deeper, and with crushed stone underneath it has great drainage.

Dave Pellegrini – We can bank or grade the snow storage area.

Ted Lambert – I wonder about oil leakage.

Jim Spaulding – Any goes in the gravel under the asphalt.

Robert Piacentini, 9 Temple Street – Where does the water go when it hits a certain depth?

Jim Spaulding – It is going to go wherever it goes now. No more rain or water will be on the site than there is now.

Andy Rodenhiser – Do you understand? There is no more snow or rain on it. It is pervious, not impervious. No more water will be on the site.

Tom Gianvangelo – The snow from the front will be in the back, then. A lot near me. All concentrated in one area.

Dave Pellegrini – The snow storage is on both the north and the east sides, not all along the back.

Andy Rodenhiser – We can deal with snow removal in the permitting process.

Jim Spaulding – We can grade it so the melt goes onto the paved area.

Vallishayee Rashmi, 25 Temple St – I am concerned about potential access to Temple Street.

Dick Steinhoff – I can answer this. I was asked to set aside a potential parking area for in the future. If that property were to become commercial that could be a way through. I was asked to put this on the site plan.

Vallishayee Rashmi – On an 18 foot road?

Dave Pellegrini – It might only connect to the next property and not all the way through to Temple Street.

Tom Gay – All the properties on Route 109 in the Adaptive Use Overlay District now have the right to do something like this development. So this is to plan ahead in the event any other of these properties develops similarly.

Vallishayee Rashmi – I see town sewer, what about water?

Jim Spaulding – It is there. See the “s” on the line?

Tara Werlich, 155 Main St – We went through this a few years ago. My concern is the traffic. We average one accident a month at this spot. I see them from my office. It’s going to be another death trap.

Andy Rodenhiser – Chan Rogers can address this.

Chan Rogers - The proposed modification for Route 109 in this area is to cut the crest hill. We are going to flatten the curve out, and the problem at Winthrop will be solved. A retaining wall will be built and the road lowered several feet.

Tara Werlich – What about a traffic light?

Chan Rodgers – Not likely.

NOTE – Considerable talking and discussion out of order.

Andy Rodenhiser – Order, please. All discussion is to be through the chair.

Chan Rodgers – The state won’t modify the highway without fixing the problems. The crest grade will be fixed. They did the same thing in Millis with no detrimental effect on the abutting property.

Tara Werlich – I have a 170 year old house close to the road.

Dave Pellegrini – A traffic light on a State Highway is a long process. The Route 109 reconstruction project is a good opportunity to look at the whole road as a complete project. This project will be discussed in the whole Route 109 design process that is coming.

Andy Rodenhiser – We had a traffic study done for Winthrop Street. The problems at Winthrop are not due to the volume of traffic, but the way the traffic flows. There are too many curb cuts. Winthrop can actually handle a greater volume of traffic if it were well done. Chan Rogers took all the accident data to the state to go to bat for us.

Tom Gianvangelo – I live there. Traffic congests there. I have to wait 5 minutes sometimes to pull out of my house. It’s hard to pull out onto Route 109.

Dick Steinhoff – On 109 at 133 Main Street, the parking lot of 32 cars is plowed by 8:00 am, and I haven't heard of plowing problems. Getting on and off, well, that is an issue for anyone on 109.

Robert Piacentini – If he has parking space for 29 cars, now that will add 29 more cars every hour. Anyone making a left turn will back up.

Nell (?) Lambert, 7(?) Temple Street – My concern is that people will come south on Winthrop Street will cut-through Maple-Grove-Temple instead of going all the way straight down to Winthrop.

Tom Giovangelo – This could be subdivided. I live there. Traffic is too much. I live there. You don't know.

Chan Rogers – There are 29 spaces. At first it seems like a lot, but at least 10 of those spaces are going to be employees whose cars will be sitting there all day. It is a stretch to say there will be that many an hour. My traffic engineering knowledge tells me that 29 cars is representative of about two cars an hour.

Andy Rodenhiser – Are you concerned about a traffic study, Karyl.

Karyl Spiller Walsh – No, it is in scale.

Andy Rodenhiser – Dave, a technical question...does this warrant a traffic study?

Dave Pellegrini – I agree with Chan Rogers. In and out during the day is very small. It is an office building. They come in the morning and leave in the afternoon.

Gino Carlucci – We could do an estimate by ITE standards.

Jim Spaulding – It is noted in our report.

Judith Giovangelo – What kind of businesses will go in there?

Dick Steinhoff – My business is only for professional and business offices.

There was discussion about what kind of businesses could go in there with residents voicing concerns over a fast food place and drive through, and traffic issues were that to occur. The Planning Board noted that there would have to be a new special permit for any food uses, and that if it were to ever happen they would be notified ahead of time and there would be another special meeting, but that is not what was being proposed at this time.

Judy Giovangelo – Would we know if there was a special permit?

Andy Rodenhiser – Yes you would be notified by mail. Then we would look at those traffic issues.

Nell ? Lambert – What about cut-through traffic to get to 109?

Karyl Spiller Walsh – Possibly.

Nell ? Lambert – What do we do then?

Andy Rodenhiser – Can't do anything.

Karyl Spiller Walsh – There is some, but really very little in normal traffic.

Nell ? Lambert – Why are we here? Do we really have any say?

Karyl Spiller Walsh and Andy Rodenhiser – Yes, we are listening.

Nell ? Lambert – I can't come up with any positives about this proposal for me.

Andy Rodenhiser – We can't prevent a person from developing his property just because you don't like it. If we deny, he can appeal, and go to court, and the Town would have to spend your tax dollars. And a lot of the abutters don't mind.

Nell ? Lambert – What will it do to my property?

Karyl Spiller Walsh – I think it will increase your values.

Andy Rodenhiser – You have the right to develop your building.

Nell ? Lambert – But we bought our property and put money in.

Andy Rodenhiser – This can happen anywhere you live. No one spoke, no one, at town meeting against this kind of development when the adaptive use overlay district option was proposed.

Tom Gay – We will write a decision, and we will be fair to both the applicant and the town. We will look at all these things in the decision.

Andy Rodenhiser – We are here to listen. We will look at snow and traffic.

Tara Werlich – We can't exit onto Route 109 from our business.

Andy Rodenhiser – You had an easement to another way. You had that ability.

There was discussion of other possible scenarios for development with houses.

Diane Piacentini, 9 Temple Street – We've been on Temple 49 years. We don't like disruption. We don't like the cut-throughs to avoid Winthrop and going left.

Ted Lambert – Winthrop ST is a problem, especially when there is a back-up.

Andy Rodenhiser – There is nothing we can do about that. An interesting point, what is the development potential in that area...Gino?

Gino Carlucci – There is potential for another 200,000 square feet of development between Pond and Holliston.

Andy Rodenhiser – Figure the traffic on that in the next 15-20 years.

Ted Lambert – Is there any plan to widen 109?

Chan Rodgers – Yes, but it will still be kept to two lanes.

Judy Giovangelo – The overlay district. We got a fine notice...what is it...first it was commercial, then residential, now commercial again.

Gino Carlucci – It was always residential. There might have been a use variance, or maybe you didn't get a variance, and thus got a fine notice.

Judy Giovangelo – We never got a notice about this overlay district.

Susy Affleck-Childs and Andy Rodenhiser – In 2004 there were town-wide notices.

Judy Giovangelo – Two more things. Lights for signs, flagpole and parking lot. Please take into consideration, no light on all night. Move the sign away from my property.

Andy Rodenhiser – Look at the lighting bylaw. The light can't spill over.

Gino Carlucci – In an AOUD, the lighting must be to residential scale.

Andy Rodenhiser asked Gino Carlucci to explain photometric, and Gino Carlucci explained the photometric plan.

Karyl Spiller Walsh – It is a beautiful sign. It is embraced by the Design Review Committee.

Tom Giovangelo – Does the sign meet the setbacks?

Tara Werlich – Lights...we had to put timers on all of ours so they were off by 9:00 at night.

Karyl Spiller Walsh – That sounds good.

Nancy Hamm, 10 Temple Street – I am confused as to agriculture-residential versus commercial.

Andy Rodenhiser – AUOD is an adaptive use overlay district. The basic zoning is ARII, Agricultural Residential II, with this strip of 109 having an overlay district to provide for the adaptive use of an old building. It is used to preserve old buildings in an area that may no longer be functional as residences, without having them rot, be blighted or torn down.

Nancy Hamm – Can that whole strip become commercial?

Andy Rodenhiser – No, it is a special permit and not allowed by right.

Tom Gay – They could apply for a permit. There are nice developments that have gone in that area. And there is still residential in the area.

Susy Affleck-Childs – The key requirement is that the building already there has to maintain its character. Or it could be a mixed use with apartments upstairs.

Andy Rodenhiser – Or it could be say a coffee shop with apartments above.

Ted Lambert – So within this overlay, by increasing building size, this keeps the feel of residential?

Susy Affleck-Childs – The original building has to be kept.

Ted Lambert – That building (as proposed) won't fit in.

Karyl Spiller Walsh – Do you have the Route 109 elevations?

Jim Spaulding shows the elevation designs of the project.

Susy Affleck-Childs – It helps to show the depth here.

Nell Lambert – Where is info on lighting?

Andy Rodenhiser – On the website. We have heard your concerns. We are moving on to the architecture.

Jim Spaulding describes the architecture, and shows the plans.

Andy Rodenhiser – I encourage the people here to pay attention to lessen questions later on information being presented now.

Jim Spaulding continues with his description of the two story building, followed by Dick Steinhoff who describes the floor plans and shows the accompanying plans.

Andy Rodenhiser – Are there any questions?

Tom Giovangelo – Is it a basement or slab?

Dick Steinhoff once again refers to the plans and explains the building plans.

Tom Giovangelo – So there will be excavation there, too. Where will the excavation be done?

Dick Steinhoff (referring to plan) – It is almost a walkout basement here, as there is a swale on 144 Main Street. My office will be here on the second floor on the back.

Tom Giovangelo – Will you subdivide later?

Dick Steinhoff – No.

Tom Giovangelo – But if he has more offices there will be more traffic.

Andy Rodenhiser – No, there will be 29 cars regardless with this square footage.

Dick Steinhoff – We discussed the process with the Design Review Committee for the landscaping and design details.

Andy Rodenhiser explained what the Design Review Committee is and their involvement in the process.

Dick Steinhoff – Anyway, this is the 4<sup>th</sup> iteration of the plan in this process. We have tried to make an attractive open building with as residential a feel as an office space can be.

Karyl Spiller Walsh – The will integrate stone and granite from site on the lower areas...could we see samples?

Dick Steinhoff describes more of the stone and granite look with the older clapboard.

Karyl Spiller Walsh – We want the tower surfaces to tie in. What happened to the staircase that wraps?

Dick Steinhoff - It is granite on the front, not a staircase.

Karyl Spiller Walsh – We want to see the vertical towers with a similar texture to the granite below.

There was general discussion on the stone and granite to be used, and where each would be on the building, and the plans were shown in this regard.

Judy Giovangelo – One last thing before I go. What about security with a dark building at night and a teenage girl next door alone?

Andy Rodenhiser – So do you want the light on?

There was general discussion about when the lights could go on and off. Motion detection lighting was mentioned.

Karyl Spiller Walsh – Do you really want a motion light?

Tom Giovangelo – Can we limit the hours that someone is in the building?

Dick Steinhoff – We can do that.

Susy Affleck-Childs – The plans have been sent to the police, fire, and other town boards for comments.

Andy Rodenhiser – The police will have a say on the lights.

Judy Giovangelo – Will the building be locked at night?

Dick Steinhoff – Oh, yes...and a security system and smoke and motion detectors.

There was discussion on continuing the public hearing.

Gino Carlucci – There were issues raised regarding the parking area. Would you consider compact car spacing?

Jim Spaulding – I thought we needed 40 spaces first to be able to do that.

There was general discussion into looking at whether or not they could allow for some compact parking spaces and thus reduce the overall parking area. Regulations would be looked at in that regard.

Tom Giovangelo – The sign is right out my window.

Dick Steinhoff – The sign is close to 144 Main Street. It was suggested by the Design Review Committee that it be put at the south east corner as the plan shows.

Andy Rodenhiser – Talk with Karyl Spiller Walsh about the sign placement.

Susy Affleck-Childs – It is 30 feet from your property line and about 60 feet from your house.

Tom Giovangelo – It looked like it was right on my line.

Susy shows them the plan, and suggests that they may want to attend the Design Review Committee meeting on August 16<sup>th</sup> at the middle school when the issue will be discussed.

There was general discussion regarding a time and date for the continuation of the public hearing.

It was decided that the public hearing would be continued on August 31, 2010 at 7: 15.

Jim Spaulding is to send electronic mailings to both Susy Affleck-Childs and Dave Pellegri, and the provision of a paper plans required for the public.

Karyl Spiller Walsh requested sample of masonry and clapboard colors, and will work with them on design, as well as the retaining wall—what it is and could be.



Andy Rodenhiser thanked Dick Steinhoff and Jim Spaulding, and they thanked everyone for their time.

Karyl Spiller Walsh – You are doing a great job.

Susy Affleck-Childs – I would like to work with you on all the waivers you will need.

Jim Spaulding – Are the new lighting specs on line?

Susy Affleck-Childs – No. I will send them to you.

### **Pine Meadow II – Bond Reduction**

Dave Pellegrini reviewed the bond reduction estimate prepared by Tetra Tech Rizzo. ATTACH.

Andy Rodenhiser – Are there any feelings on this?

Karyl Spiller Walsh – We talked about curbing.

Dave Pellegrini – Report from Pine Meadow...we discussed curbing and the utility pole. On the bond estimate I did update the Mass Highway pricing.

Andy Rodenhiser – Any comments or questions regarding the reduction? Is there a motion?

Karyl Spiller Walsh moved that the Pine Meadow bond be reduced to \$110,169. The motion was seconded by Tom Gay and was approved unanimously.

### **OTHER BUSINESS**

Dave Pellegrini – One other thing...about Applegate... they know they need to come back about the culvert.

Andy Rodenhiser – It is an existing condition.

Dave Pellegrini – Need to address it with Department of Public Works or someone...

Karyl Spiller Walsh – Is that going to be a problem?

Dave Pellegrini –It will be an issue.

Andy Rodenhiser – The issue is that there is no easement, thus it is our problem...that's what will be argued.

Dave Pellegrini – Two basins at the end of Virginia Road, catch basins or leach basins? How are they connected?

Andy Rodenhiser – A fix done a long time ago. Drainage calcs don't take into account all the water. What is the deal on something that has been there that long?

Karyl Spiller Walsh – It would be nice to negotiate with them on that, and give suggestions.

Dave Pellegrini – They must address it one way or another.

There was continued discussion on the drainage issues in the area, how the issue came up, and how to proceed in regard to the issue.

### **Update on 25 Milford Street – Rolling Hills**

Susy Affleck-Childs – The attorney came back after discussions at the last meeting with a memo dated July 19<sup>th</sup>. They are asking that the paper street be considered frontage. Town Counsel's response is that it not be allowed. They must be held to the subdivision covenant.

There was a short discussion on the issue.

Susy Affleck-Childs – Can we have a vote?

Andy Rodenhiser – Is there a motion to not change the decision?

Karyl Spiller Walsh – moved that the decision not be changed and the covenant be upheld. The motion was seconded by Tom Gay and was approved unanimously.

### **Restaurant 45 /45 Place – Review As-built Plan/Discuss Completion**

Andy Rodenhiser – What are they trying to do . . . they approached the BOS about seating on the deck.

Susy Affleck-Childs – They were looking for an amendment to their liquor license. There was to be no food or drink served outside as part of that site plan decision.

Andy Rodenhiser – The parking overflows onto Rustic Road, Little Tree, and Medway Gardens. Medway Gardens puts up pylons on holidays. The same happens with the Chinese restaurant, and people park on residents' lawn, half on the lawn, half in the street.

Karyl Spiller Walsh – They promised us there would be no problems with the parking.

Andy Rodenhiser – And they promised us no additional seating. We shouldn't allow that.

Susy Affleck-Childs – They aren't asking for that now.

Andy Rodenhiser – They are asking for an as-built sign-off. Should we? Tom inspected it.

Tom Gay – Well, anyway, I went through the discussions, modification, changes...so as an as-built plan it isn't the same, but as a decision everything is there. We mentioned sidewalks and striping. The sign is fine. The "No Parking" signs can't go up since it is a private homeowners association, and they won't give permission.

Susy Affleck-Childs – Not so much a homeowners association as it is the original developer.

Andy Rodenhiser – Can we get that in writing?

Tom Gay – Everything on ground is there, but there are six areas where the as-built incorrectly represents what is there.

Tom Gay notes the six areas of discrepancy – LET’S GET THESE FROM TOM.

Andy Rodenhiser – Direct a letter to them to correct the as-built.

Susy Affleck-Childs – Give me a list and I will work on a letter. I would appreciate Tom’s help on that.

Andy Rodenhiser – Is there anything else?

### **Granite Estates – Parcel B**

Susy Affleck-Childs – I have a memo on amending the Granite Estates subdivision plan to allow Parcel B to be used for other municipal purposes than open space. I’d like to talk it through with you. ATTACH.

Andy Rodenhiser – Looking for board action.

Karyl Spiller Walsh – I agree with what Paul Yorkis said in his memo.

Susy Affleck-Childs – Okay, we will go ahead with the public hearing we need to do to amend the decision . . . perhaps on August 24<sup>th</sup>.

### **Meeting Minutes – July 13, 2010**

Susy Affleck-Childs – We cannot vote on these. Bob Tucker is not here.

### **Resignation Letter from Dawn Rice-Norton – Open Space Committee**

Susy Affleck-Childs noted Dawn Rice-Norton’s letter of resignation from the Open Space Committee. ATTACH. John Schroeder is talking to another potential candidate for that committee.

Committee/Task force Reports

### **OTHER BUSINESS**

Susy Affleck-Childs passed out a letter from the Executive Office of Energy and Environmental Affairs dated July 23, 2010 regarding Medway’s 2010 Commonwealth Capital Score. (include letter)

Susy Affleck-Childs – Gino, you tell this one!

Gino Carlucci – We got three point added to us. We lost a few points in one area, but gained elsewhere. So we gained three. This is very good. This score contributes to how grants are awarded.

Susy Affleck-Childs – We are working with Habitat for Humanity to allow for 9 Walker Street to count for affordable housing. Also, the OSRD—Charles River, or some such name, will also have affordable units. John Claffey is the principal developer. We also had a drop in visitor who discussed developing the property next to the bank (on Main Street) as an assisted living project. Also, on the November Ballot there is an question to repeal Chapter 43B. There is also before the legislature an extension of three years for permits in the works.

Andy Rodenhiser – The Mass Municipal Association is against it. How about MAPC or the Planners Associations, Susy?

Susy Affleck-Childs – There are no decisions that I know of.

Andy Rodenhiser – It is a double-edged sword. At times I'd love to be able to say yes, but other times I want to say no to an extension.

### **Planning & Economic Development Coordinator's report**

There was further discussion regarding Olga Guerrero's property on Milford Street and the subdivision plan. It was affirmed that the Board needed to abide by the covenant. If they wished to obtain frontage they could create a stub in order to obtain it, but they could not get it via a paper street. Andy Rodenhiser discussed the possibility of building a sidewalk onto Milford Street.

Susy Affleck-Childs – Showed the informational flyer on "Conducting a Business from Your Medway home" that she had prepared based on the recent town meeting vote. (Attach paper)

There was discussion regarding the Irving Gas station, and the repainting of the canopy (from white to blue and red) and the Design Review Committee guidelines in this regard. No permit was pulled.

Susy Affleck-Childs – I would ask that we please write up a scope of responsibilities for an associate member. There was brief discussion on writing up a scope of responsibilities for an associate member to the Planning and Economic Development Board. This matter will be reviewed at the next meeting.

Chan Rogers moved that the meeting be adjourned. The motion was seconded by Karyl Spiller Walsh and was passed unanimously.

The meeting was adjourned at 11:00.

Respectfully Submitted

Fran V. Hutton Lee  
Administrative Secretary

Edited by Susan Affleck-Childs  
Planning and Economic Development Coordinator

**August 10, 2010  
Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Chan Rogers Bob Tucker, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:** Tom Gay

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Gino Carlucci, PGC Associates

The Chairman opened the meeting at 7:00 pm.

**Board Business:**

Karyl Spiller-Walsh would like to congratulate the Open Space Committee for their hard work on the acquisition with CPA funds of a portion of the Seacord property on Adams Street. Thank you to the residents of Medway for voting at the 8/9/10 Special Town Meeting.

**Proposed Revisions to Master Signage Plan for 45 Place:**

The Board is in receipt of a proposal (ATTACHED) from Signs Plus of Milford, MA to modify the Master Signage Plan for 45 Place (45 Milford Street) and a review memorandum dated August 5, 2010 from Susy Affleck-Childs relating to the proposed modifications (ATTACHED). The property owner seeks a change to allow for one larger wall sign to be installed above the main entry at the northwest corner of the building and for that one sign to include information about the two tenants which both use this doorway. The sign will be a larger (22 square feet) from that noted in the original Signage Plan which authorized 12 square feet per wall sign. Member Tucker is comfortable with the change as long as the applicant complies with the Sign Bylaw. Susy Affleck Childs met with Mr. Yorkis regarding the changes and he is comfortable with her recommendations.

- **On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to agree with the proposed changes as noted in the memorandum relating to the proposed modification to master signage plan for 45 Place dated August 5, 2010.**

**Charles River Village OSRD Special Permit Plan Review Fee:**

The Board is in receipt of an estimate from PGC Associates for reviewing the Charles River Village OSRD Special Permit application and plans. This is to review for completeness along with providing technical review and comment. The cost estimate is for \$880.00. It was recommended that the estimate indicate that this is for services pertaining to the Phase one Concept Plan.

Member Spiller-Walsh would like the ability to meet with Planning Consultant Gino Carlucci to clarify her understanding of the OSRD bylaw provisions. Affleck-Childs noted that there is money within the Board's general consulting budget to compensate Mr. Carlucci for providing this clarity on OSRD

process. The Chairman is not comfortable with any member meeting about this before the public hearing begins (8/24/10). Member Rogers is not comfortable with the Board having to spend the Town's money to have one member becoming educated on this. Susy Affleck-Childs noted that this briefing could also be available for all the members for basic review of OSRD, but this would need to be a public meeting. Spiller-Walsh was wondering if the Board could get an opinion on if she can meet individually with the consultant. The Board would like Susy Affleck-Childs to check with Town Counsel. The Board is in agreement that the cost for a session with Gino Carlucci is to not be charged to the applicant. The Chairman wants to make sure that this proposed session would be legal and the Board members can in fact do this and not violate any open meeting rules.

**On a motion made by Bob Tucker and seconded by Andy Rodenhiser, the Board voted unanimously to seek legal counsel's opinion regarding the authorization of a member to speak with PGC Associates to become more clear on the OSRD Special Permit Bylaw and to allow this meeting to occur prior to the public hearing. (Member Spiller-Walsh recused herself).**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the cost estimate for Charles River Village OSRD Special Permit in the amount of \$880.00.**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to inform the applicant that there also will be a Town Counsel review fee of the Special Permit for Charles River Village OSRD allowing up to three billable hours at a rate of \$190.00 for a total of \$570.00.**

**Medway Consulting Planner Request for Proposals:**

Affleck-Childs informed the Board that the deadline for consultant planner request proposal deadline was yesterday. Four proposals were received. This is for the Town's Planning Consultant who would not work exclusively for the Planning and Economic Development Board. The next step would then be to have a team review the proposals. Member Tucker would like to see that the Conservation Commission have a member be a part of the team. Member Rogers and Spiller Walsh would like to have the Board be able to have at least two members on this team. Member Rogers feels that the team should be an odd number. The review of this will not be able to begin until the week of August 30, 2010. The proposals are available in electronic format. The Chairman would like to be on the Review Team. Member Tucker offered to participate if no one else is available. Member Spiller-Walsh asked that the members receive copies of all of the proposals.

**Review of Draft Revised Zoning Map:**

Consultant Carlucci provided a draft update to the Medway Zoning Map. There were changes to the lines with streets. These are noted with double lines. All street names are also labeled. A number of key public facilities were included. The Water Protection Zones were added. The Board is comfortable with how the adaptive use overlay district looks. Susy reported here was a request to have the zoning map in black and white as well.

Member Tucker notes that he would like to see the Board starting an information file on the issues surrounding towns are facing and how those issues were resolved along with looking in the future, always refining the regulations.

**Proposal from BCS for Oak Grove/Bottle Cap Lot – Mass Development Program:**

The Chairman provided a brief background about the history of the three years of meetings with Mass Development about the Oak Grove/Bottle Cap Lot. The Town of Medway through Mass Development has received a proposal from the BCS Group of Worcester for professional services to perform a feasibility study for the development of Oak Grove as a mixed use Business/Technology/Residential Community. The value of the contract is \$50,000. When the Town's land in that area is sold, the Town will need to pay back the \$50,000 to Mass Development. The proposal was provided to Economic Development Committee. There only suggestion was to make note of the Bio Pharma industries.

Member Spiller-Walsh announced she would recuse herself from voting since she does not know the consulting group.

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted to recommend the approval of the proposal for professional services as presented by BSC Group dated July 15, 2010.**

**Duties for PEDB Associate Member:**

The Board is in receipt of revised draft September 8, 2009 relating to duties of the Associate Member of the Planning and Economic Development Board. See ATTACHED.

Member Spiller-Walsh feels that there needs to be good training time for the associate member. This is very difficult and has a huge responsibility for an associate member to jump in to act on the special permit applications.

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to approve the guidelines for the Associate Member as drafted.**

The scope for Special Permits is broader and it was suggested that the Board have a workshop on writing and making defensible decisions.

It was agreed that board members will try to seek an associate member.

**Correspondence:**

The Board is in receipt of a document entitled The Boston Region's Pedestrian Transportation Plan. This came from the Metropolitan Area Planning Council.

Affleck-Childs received the agenda for the Zoning Board of Appeals August 25, 2010 meeting. The ZBA has received a petition for 25 Milford St for a frontage variance. The Board would like information provided to the Zoning Board about the concerns and the basis for the Board's denial of their request for a lot release.



**Tetra Tech Rizzo Report (Applegate Farm):**

A copy is ATTACHED.

Member Tucker would like Affleck-Childs to inform Tetra Tech Rizzo that the recent reports have definitive responses. He appreciates the improvements seen with the reporting.

**Meeting Minutes:**

**July 12, 2010:**

The minutes from July 12, 2010 will be tabled until the next meeting.

**July 27, 2010:**

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to approve the minutes of July 27, 2010.**

(Member Bob Tucker abstained from voting as he was not present for the 7/27/10 meeting.)

**Future Meetings:**

The next regularly scheduled meetings of the Planning and Economic Development Board are:

**Tuesday, August 24, and September 14, 2010.**

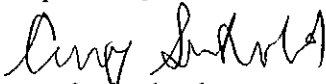
Affordable Housing Committee –      Wednesday, August 18, 2010 at 7:00 pm  
Medway Senior Center

**Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to adjourn at 9:00 PM.**

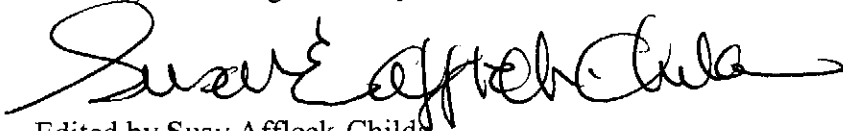
The meeting was adjourned at 9:00 PM.

Respectfully Submitted,



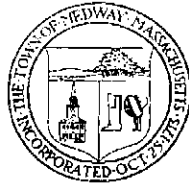
Amy Sutherland

Meeting Recording Secretary



Edited by Susy Affleck-Childs

Planning and Economic Development Coordinator



**TOWN OF MEDWAY**  
**Planning & Economic Development**  
155 Village Street  
Medway, Massachusetts 02053

**MEMORANDUM**

August 5, 2010

TO: Planning and Economic Development Board Members  
FROM: Susy Affleck-Childs, Planning and Economic Development Coordinator  
SUBJECT: PROPOSED MODIFICATION TO MASTER SIGNAGE PLAN FOR 45 PLACE

**Background** -The Planning Board's Site Plan Decision for Restaurant 45 from October 2006 included a requirement that the applicant/property owner (PMAM Group, LLC) prepare a master sign plan for the multi-tenant development to be constructed at 45 Milford Street adjacent to Restaurant 45. That development is now known as *45 Place*.

**Description of Master Sign Plan** – The owner of Restaurant 45/*45 Place* retained Karen Mullen of Signs Plus of Milford, MA to prepare a comprehensive master signage plan for *45 Place*. The plan was organized into two parts:

- A. Traffic and parking control signage – Photographs E, F, L, M, R1, R1, U and U1.
- B. Commercial signage, both existing (Photographs A, B, C, Q, R2, and V) and proposed (D & J, I1, K, N & O, P) plus a detail for a typical tenant sign and detail for the proposed free-standing ladder "development sign".

**Review** – The Master Signage Plan for *45 Place* was reviewed by the Medway Design Review Committee on July 20, 2009 and by the Planning and Economic Development Board on July 28, 2009.

**Decision** – On July 28, 2009, the Medway Planning and Economic Development Board approved the proposed master sign plan as presented for *45 Place*. On July 31, 2009, a written document describing the authorized tenant signage was produced and filed with the Town Clerk and the Medway Building Department.

**Proposed Modification** – On July 29, 2010, property owner Mark Smith submitted an application to modify the previously approved Master Signage Plan for *45 Place*. At this time, two of the three tenant spaces have been leased. Attached is information prepared by Signs Plus to depict the requested changes. Also provided is a floor plan which shows the tenant space allocation. Several minor modifications to the Master Signage Plan for *45 Place* are proposed and described below.

1. Increase the size of the tenant wall sign located at the building's northwest corner from the previously authorized 12 sq. ft. to 22 sq. ft. This change is proposed to accommodate the sign's use by 2 businesses (Tenant Spaces #1 and #3) which share the corner door as their primary customer entrance. A drawing (*Proposed Layout 1*) showing the proposed revised sign is provided. The same style and type of sign is planned for this larger version as had been previously authorized. The only difference is the larger sign size which is needed to provide adequate space for text and graphic elements for 2 businesses instead of just one as previously anticipated.
2. Allow the use of vinyl cut lettering on the exterior entry doors to identify the business and specify hours of operation. (*See Proposed Layout 2.*) NO color or size specifications are provided. Door signage was not addressed at all in the original Master Sign Plan.
3. Allow the installation of one additional tenant wall sign (2' by 6') on the building's north façade facing Main Street. (*See Proposed Layout 3.*) The current Master Signage Plan specifically authorizes a maximum total of 6 wall signs including 2 wall signs on the north façade. This change would authorize 7 wall signs and allow all 3 tenants to have a sign on the north façade facing Main Street.

**Recommendations** – I have reviewed the proposal and recommend the following:

#1 – Approve. This seems to be a reasonable strategy to accommodate the use of a corner entrance by two businesses. A larger sign may actually better fit the size and shape of that particular corner space.

#2 – Approve, but require all vinyl cut lettering to be white and to NOT exceed 2 square feet per door. (*This size of acceptable door signage was approved at the June 14, 2010 town meeting. No sign permit from the Town is required for a door sign of this size.*)

#3 – Disapprove as presented. Although not visually objectionable, this change would permit the business in Tenant Space #2 (the southwest corner which is presently occupied by Shear Magic) to have 3 wall signs, one on each façade. I believe that is excessive and would not be allowed anywhere else in town.

Instead, I recommend that Tenant Space #2 use the 2 wall signs they presently have but give the business the flexibility to remove one of those signs from their present locations above the entry doors on the south and west facades and install it instead on the north façade centered above one of the windows. This seems to be a more balanced approach and will achieve what I expect that business seeks which is to have some signage on the Main Street frontage of the building.

cc: Mark Smith  
Karen Mullen  
Paul Yorkis

## EXPLANATION OF PROPOSED CHANGES TO RESTAURANT 45 SITE PLAN MODIFICATION

Applicant, PMAM Group LLC proposes to allow a larger sign than the approved sign noted as ITEM K on the MASTER SIGN PLAN, which shows one 2'x6' sign centered over the double doors entering the common area on the south facing entrance to 45 Place. This change is requested to allow for more than 1 tenant to be listed, as this is a common entrance for TWO tenants, and needs to show this area as the entrance to EACH business.

Proposed larger sign will be 33"x8' and will have the ability to display TWO tenants, side by side on the 1 sign. Each tenant will be given an area 17" x 48" to display their business name. Please refer to attached 'PROPOSED LAYOUT 1' for detail.

Additionally, to further clarify allowed tenant marking of exterior spaces for signage purposes, we submit to specify that each tenant is allowed vinyl lettering to be applied to the exterior of each of their entry doors, for purpose of identification and also to list their hours of operation. Please refer to 'PROPOSED LAYOUT 2' for detail.

Lastly, applicant proposes that one additional tenant sign be allowed on the Route 109 facing side of the building. Approved Master Sign Plan noted on attachment ITEMS D&J show two total 2'x6' tenant signs for this space. The Town Bylaws will support this added signage, as the total frontage of this building facing Route 109 is 62'. Approved square footage of 15.14 will be amended to reflect 22.71 total square footage (each sign is 7.57 square feet). Applicant seeks this change in order to accommodate a future tenant. Please refer to 'PROPOSED LAYOUT 3' for detail.

# Proposed Layout

Propose changing size of main sign above common entry as this sign must accommodate TWO tenants. The adjusted size increase will better support both tenants and supply them with adequate presence.  
Approved size according to the Master Sign Plan is 2'x6', proposed sign is now 33"x96"

# 1



## SignsPlus

89 South Main Street, Milford, Massachusetts 01757

Phone: 508-478-5077  
Fax: 508-634-9825  
Email: [info@signs-plus.net](mailto:info@signs-plus.net)  
Website: [www.signs-plus.net](http://www.signs-plus.net)

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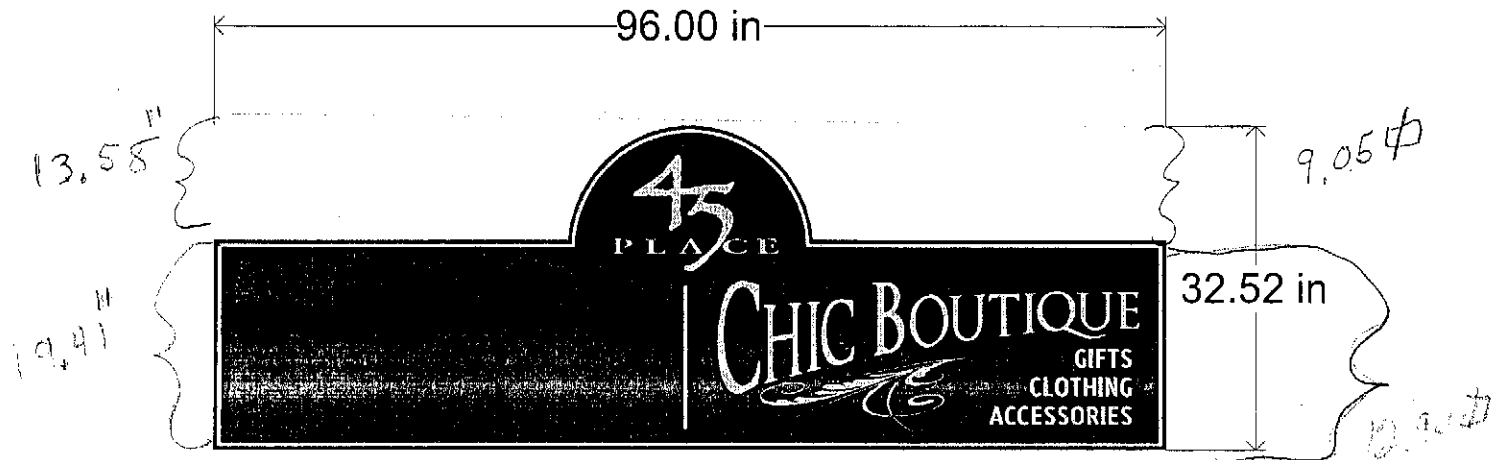
**ANY AND ALL SIGNAGE PERMITS ARE THE RESPONSIBILITY OF THE CUSTOMER.**

# Proposed Layout

# 1

## SIGN DETAIL

*22 1/2" to be*



EACH TENANT ALLOWED 1 PANEL IN ABOVE  
MAIN SIGN



*5.67"*

### SignsPlus

89 South Main Street, Milford, Massachusetts 01757

Phone: 508-478-5077

Fax: 508-634-9825

E-mail: [info@signs-plus.net](mailto:info@signs-plus.net)

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# Proposed Layout

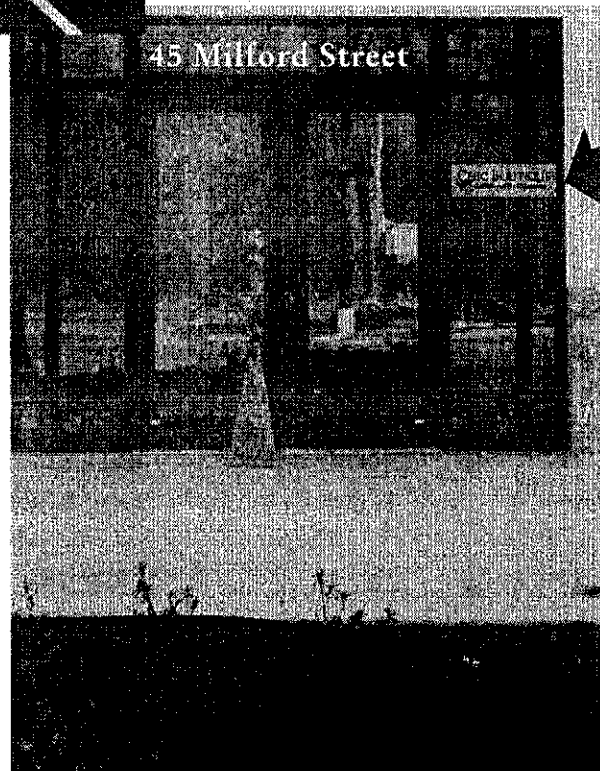
# 2

Proposed clarification of Master Sign Plan detailing tenant identification on glass/entry doors.

PROPOSED  
LETTERING  
FOR NEW  
TENANT



EXISTING SIGN  
PERMIT OBTAINED  
BY TENANT



PROPOSED  
LETTERING  
FOR NEW  
TENANT

## SignsPlus

89 South Main Street, Milford, Massachusetts 01757

Phone: 508-478-5077  
Fax: 508-634-9825  
E-mail: [info@signs-plus.net](mailto:info@signs-plus.net)  
Website: [www.signs-plus.net](http://www.signs-plus.net)

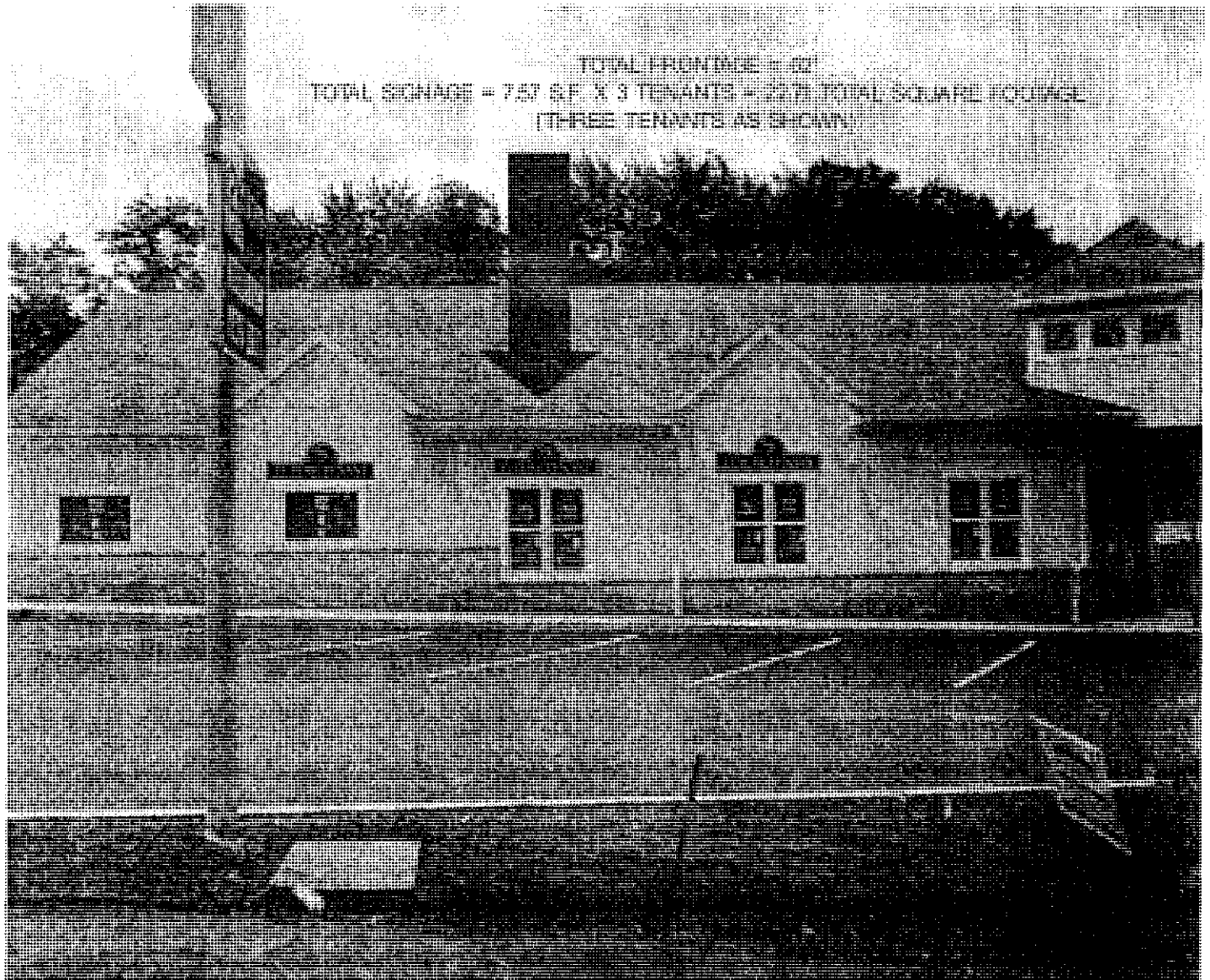
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# Proposed Layout

# 3

Proposed additional tenant sign for  
Route 109 facing side of building



## SignsPlus

89 South Main Street, Milford, Massachusetts 01757

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Fax: 508-634-9825  
E-mail: [info@signs-plus.net](mailto:info@signs-plus.net)  
Website: [www.signs-plus.net](http://www.signs-plus.net)

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**ANY AND ALL SIGNAGE PERMITS ARE THE RESPONSIBILITY OF THE CUSTOMER.**





---

**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)  
pgca@comcast.net

---

August 5, 2010

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

*approved  
8-10-10*

Re: **Charles River Village OSRD Special Permit**

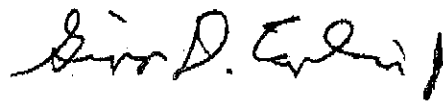
Dear Mr. Rodenhiser:

PGC Associates is pleased to present the following cost estimate to review and comment on the Charles River Village OSRD special permit plan, submitted by applicant Charles River Village LLC (John Claffey) of Medway. The owners are Michael Acquafresca and Carol Supernor, Executrix of Helen Grudzinkas estate of Worcester. The plan was prepared by Faist Engineering, Inc. of Southbridge, and is dated July 28, 2010.

<u>Task</u>	<u>Hours</u>
Prepare estimate	0.5
Review for completeness	1.0
Technical Review and comment	3.5
Planning Board meetings (2)	3.0
Review and comment on decision	3.0
Total	11.0
Cost Estimate (@\$80)	\$880.00

If there are any questions about this estimate, please call me.

Sincerely,



Gino D. Carlucci, Jr.

**Town of Medway  
Oak Grove Mixed Use Feasibility Study  
Proposal for Professional Services  
July 15, 2010**

33 Waldo Street  
Worcester, MA 01608

Tel: 508-792-4500  
800-288-8123  
Fax: 508-792-4509

[www.bscgroup.com](http://www.bscgroup.com)

On behalf of the Town of Medway, MassDevelopment has requested a proposal for professional services to perform a Feasibility Study for the development of Oak Grove as a mixed use Business/Technology/Residential community. The potential development site is a 100 +/- acre area on the southeasterly side of the I-495/Route 109 interchange in Medway. A key component of the development is the integration of Smart Growth Principles, which promote development in a manner that complements a community's environment, history and quality of life.

BSC Group (BSC) has performed numerous feasibility studies to assess the development potential of sites for both private and public clients. The BSC Team is comprised of Russell Burke, AICP, in the role of Project Manager, assisted by highly qualified planning, natural resources and landscape architecture specialists; Ninigret Partners will perform the Economic and Market Analysis. The BSC Team is poised to provide the full scope of services, as described below.

### **Project Understanding**

The Town of Medway seeks an evaluation of the Oak Grove site's capacity to accommodate an economically and environmentally sustainable mixed use development that is consistent with the Commonwealth's Smart Growth Principles in anticipation of filing an application to the State under MGL Chapter 40R.

### **Project Approach and Scope**

BSC envisions the project as five interdependent tasks culminating in a final report containing conclusions and recommendations. The proposed scope to effectively determine the feasibility of the mixed use project is outlined below by task.

#### **1. Economic and Market Analysis**

##### Economic Trends

To obtain a complete overview of market conditions in Medway, three key economic trends and their potential influence on development in Medway will be examined. The key trends are described as follows.

Engineers  
Environmental  
Scientists  
GIS Consultants  
Landscape  
Architects  
Planners  
Surveyors



- Industrial and commercial sectors in MA, focusing on the sectors exhibiting employment growth within a 50-mile radius of Medway. Typically 70 percent of corporate relocations are within 50 miles of current location due to supplier and labor force issues.
- Personal income trends and related retail expenditures, with adjustments to commercially available historic personal expenditure data for changes in the consumer credit market.
- Population movement, with consideration given to historic movement and long-term trends. This is critical in understanding market demand.

#### Commercial Space and Site Availability and Suitability

The potential competitive real estate environment along the I-495 corridor will be examined. This search will utilize extensive market information collected by the major commercial and industrial real estate brokers on lease rates, absorption, supply and proposed new projects. The analysis of the competitive situation of available real estate in the market will focus on:

- office/flex/r&d/industrial space market;
- retail space; and
- mixed use development.

This evaluation will provide Medway with estimates of vacancies in the market, the types of space available for lease or purchase, price points and positioning.

#### Residential Trends

The proposed mixed use development includes a residential component. Identification of demographic trends relative to the demand for housing will also be undertaken. This analysis will employ a longer range perspective to the market as the recent housing crisis has made forecasting problematic due to the changes in the credit market and mortgage financing. Therefore the emphasis will be on core fundamentals of the housing market, in particular:

- available supply;
- current and long range absorption trends;
- household formation; and
- population movement.

#### Summary and Synthesis of Fact Finding

The findings will be synthesized into a series of potential scenarios and development options for Medway. This will include considerations on product mix, positioning, and square footage. In addition, key risk factors that the Town will need to consider and potentially mitigate as it moves forward will be identified.



2. **Existing Conditions. Opportunities and Challenges Analysis: All Things Considered**

Review Existing Plans and Reports

BSC's examination of existing conditions will facilitate a comprehensive understanding of the site and its context as a baseline for future development plans. The existing features of the site will be compiled by the BSC Project Team members who possess extensive experience and expertise in their respective disciplines. Available plans, reports and data sources will be compiled, reviewed and analyzed.

Site Visit/Field Reconnaissance

The BSC Project Team will visit the site and surrounding study area to document visible existing site features such as buildings, roads, utilities, pedestrian activity, circulation patterns, traffic conditions, vegetation and surrounding land uses.

Topography/Soils/Subsurface Conditions

Using available records, plans, Natural Resource Conservation Service (NRCS) soil surveys, USGS topographic maps, available USGS Surficial Geology maps, Mass GIS data layers, and other available information, BSC will compile all relevant data for the site into a base plan that can be used to show the site and its regional context in terms of natural resource opportunities and challenges. BSC will work with Town representatives to identify key neighboring landowners that may have information regarding subsurface conditions and include available information in the development of a base map. The plan will be prepared at a scale suitable for specific on-site planning and broader regional planning that can show connectedness, access, and general consistency with the Town's 2009 Master Plan.

Environmental Documentation

BSC will research records regarding known hazardous waste sites (MADEP and local records) or cleanup activities, including information available for the site.

BSC will also evaluate locations of invasive species and include management approaches as part of the development analysis. While on the site the wetland scientists will evaluate the banks of the river to determine existing conditions and evaluate potential opportunities for future river access and open space as well as wildlife corridors. Photographs will be taken for inclusion in development assessment, report preparation, and public presentations.

BSC will coordinate with the Massachusetts Natural Heritage and Endangered Species Program (NHESP) to evaluate the species that are included in the NHESP polygon. Understanding of the specific species will assist in evaluating development options in terms of species habitat management, and identification of mitigation options.



BSC will evaluate each of these items and prepare GIS overlays maps showing opportunities and challenges. As part of understanding the challenges, BSC will evaluate potential regulatory issues that will be associated with future development, and will show regulatory areas as one of the overlay areas on the base plan. Regulatory information will include, for example:

- Wetlands Protection Act for activities within 100 feet of Bank;
- Rivers Protection Act, if applicable; and
- Medway Wetlands By-law 25-foot setback requirement.

#### Zoning/Regulatory

All current regulatory provisions shall be reviewed. The recent efforts establishing the area as a 43D Expedited and Priority Development site and UMass Planning Study represent Medway's proactive steps towards future development of the site.

BSC will focus on the inter-relationship of the provisions of the Zoning By-Law and Subdivision Regulations to identify conflicts or inconsistencies. Additionally, the existing regulations will be evaluated for compatibility with the Preferred Development Alternative and revisions which may be required to accommodate the Plan will be noted. Design guidelines will also be recommended in order to achieve the community vision for the site and surrounding streetscape.

#### Infrastructure/Utilities

A review of existing utility information available for the site and surrounding area will be performed. BSC will analyze existing infrastructure on site such as internal access drives, walks, and parking areas to identify possible opportunities for reuse or refurbishing these elements in a redevelopment. Additionally, BSC will identify opportunities for providing sustainable infrastructure (low impact development, storm water reuse, reusing/recycling existing on-site materials, etc.) in the planning efforts.

#### Traffic

A review and analysis of traffic data contained in previous studies available through the Town, State or other sources will be performed to gain a clear picture of traffic conditions in the vicinity of the site. A field inventory of all the study area intersections and roadway segments will be performed. This will include the documentation of characteristics such as roadway geometry, lane widths, type of traffic controls, including signs and signal equipment, bicycle accommodation, pedestrian amenities and accessibility, and land uses in the vicinity of the site. Discontinuities in existing sidewalks that affect the pedestrian experience in the study area will be noted.



#### Base Plan for Existing Conditions

Based on a compilation of the above data, BSC will prepare a detailed existing conditions plan of the site. The plan shall locate known improvements, features, property lines, buildings, utility easements, and site conditions.

#### Opportunities & Challenges Plans

BSC will prepare plans delineating opportunities and challenges for the site. The plans will build upon the site analysis conducted during site visits, the existing conditions plan and data gathered in the previous tasks. Site challenges such as location of subsurface elements, hazardous materials, regulatory setback requirements, traffic hazards, permanent existing features, topography, legal easements and surrounding land uses will be shown on the plans. Site opportunities to be highlighted will include such elements as buildable areas, frontage, available infrastructure, and access.

Utilizing our in-house GIS capabilities we will compile all the available data to indicate the site opportunities and challenges within the surrounding area and on-site. The resulting plan will be referenced during discussions with public officials and at the community meetings to aid in the understanding of the positive and negative aspects of developing the site. We will prepare a Technical Memorandum summarizing the site attributes and challenges shown on the opportunities and challenges plans. The Technical Memorandum will be further refined throughout the planning process and included in the final report.

#### Deliverables

- Technical Memorandum
- Base Plan of Site and Study Area
- Existing Conditions Plan
- Site Opportunities and Challenges Plans
- Two Meeting with Town Boards

### **3. Development Alternatives: Where Do We Want To Go?**

During the Development Alternatives process, the BSC Group Project Team will consider the community vision and goals; regulatory considerations (setbacks, building height, parking, storm water management); economic viability as determined by the market analysis; environmental challenges (resource areas, flood zone, hazardous material limitations onsite); connectivity and access; integration of sustainable elements; viewsheds; and relationship to the surrounding community. The Development Alternatives will focus on the integration and synthesis of what constitutes the highest and best reuse scenario for the site and how that scenario can best be accommodated.



The BSC Project Team will collaborate with public officials during the preparation of two Development Alternatives for the property. The existing conditions information and opportunities and challenges plan will be used to identify potential buildable areas and circulation patterns in and around the site. Specific combinations of uses will be evaluated with the goal of establishing up to two separate and distinct Development Alternatives for the site. Development Alternative will reflect local concerns as well as any additional issues that arise during the site analysis detailed above.

BSC will prepare initial conceptual design sketches showing, in a general manner, building layouts and site elements for the two Development Alternatives. BSC will review the concept sketches with the Town and property owners and refine the plans based on comments received. The designs will be rendered in preparation for presentation at a meeting with local Boards/Commissions. An image board containing photos and graphics representing themes, styles and materials envisioned for the Development Alternatives will also be compiled. Consistency with Smart Growth Principles will be evaluated.

The conceptual Development Alternatives will be presented to the Town in a Technical Memorandum. The plans and summaries shall be the focus of the public presentation to solicit feedback on the alternatives and the selection of a Preferred Alternative.

#### Deliverables

- Technical Memorandum
- Two Conceptual Development Alternative Plans
- One Meeting with Town Boards/Commissions

#### **4. Preferred Concept: How Do We Get There?**

With guidance from Town Officials, property owners, and the public review of the alternatives, BSC will prepare a Preferred Concept Plan. The Preferred Concept Plan may be a refinement of one of the Development Alternatives, or a composite of elements from alternative plans. In addition to the Preferred Concept Plan, BSC will update the Plan Summary and prepare a Draft Feasibility Report. The Draft Feasibility Report will include the below listed elements.

- A detailed description of the Preferred Concept Plan.
- Relationship of Preferred Concept Plan to market analysis, existing conditions, community vision, relationship to surrounding area.
- Recommended regulatory measures to implement plan including: zoning, subdivision regulations, and design guidelines.





- Community benefits and fiscal impact assessment.
- Proposed public initiatives, capital improvements necessary for site development.
- Identify funding and financing sources that are available to assist site development.
- An Implementation Strategy identifying the sequential actions to be undertaken for the mixed use development.

BSC will present the Draft Feasibility Report to the Town and hold a Public Hearing for final review and comment.

Deliverables:

- Draft Feasibility Report
- Preferred Concept Plan
- Supporting Exhibits
- Presentation Material for Public Hearing
- One Public Hearing

**5. Final Feasibility Report**

Prepare Final Feasibility Report incorporating comments and revisions from Town Officials and the Public Meeting.

Deliverables:

- 1 Unbound Final Feasibility Report
- 5 Bound Final Feasibility Reports
- Digital PDF formatted Final Feasibility Report on a CD

33 Waldo Street  
Worcester, MA 01608

July 15, 2010

Tel: 508-792-4500

800-288-8123

Fax: 508-792-4509

[www.bscgroup.com](http://www.bscgroup.com)

Ms. Mike Mitchell, Vice President  
Planning & Development  
Real Estate Division  
MassDevelopment  
33 Andrews Parkway  
Devens, MA 01434

Re: Town of Medway Oak Park Mixed Use Feasibility Study  
Proposal for Professional Services

Dear Mike,

Attached please find the proposed Project Approach and Scope for the Oak Park Mixed Use Feasibility Study in Medway.

The price proposal for professional services to conduct the Feasibility Study is as follows:

1.	Economic and Market Analysis	\$10,000.00
2.	Existing Conditions Opportunities & Consultants	\$15,000.00
3.	Development Alternatives	\$ 7,500.00
4.	Preferred Concept Plan/Draft Report	\$ 5,000.00
5.	Final Report	\$ 5,000.00
6.	Meetings (3 Board Meetings, 1 Public Hearing)	\$ 6,500.00
7.	Expenses (mileage, reproduction)	\$ 500.00
<b>Total</b>		<b>\$ 49,500.00</b>

Thank you for the opportunity to submit this proposal. Please feel free to contact us if you have any questions or require additional information.

Yours truly,



Russell J. Burke, AICP  
Director of Planning



Charles A. Kalauskas, P.E.  
Principal

Engineers

Environmental  
Scientists

GIS Consultants

Landscape  
Architects

Planners

Surveyors

Attachment

## **Planning & Economic Development Board Associate Member**

### **Revised draft – 9/8/09**

The Medway Zoning Bylaw provides that the elected Planning and Economic Development Board shall have an Associate Member, to be appointed jointly by the Planning and Economic Development Board and the Board of Selectmen for a two (2) year term.

The purpose of the Associate Member position is to have someone available to sit as a member of the Planning and Economic Development Board to hear and act on *special permit applications (which statute requires a supermajority vote for approval)* when a regular elected Board member is not able to fully participate because of:

- more than one absence from a public hearing,
- the inability to act, or
- a conflict of interest,

or if there exists a vacancy on the Planning & Economic Development Board.

The Associate Member is not expected to attend every meeting of the Planning and Economic Development Board. However attendance is required at any meeting when a special permit is being considered. The scope of the Associate Member's participation in special permits shall be equal to that of a regularly elected Board member.

For all other aspects of the Board's business such as subdivisions, site plans, zoning bylaw amendments, rules and regulations, and planning activities, the Associate Member is not permitted to vote. The Associate may participate in Board reviews and discussions; however the scope of that involvement may be limited at the discretion of the Chairman.

At the discretion of the Board, an Associate Member may serve as the Board's liaison to other Town boards or committees.

When there is a vacancy on the Board, the Associate member may be considered for a short-term appointment to fill that vacancy. However, it should not be assumed that the Associate will automatically be appointed to fill a vacancy.

Approved  
8-10-10  
//

<b>Tetra Tech Rizzo</b> One Grant Street Framingham, MA 01701		
Project	Date	Report No.
Applegate Farms	07-29-2010	1
Location	Project No.	Sheet 1 of
Coffee Street, Medway, MA	127-21583-09006	2
Contractor	Weather	Temperature
Canesi Bros. Inc.	A.M. SUNNY P.M.	A.M. 88 P.M.

### FIELD OBSERVATIONS

On Thursday, July 29, 2010, Steven Bouley from Tetra Tech Rizzo visited the construction site to inspect and observe the demolition of a section of the existing field stone wall along Ellis Street at the proposed entrance location to Applegate Road and the installation of the rip-rap construction entrance at that location.

#### I. Observations

- A. TTR was on-site to inspect the installation of the construction entrance at the Ellis St. entrance to the site. An approximate 30' section of the existing field stone wall was removed in order to create an entrance onto proposed Applegate Road. Topsoil and roots were removed from the location and stockpiled. The area near the existing pavement on Ellis street was excavated down to suitable material and filled with gravel to form the base for the construction entrance.
- B. The town expressed dislike with the 1 ½" stone at the Coffee Street construction entrance. The stone was shifting around as vehicles entered/exited the site and a lip was once again forming to the newly paved Coffee Street. I expressed to Mr. Canesi that the 1 ½" stone at the entrance would need to be replaced with a larger size (3"-5" stone) in order to properly maintain the entrance and reduce any damage to Coffee Street. Mr. Canesi stated the quarry did not have 3"-5" stone available so a 6" size was delivered.
- C. The 6" stone was placed at both entrance locations to the satisfaction of TTR.
- D. Haybales were placed in the location from approximate STA 10+50 to STA 9+00. A temporary sediment basin was excavated at approximate STA 9+00.

### CONTRACTOR'S FORCE AND EQUIPMENT

### WORK DONE BY OTHERS

Sup't		Bulldozer	1	Asphalt Paver		Dept. or Company	Description of Work
Foreman	1	Backhoe		Asphalt Reclaimer			
Laborers		Loader		Vib. Roller			
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.	1	Bobcat		Vib. Walk Comp.			
Carpenters		Hocram		Compressor			
Masons		Excavator	1	Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tree Remover			
Surveyors		Conc. Mixer		Chipper			
		Conc. Truck		Screener			
		Pickup Truck		Drill Rig			
		Dump Truck 6 Whl		Boom Lift			
		Dump Truck 10 Whl		Water Tank			
		Dump Truck 14 Whl		Lull			
		Dump Truck 18 Whl		Gradall			

### OFFICIAL VISITORS TO JOB

### RESIDENT REPRESENTATIVE FORCE

Police Details: n/a	Name	Name
Time on site: 12:00 P.M.-12:45 P.M.		
CONTRACTOR'S Hours of Work:		
	Resident Representative Steven Bouley	

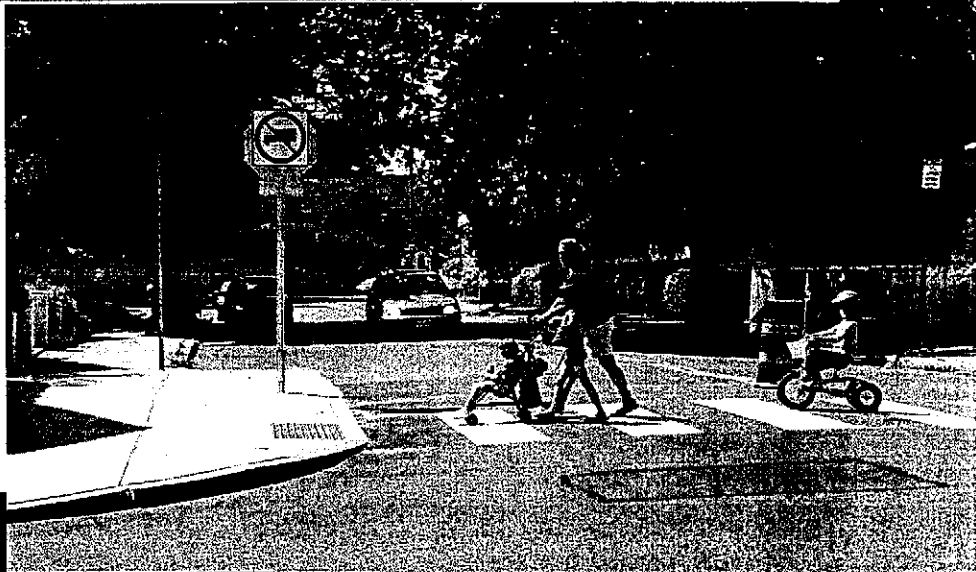
Project Applegate Farms	Date 07-29-2010	Report No. 1
Location Coffee Street, Medway, MA	Project No. 127-21583-09006	Sheet 2 of 2
Contractor Canesi Bros. Inc.	Weather A.M. SUNNY P.M.	Temperature A.M. 88 P.M.

**FIELD OBSERVATIONS CONTINUED**

2. Schedule
  - A. Canesi will inform TTR of any plans to work at the site in the future.
3. New Action Items
  - A. N/A
4. Previous Open Action Items
  - A. The stone at the construction entrance to the site on Coffee Street was shifting creating a lip up to the pavement in Coffee Street.
  - B. Haybales are to be placed at the lowest point of the site in the approximate location of STA 10+50 to STA 9+00.
  - C. Organic/silty subsoil material shall be removed from the proposed limits of the roadway. Canesi has proposed that this be completed when the next excavation occurs within the areas noted in item 1 above.
  - D. Organic/silty subsoil material, and roots shall be removed from the proposed limits of the roadway. If boulders encountered in subgrade are disturbed by other excavating activities they shall be removed from the roadway Right-of-Way. Canesi has proposed that this be completed when the next excavation occurs within the areas noted.
5. Materials Delivered to Site Since Last Inspection:
  - A. N/A

# 2010

## The Boston Region's Pedestrian Transportation Plan



**MAPC Project Team**

David Loutzenheiser

Alison Felix, AICP

**Contributors**

Mariana Arcaya

Anna Biton

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Jessie Grogan

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Jennifer Raitt, AICP

**Advisory Committee**

Rosalie Anders, City of Cambridge

Clark Brewer, Town of Cohasset

Cathy Buckley, Boston Region MPO

Cindy Campbell, Commonwealth of Massachusetts, Highway Safety Division

John DePriest, AICP, City of Chelsea

Mark Fenton, Town of Scituate

Victoria Fletcher, Town of Stow

Chris Hart, Institute for Human Centered Design

David Koses, AICP, City of Newton

Karen O'Connell, Town of Dedham

Lea Susan Ojamaa, Massachusetts Dept. of Public Health

Steve Olanoff, Town of Westwood

Bob Sloane, Walk Boston

Julie Vaughn, Town of Concord

This document was prepared for the Boston Region MPO. Its preparation was supported by 3C Transportation Planning Funds and by state and local matching funds. Massachusetts Department of Transportation Contracts 0056010 and 0059795 and EOTC Section 5303: MA-80-0003 and MA-80-0004.

This report was funded in part through grants from the Federal Highway Administration of the U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policies of the U.S. DOT.

This study was conducted under the direction of the **Boston Region Metropolitan Planning Organization**. The MPO is composed of state and regional agencies and authorities, and local governments. The **Metropolitan Area Planning Council (MAPC)** was the principal author of this report. MAPC is Greater Boston's regional planning agency whose mission is to promote smart growth and regional collaboration in Metropolitan Boston.

June 2010

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*Cover Photo Locations – Top – Cambridge, Bottom – Downtown Boston.*

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## The Boston Region's Pedestrian Transportation Plan

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## The Boston Region's Pedestrian Transportation Plan

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### Executive Summary

The benefits of walking, such as improving public health, fostering connected communities, decreasing automobile dependence, and reducing air pollution are highlighted in the Boston Region's Pedestrian Transportation Plan (PedPlan2010). There is an increasing need and responsibility to give people the opportunity to walk. PedPlan2010 addresses the importance of walking and what can be done to facilitate and promote it as a viable mode of transportation.

Unfortunately, years of auto-centric public policy decisions have established a transportation system that has not created infrastructure equivalent for pedestrians. As a result, impediments to pedestrian travel have been created that can make walking difficult and dangerous in both urban and suburban communities. Transportation issues such as traffic congestion and speeding vehicles, inefficient snow and ice removal, walkway<sup>1</sup> maintenance, and infrastructure design that accommodate pedestrians are some examples of these impediments. Implementing the recommendations outlined in PedPlan2010 will help to remove these impediments and accomplish the goal of increased walking throughout the Boston region.

PedPlan2010 identifies actions local governments, advocacy organizations, the private sector and individuals should take to encourage walking. At its core, PedPlan2010 is a planning document that describes the existing pedestrian infrastructure in the Boston region's 101 cities and towns, and recommends policies and practices that will facilitate walking as a convenient, safe, and practical form of transportation.

#### *Key Challenges:*

- Walking can be difficult and potentially hazardous. Only about half of the region's road and street network has walkways.
- Few commuters walk to work. Only 5.7 percent of commuters walked to work in the Boston Region in 2000. The percent of walking commuters was slightly higher in the Boston Region compared to Massachusetts (4 percent). Within the Boston Region, the percent of those who walked to work ranged from as high as 24 percent in Cambridge to as low as 0 percent in Middleton. There is room to make walking an option for more commuters.
- According to the Centers for Disease Control, the Massachusetts' adult population obesity rate among Massachusetts adults increased from 10-14 percent of the population in 1998 to 20-24 percent in 2008. Almost 25 percent of Massachusetts high school students are overweight or are at-risk of becoming overweight. Obesity can decline if people walk more.

#### *Key Recommendations:*

- Municipalities should work with appropriate stakeholders and use PedPlan2010 to develop and implement a comprehensive pedestrian plan for their city or town. The comprehensive pedestrian plan will recommend ways to complete the pedestrian network, integrate well-designed pedestrian infrastructure into the built landscape, and develop measures to adequately fund maintenance and operation programs.
- Educate the public about the benefits and means of incorporating walking into their daily lives. The pedestrian plan provides information on educational programs that encourage walking. Participation in these programs will increase the health, safety and physical activity of the public.

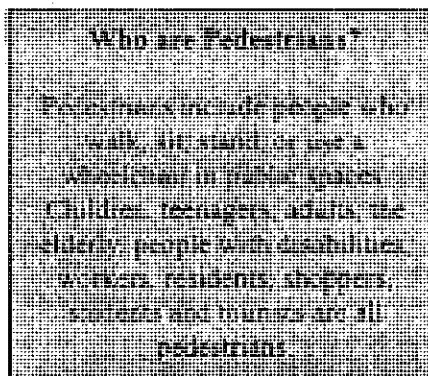
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<sup>1</sup> Walkways comprise all facilities that carry pedestrians. This includes sidewalks, paths, shared streets and shared-use paths.

## 1. Introduction

### *Importance of Walking*

Walking is central to our lives; is a component of virtually all trips; and has positive health environmental and community benefits. Increased walking improves public health and reduces car dependence. In turn, reduced car dependence will ease traffic congestion, improve air quality, and decrease emissions that lead to global warming. Furthermore, strong pedestrian infrastructure can encourage centers of commerce, employment, education, and play that increase community vitality and accessibility for people with disabilities.



Every trip involves walking, alone or in combination with public transit, motor vehicles or bicycles. Pedestrians include people of all ages from children to older adults as well as people with visual, mobility, and sensory impairments, such as those who use wheelchairs. Efforts to accommodate persons with disabilities should be a priority in the development of any pedestrian improvement plan.

The National Cooperative Highway Research Program (NCHRP) describes walking and the importance of the pedestrian:

Walking is a basic human activity, and almost everyone is a pedestrian at one time or another...Even though pedestrians are legitimate roadway users, they are frequently overlooked in the quest to build more sophisticated transportation systems. Whether building new infrastructure or renovating existing facilities, it should be assumed that people will walk, and plans should be made to accommodate pedestrians. Where people aren't walking, it is often because they are prevented or discouraged from doing so.<sup>2</sup>

The deficiency of appropriate facilities for pedestrians contributes to physical inactivity. Communities need to provide environments that promote walking and engage residents in physical fitness. In turn, increased pedestrian activity promotes health benefits such as weight control, lower blood pressure, stress reduction, and sleep improvement.



### *What Does this Plan Do?*

It is sometimes stated that there is no point in providing or improving pedestrian facilities because there are no pedestrians in that area. This neglects the fact that the lack of pedestrians may be directly related to the quality or absence of pedestrian infrastructure such as sidewalks or crosswalks.

PedPlan2010 seeks to steer every community toward implementing a pedestrian plan on a local level, whether by improving or establishing a plan to maintain or enhance its existing pedestrian facilities or by

<sup>2</sup> The National Cooperative Highway Research Program (NCHRP) Report 500, Volume 10, A Guide for Reducing Collisions Involving Pedestrians, 2004, page I-1.

## The Boston Region's Pedestrian Transportation Plan

developing a strategy to create a pedestrian plan where few if any facilities exist. Most importantly, whether a community is urban, suburban, or quasi-rural, PedPlan2010 seeks to increase awareness of transportation by foot as a fundamental element of the region's overall transportation network and a critical means of promoting public health. Finally, PedPlan2010 provides individual communities with a variety of measures that can be implemented on a cost-effective basis, taking advantage of federal, state, and local funding opportunities or scheduling pedestrian improvements to coincide with other planned infrastructure developments to maximize the level of improvements to be gained with less capital investment.

### Major Types of Pedestrian Trips

#### Terminal Trips

Trips made to and from home or points associated with transportation modes such as parking lots, bus stops, and transportation stations.

#### Utilitarian Trips

Trips made to carry out a specific function, such as business trips related to work or personal errands, trips that involve shopping, dining or going to a doctor's office.

#### Recreational Trips

Trips made for purposes related to leisure time or for purposes such as going to the beach, concerts, and sporting events. Recreational trips also include social activities, which walking is one of the primary purposes.

Source: American Planning Association and Urban Design Studio, February 1997



**August 24, 2010 Meeting  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Chan Rogers, Tom Gay, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:** Bob Tucker

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates Planning Consultant  
Dave Pellegrini, Tetra Tech Rizzo

The Chairman opened the meeting at 7:00 pm.

**September 14, 2010 PEDB Meeting:**

The Board was made aware that no public hearings can occur on Tuesday, September 14, 2010 as that is the State Primary. A meeting can occur, but no public hearings can be scheduled.

**Planning & Economic Development 2011 Meeting Schedule:**

- **On a motion made by Tom Gay and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adopt the Planning & Economic Development 2011 Meeting Schedule as written.**

**CORRESPONDENCE:**

The Board is in receipt of a memo in relation to a SWAP legislative Breakfast which is taking place on September 24, 2010 at 10:00 am in Medway at the Senior Center.

Member Rogers noted that this is a good thing for Medway since the legislators will be attending. This is an important meeting for PEDB members to attend.

**Williamsburg Way OSRD Bond Estimate:**

Tetra Tech Rizzo prepared a draft bond value estimate for the Williamsburg Way OSRD Definitive Subdivision. The first estimate indicated the cost would be \$293,269.00. Since the preliminary draft estimate, Consultant Pellegrini has revised the amount to \$242,206. The items which were revised included the unit cost for 8" HDPE Pipe along with the unit cost for the light poles.

**On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted unanimously to approve the initial bond amount for the Williamsburg OSRD in the amount of \$242,206.**

**On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to sign the tri-party agreement with Walpole Cooperative Bank for Williamsburg Way.**

**Charles River Village OSRD Public Hearing:**

The Chairman opened the Public Hearing for the proposed Charles River Village condominium community. The subject parcel is a 7.6 acre site located at the end of Neelon Lane and abutting the Charles River.

The applicant is Charles River Village LLC. They have applied to the Planning and Economic Development Board for an Open Space Residential Development Special Permit and an Affordable Housing Special Permit.

The Chairman informed all that for the benefit of those present in the audience, to please be aware that the meeting will be videotaped and broadcasted live on Medway local cable access.

The Chairman introduced the Board members , Karyl Spiller-Walsh, Chan Rogers and Tom Gay. Board member Bob Tucker was not able to attend the meeting. However, he will review the notes and the videotape of this meeting.

The Chairman reminded all that the Zoning Bylaw requires that an OSRD project must go through a 3 phase review process with the Board. The first phase is an informal pre-application meeting that is held during a regular Board meeting to discuss basic ideas. The second phase is to apply for a special permit for the initial concept plan. This involves a public hearing and its own decision. If the special permit and concept plan are approved, the applicant then proceeds to the third phase to prepare the detailed engineering plans for the definitive plan review and action. That is submitted for then another public hearing and final decision.

This project is presently at the second phase in the review process. The first phase informal, pre-application discussion took place in January 2010. An application for the second phase OSRD Special Permit and Affordable Housing Special Permit was submitted to the Town on July 28, 2010. It was forwarded immediately to Gino Carlucci, our planning consultant, to review for compliance with the OSRD section of the Medway Zoning Bylaw. On August 2, 2010, Charles River OSRD concept plan was circulated to Town boards and departments for their review. A briefing for Town staff and other boards/committees was held August 12, 2010.

The public notice requirements for this project have been satisfied. On August 2, 2010 a notice was sent by certified mail to all owners of property located within 300 feet of the development site. The official legal notice for this public hearing was posted at the Medway Town Clerk's office on August 2, 2010 and was published in the *Milford Daily News* on August 9 and 17, 2010. Information about this development proposal was also posted to the Town's web site on August 2, 2010.

**On a motion made by Karyl Spiller- Walsh, and seconded by Tom Gay, the Board voted unanimously to dispense with a formal reading of the official public hearing notice.**

A copy of the public hearing notice is attached to these minutes.

The rules on how the public hearing will proceed were explained by the Chairman. The applicant's official representative will introduce himself and the members of the development team. They will make a brief presentation to describe their proposed project. That presentation will be followed by questions from members of the Planning and Economic Development Board. The applicant will respond to those questions. Consultant, Gino Carlucci will summarize his review comments which the applicant may respond to. The public will then have an opportunity to speak. After all citizens attending the public hearing have been given the opportunity to speak, we will then move to any Town staff and representatives of other Town boards or committees. Before we conclude the public hearing for the night, we will summarize a list of concerns and additional information that the Board wants the applicant to provide. It was further explained that based on the information gathered and the comments received, the Board will determine the next steps. The Chairman also communicated that he would like to schedule a site visit to become more familiar with the property. The public was informed that the abutters will not be re-notified regarding the next public hearing date. Susy Affleck-Childs will post a public hearing continuation notice with the Town Clerk and on the Town's web site. You may call the Town's Planning and Economic Development office at any time to check on the date and time.

Mr. Yorkis, and the development team were introduced which included Dan O'Driscoll, land surveyor, David Faist, engineer and Lowell Robinson, landscape architect. Mr. Yorkis began his slide show presentation by stating that the application of Charles River Village concept plan was submitted on July 28, 2010 and was prepared by Faist Engineering.

The Charles River Village LLC proposes to develop a thirteen unit cottage style residential condominium community. This is a 7.61 acre parcel located at 6 Neelon Lane. The applicant, Charles River Village LLC, is the prospective buyer/developer of the property. Mr. Yorkis indicated that two of the thirteen homes will be "affordable" for households earning at or below 80% of the metropolitan area's median income. The homes will range in size from 1500 to 2400 square feet; each home would have 3 bedrooms and a garage. The concept plan includes two parcels totaling 4.2 acres dedicated to open space including the entire width (400 ft) of the parcel's frontage along the Charles River. This will all be accessible to the general public.

It was further explained that the access to Charles River Village from Village Street is proposed through the end of Neelon Lane. Mr. Yorkis communicated that the plans show that there will be an upgrade to the entire existing length of Neelon Lane to a full depth, 18' paved width. The applicant will also construct a 150' southerly extension of Neelon Lane including a turnaround which will be deeded to the Town. At the new end of Neelon Lane at this turnaround, the applicant proposes to construct 445 linear feet of an 18' width, 2 way roadway to access the 13 new residences. This portion of the roadway will be privately owned and maintained by the future condominium association. Mr Yorkis continued to explain that it is proposed that a 10' wide gravel access pathway between the site and Cherokee Lane will be installed to be used for emergency purposes only. It is also planned that Town water and sewer and the installation of two fire hydrants.

Mr. Yorkis communicated that in November 6, 1959, an ANR plan showing Neelon Lane with a ROW width of 25 feet was endorsed by the Medway Planning Board. A copy of that ANR plan was provided to the Board. Over time, the paved width of Neelon Lane has varied. Mr. Yorkis



informed the Board that the applicant is not proposing the increase the Neelon Lane ROW. The applicant is proposing to construct 18' width of pavement within the roadway layout.

**Certification from Town Clerk:**

Mr. Yorkis provided a certification from Town Clerk Maryjane White of a transcription of the Town Meeting record dated April 6, 1863 regarding the use of Francis Neeland and others in passing from the house of said Neeland to the old Hartford road (so called) a private way. That Town Meeting vote indicates the road width at 25 feet. A copy of the handwritten notes of that Town meeting was also provided.

Mr. Yorkis also presented a certification from the Town Clerk that Neelon Lane was on the list of accepted streets furnished to the Town Clerk in 1991 when she started.

Both documents are attached to these minutes.

**Fire Department Document:**

Mr. Yorkis provided memo dated August 23, 2010 from Fire Chief Paul Trufant. The memo indicated that upon review of the preliminary plan, the Chief has no problem or issue with the proposed 18 foot paved width of Neelon Lane. The design of the new turnaround is suitable for emergency vehicles both in and out of the complex. The memo also notes that the width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of the fire hydrants of Neelon Lane, within the complex, and on the access road in from Cherokee is acceptable. A copy of that memo is attached to these minutes.

Dan O'Driscoll, the applicant's Land Surveyor explained the history of the deeds. The eastern abutting property is 21.28 and not 25 feet. On one of the lots, four feet of strip is missing.

Member Rogers explained that the abutting property owners may not have as much area as noted on their deed.

The Chairman wanted clarity on who does this deficit lie with?

Mr. Yorkis responded that he is not sure that we need the answer to that. If a decision is rendered that the paved surface is within 18 feet layout less than 25 feet, this will not effect or harm the property owners and will not have to be addressed.

The Chairman wanted to know how the sidewalk will be placed within the existing width.

Mr. Yorkis repeated that the applicant is proposing an 18 foot wide paved surface within Neelon Way.

The Chairman feels that this is a legal question on where the 25 feet lie.

Mr. Yorkis reminds all that this is currently a public way which has been maintained as such for many years.

The next piece of correspondence reviewed was from the Director of Public Service Tom Holder.

**Director of Public Services:**

A memorandum from Thomas Holder, Director of Public Services dated August 24, 2010 was presented to the Board. The memo noted four infrastructure components which need verification.

1. Verification of adequate fire flow rates.
2. Verification that the proposed sewer system is designed to meet invert grades at the referenced manhole to allow for gravity sewer flow throughout the project.
3. Verification that the travel path is sized to an appropriate radius to allow for turning movements of any anticipated vehicles and equipment such as firefighting apparatus, snow plows, and garbage haulers. The snow storage along Neelon Lane also should be identified.
4. Verification that the planned private development, the operation and maintenance of any and all stormwater infrastructure including discharge characteristics will be the responsibility of the homeowners association.

A copy of Mr. Holder's memo is attached to these minutes.

**Engineer, David Faist:**

His presentation informed all that this is the second phase of the site planning and permitting process. This is spatial orientation. This project will minimize the paved area. There are no drainage calculations required in this phase of the plan development.

**Consultant Gino Carlucci's Review:**

Consultant Gino Carlucci provided a memo to the Board dated August 24, 2010. A copy of that memo is attached to these minutes.

The memo notes that following issues:

1. The narrative in the application does not specifically address the 11 bylaw OSRD purposes. Consultant Carlucci finds that a case can be made that it meets 8 of the 11 standards.
2. The proposal does meet the requirements of Section T2 I in that the parcel is within the AR-II district.
3. Section T.4 requires that a pre-application meeting be held with the Board. This was satisfied.
4. Section T.5 requires that a 4 step design process be performed by an RLA. The applicant has submitted a statement indicating usage of the four-step process.
5. The concept plan is requires to be prepared by a Registered Landscape Architect. This concept plan appears to have been prepared solely by the engineer and surveyor. This concept plan needs to be stamped for a Registered Landscape Architect.
6. The standard dimensional requirements for lots do not apply as this will be a condominium project.
7. The requirements for Open Space are met.
8. The applicant has not fulfilled the last two standards. Item J concerning parking. A minimum of 2 spaces per dwelling unit is required. This is shown on the plan, but the additional off-street spaces are not shown. The last standard relates to the sidewalks. There are currently no sidewalks proposed.

**General Recommendations were made:**

- The public way status of Neelon Lane should be confirmed.
- Assuming that Neelon Lane is a Public Way, it is under the control of the Board of Selectmen so the Selectmen would need to authorize any work done within the ROW.
- The elevations of the buildings need to match the footprints shown on the Concept Plan.
- A trail through Open Space needs to be included.
- Section 7.1 of the Subdivision Rules and Regulations requires that “Reasonable provisions shall be made for extension of pavement and utilities to adjoining properties.” The current property leaves the abutting property with 131 feet frontage. Adding 19 feet would make the abutting parcel a conforming lot. Shifting the cul-de-sac slightly to the east to abut the adjacent property would provide for a future extension off the cul-de-sac and provide more efficient use of the land in the future.
- The details of the gravel access path for emergency vehicles are not clear.

The discussion was opened to the public:

**Attorney Thomas Valkevich:**

A letter dated August 24, 2010 was submitted by Attorney Thomas Valkevich. He was present to represent Mary E. McDonald of 9 Neelon Lane. A copy of Mr. Valkevich’s letter is attached to these minutes.

The Attorney noted a variety of issues:

1. Access to the Site over Neelon Lane. As noted in the Town Meeting document recorded in 1863, Neelon Lane was laid out as a private way. This is known as a “statutory private way”. It is his opinion that the applicable statutory reference is Chapter 82 of the General Laws, Section 21 through 24. Such ways have a different legal status than a public way.

2. There is a question about the overwrite changing “house” to “barn” and the layout as shown on the existing plan may be inaccurate.

3. A statutory private way is not a public way or a way maintained and used as a public way for the purpose of the Subdivision Control Law. As a Land Division under Part &2., c it would appear that the access does not qualify.

4. The proposal requires changes to the usage of Neelon Lane. For the Town to impose such restrictions on a parcel that is not part of the ownership parcel of the developer is beyond the Board’s authority, and would require additional takings by the Town of the rights of abutting owners or their mutual consent.

Attorney Valkevich believes that the proposed plan does not comply with the Zoning Bylaw. The access over Neelon Lane is not in harmony with the character of the adjacent residential neighborhoods. It will have a detrimental impact on abutting properties, which impact can be mitigated by accessing the site over existing public way Cherokee Lane, instead of over the statutory private way of Neelon Lane. He further explains that the proposal fails to comply with the existing rights of parties on Neelon Lane and the proposal does not meet the standards set out

in the purpose section of the site plan review, sections C.1 (c) (3), (8), (9), (10) and (11). It is the opinion of Attorney Valkevich that the Board does not have the authority to alter the nature of the accepted private way.

Attorney Valkevich concluded by noting that the plan as drawn lays out a way and culdesac which does abut the McDonald parcel. There exists a gap between the layout on the developer's parcel and the McDonald parcel. Leaving such a "Spite Strip" is contrary to sound planning practices.

**Abutter, Mary McDonald, 9 Neelon Lane:**

Ms. McDonald wanted the Board to know that she is opposed to this project due to the noted issues:

- Safety of street (narrow width) to provide access for emergency vehicles.
- There are also environmental issues. 55 gallon oil drums were taken off the site. There was an oil spill on property and Ms. McDonald is waiting for the test results.
- Blasting is another concern along with the effect of that on her artisan well.
- This area has a high water table.
- There are existing springs.
- The devaluation of her property
- There will be privacy issues once the trees are cut.
- There has been no drainage plan submitted.
- The OSRD Section notes that this land must be left in its natural state and be accessible to the public. The plan does not show this.
- Ms. McDonald's engineer Guerriere and Halnon noted a discrepancy with the measurements. This will be provided to the Board.
- A buffer zone would be needed. This is not noted.
- Parking is a major issue and has not been shown of the plan.
- The added traffic will cause a hazard. Will a traffic study be completed?

**Abutter, Michelle Newell, 2 Neelon Lane:**

Ms. Newell is concerned about her setback. She is opposed to this development. It was suggested by Ms. Newell that the Board get a letter from the Safety Officer regarding the safety, and traffic issues.

Member Gay indicated that this would not make her lot more non-conforming.

The Chairman informed her that she may already have a defective title.

**Abutter, Joanne Kramer, 231 Village Street:**

Ms. Kramer is concerned about the following:

- Her backyard is currently very wet. She believes that she will have a bigger water problem when the trees come down as the site is cleared.
- Privacy is another issue.

- Ms. Kramer believes that there will be trespassing onto her property (to cut thru to Village Street) from the new houses along with an increase in the noise level.
- She wanted to know if anyone has looked at the wildlife in this area. The Chairman recommended that she go to a Conservation Commission meeting.

**Abutter, Susan DiIulio, 7 Massasoit St:**

- Concerned about the slope.
- Traffic around corner is a concern and will invite more people through her neighborhood.
- Trespassing is a concern.
- Her house is located in the middle and will be looking over everything.
- Water within the fields is an issue.

She would like to have a site walk with the members of the Board to discuss this.

**Resident, Teresa Proctor, 8 Charles River Rd.**

- Her concern is that the water is currently not going where it is supposed to go and if you cut more trees, there will be more water.
- Her second concern is that this area is already very congested and she wants to know how the parking of the new residents will impact the traffic flow.

The Chairman informed her to call the DPW if there is a current water problem on her street.

**Resident, Bruce Hamblin, 17 Crestview Avenue:**

He would like it noted that he is speaking as a resident and not voicing the opinion of the Open Space Committee which he is a member of. He notes several points.

- He feels that the looped waterline is a good thing and fire hydrants are needed.
- Mr. Hamblin suggested having sidewalks on the opposite site.
- It is the job of the applicant to invite the people to access/use the open space in a positive way.
- The design concept should invite the people to use it. The roadway could have three points of access with a paved right of way with the inclusion of bike racks.
- The number of units is too many.
- The Riverview right of way could be extended in a way that it could be used for a parking lot.

**Abutter, Marielaina Kaplan, 221 Village St:**

- Her concerns are about the row of trees on her property and whether the trees will be taken down with the roadway paving. These trees currently provide buffer for noise and privacy. These were not noted on the plan.
- She was also questioning why the no parking and standing signs were not noted on the plan.

**Charles River Tennis Representative:**

Concern:

- Removal of Trees

- More water on courts
- Topography of land

**Abutter, Ken Bancewicz, 223 Village St.:**

Mr. Bancewicz wants to know if there will be a change to the layout of the intersection at Village and Neelon. He is also concerned about the lights shining onto neighbors when turning into Neelon Lane.

The Chairman noted that the plan showed flared corners and it is not indicated on the plan.

The Chairman recommended that the Board seek legal counsel in regards to the public versus private way. He also wanted clarity about the sidewalks and parking.

**Resident, 231 A Village St.:**

This resident wanted to inform the Board that the previous owner of this parcel of land used to own a tree farm. He was questioning what happens if it is zoned as a tree farm.

Consultant Carlucci communicated that it may be classified as a 61 exemption which would have to be researched by the Assessors.

Mr. Yorkis communicated that the applicant is proposing an 18 foot wide road. Presently the paved road width is variable. This will be a total rebuild. He made it clear that he cannot make decisions on his own. There are some items which still need to be addressed by the DPW. He disagrees with the assumption about more parking being needed for visitors. This area will have trails and it will be open. He welcomes a site walk and wants input from the abutters.

Consultant Carlucci did respond that the Board needs insurance of the 25 feet and further clarity on how the road and sidewalk will fit in.

Affleck-Childs wants confirmation that the access is adequate. As far as sidewalk construction, that could be made a condition of the decision.

Mr. Yorkis communicated that the applicant is not proposing a sidewalk on Neelon Lane at this time. It is their belief that this is in fact a public way and not a private way and has been maintained as such with the town taking care of the trash, and utilities for more than fifty years. The Town must resolve this issue. The applicant is not trying to harm anyone and will minimize the impact on all residents. He agrees that we must get clarity for all. Mr. Yorkis noted that during the prior meetings with the Board, the Board did not raise concern about the sidewalks. He appreciates the excellent comments and will respond back with answers to all the questions along with providing a revised plan.

Member Spiller-Walsh wants the road layout to proceed. She further explains that the four step design process has not been done.

Dan O'Driscoll responded that the plans may have encroached but the current plans show existing recorded deeds.

The Chairman wanted to know what the Landscape Architect has done.

Lowell Robinson noted that he has not put his ideas to paper yet. He confirmed he had walked the site and discussed it with the design engineer.

Member Gay communicated that the ROW problem appears to be on the west side of Neelon Lane.

The Chairman responded that the plans and deeds may be wrong.

Member Spiller-Walsh explained that Neelon Lane is not the only access to property, but the least difficult for the developer.

The Board would like to have a site visit Thursday September 9, 2010 at 5:30 pm.

The Board will continue this public hearing on Tuesday, September 28, 2010 at 7:15 pm.

**Restaurant 45/45 Place:**

Member Tom Gay visited the site on two occasions to review the as-built plans. He distributed a letter dated August 24, 2010 sent to Mr. Mark Smith regarding the as-built plans for the Restaurant 45/45 Place Site Plan as prepared by Faist Engineering. The letter references several items:

- As-Built Plan was not drawn with same orientation as the original plan.
- The east side curbing detail on Milford Street entrance at the north-west corner of the site does not seem to represent the curve and angle from the drain to the back to the sidewalk.
- The entrance detail at the north-west corner does not extend far enough into the parking lot.
- The curbing around the corner at the east point should be angled and not rounded.
- The dumpster enclosure is not the proper size nor shape.

It was recommended in the letter that Mr. Smith revise the plan accordingly and resubmit it to the Board for another review.

**Construction Report:**

**Franklin Creek Subdivision**

The Board is in receipt of a field observation provided by Tetra Tech Rizzo. This was dated August 16, 2010. The report noted that the retaining wall was constructed with segmented blocks and not of stone as indicated on the definitive plan. Mr. Pellegrini, the Tetra Tech consultant indicated that there appeared to be no issues with the structural integrity of the wall. Photographs of the segmented block wall were provided within the packet. After discussion, the Board agreed that a letter be written to request that this wall be brought into compliance with the plan by having a field stone surface.

**On a motion made Tom Gay and seconded by Karyl Spiller-Walsh, the Board voted unanimously to send a letter to the contractor Wood Structure requesting that the wall be brought into compliance. Chan Rogers abstained from vote.**

**Ideas for Zoning Bylaw Amendments:**

Susy Affleck-Childs would like the Board to look at the packet titled Ideas for Zoning Bylaw Amendments and Other Possible Town Meeting Warrant Articles and decide what will be the priority for the 2011 Annual Town Meeting.

**Minutes:**

**July 12, 2010:**

The minutes from July 12, 2010 will be tabled until the next meeting.

**August 10, 2010:**

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to approve the minutes of August 10, 2010.**

**Future Meetings:**

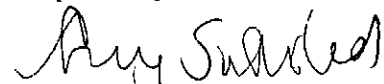
The next meetings scheduled are: **Tuesday, August 31, and September 14, & 28 2010.**

**Adjourn:**

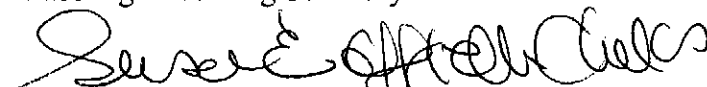
- **On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers , the Board voted unanimously to adjourn at 11:30 PM.**

The meeting was adjourned at 11:30 PM.

Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary



Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator





**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*

DRAFT – August 18, 2010

**PLANNING & ECONOMIC DEVELOPMENT BOARD**  
**2011 MEETING SCHEDULE**

The Planning & Economic Development Board generally meets  
on the second & fourth Tuesday evening of each month  
at 7:00 p.m. in Sanford Hall at Medway Town Hall, 155 Village Street.

The dates for the regular meetings for 2011 are as follows:

January 11 and 25, 2011  
February 8 and 22, 2011  
March 8 and 22, 2011  
April 5 and 26, 2011  
May 10 and 24, 2011  
June 14 and 28, 2011  
July 12 and 26, 2011  
August 9 and 23, 2011  
September 13 and 27, 2011  
October 11 and 25, 2011  
November 8 and 22, 2011  
December 13 and 27, 2011

Special meetings and site visits will be scheduled as needed.  
Some meetings may be rescheduled due to summer vacations and holidays.

Meeting agendas are posted outside the office of the  
Town Clerk on the Friday morning before the Tuesday night meeting

Agendas may also be viewed online at [www.townofmedway.org](http://www.townofmedway.org)

Most meetings are televised live on Medway Cable Access – Channel 11.

**August 2010**

## **Permit Extension Act Passes as Part of Economic Development Reorganization Act**

Just before ending its 2010 Session on July 31<sup>st</sup>, the Massachusetts Legislature passed significant economic development measures which included the much-anticipated Permit Extension Act of 2010 (the "Act"). The Governor's signature on August 5<sup>th</sup> thus created an immediate and automatically effective extension of currently existing permits and resuscitation of recently expired permits.

Any "approval" issued by any Massachusetts state, regional, or municipal entity that concerns the use or development of real property that was in effect at any point from August 15, 2008 through August 15, 2010 is automatically extended for two years beyond the lawful term of the permit. For example, a municipal residential building permit that expired on June 30, 2010 is now automatically resuscitated and extended to June 30, 2012 without the need for any additional applications or approvals. Similarly, a qualified state environmental permit issued on August 1, 2010 with a natural termination of August 1, 2012 is automatically extended to expire on August 1, 2014. To the extent a permitted development relies upon connection to a sanitary sewer system, the extension is contingent upon the availability of sufficient capacity. If capacity is insufficient, the allocation of gallonage will be prioritized to permit holders that received hookup approval before the effective date of the Act and further prioritized to the first approved permit.

"Approval" is broadly defined to include virtually any type of permit, certificate, order, license, certification, determination, exemption, variance, or waiver concerning the use or development of real property issued by a municipal, regional, or state governmental entity.

"Development" is also broadly defined as the subdivision of a parcel, the construction, reconstruction, conversion, alteration, relocation, or enlargement of a building or other structure, the change of use of the land or improvements, or grading, soil removal or relocation, excavation, or landfill. While these definitions cover most permits issued by state and local agencies, permit holders should carefully confirm that any particular permit falls within the benefit of the statute. For example, the Act does *not* extend comprehensive permits issued by a board of appeals under Chapter 40B and does not apply to enforcement orders.

If a property or project is transferred, the commitments of the original permit holder outlined in the permit must be upheld by the new permit holder in order for the two-year extension to apply. This provision does not add any new burdens in most instances because many permits already require that commitments be assumed by successive permit holders.

Other than providing the extension, normal rules still apply to permits. For example, the permit issuing authority may revoke or modify any given approval if the approval, or the law under which the approval was issued, allows for revocation or modification.

The effect of the Act is wide ranging. Some "shovel-ready" projects facing permit deadlines but struggling with financing may otherwise have had to abandon projects or expend time and money on reapplication or renewal of approvals. Financial institutions that have already extended financing to developers may see more stable collateral value as projects are pursued rather than abandoned. Observers hope that the permit extension measure will

encourage development, job creation, and financing availability at nominal cost to the state.

McCarter & English LLP can assist in evaluating the Act and its applicability. We have attorneys with extensive experience in all aspects of real estate development.

**For further information, please contact:**

Leigh A. Gilligan  
617.449.6520  
[lgilligan@mccarter.com](mailto:lgilligan@mccarter.com)

Cynthia B. Keliher  
617.449.6527  
[ckeliher@mccarter.com](mailto:ckeliher@mccarter.com)

Diane M. McDermott  
617.449.6530  
[dmcdermott@mccarter.com](mailto:dmcdermott@mccarter.com)

Kevin J. Toomey  
617.449.6545  
[ktoomey@mccarter.com](mailto:ktoomey@mccarter.com)

Patrick C. Toomey  
617.449.6541  
[ctoomey@mccarter.com](mailto:ctoomey@mccarter.com)

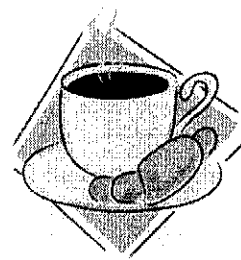
Burton Winnick  
617.449.6515  
[bwinnick@mccarter.com](mailto:bwinnick@mccarter.com)

Disclaimer by McCarter & English, LLP: This publication is for informational purposes only and is not offered as legal advice as to any particular matter. No reader should act on the basis of this publication without seeking appropriate professional advice as to the particular facts and applicable law involved.

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McCarter & English, LLP, 265 Franklin Street, Boston, MA 02110

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C/O METROPOLITAN AREA PLANNING COUNCIL  
60 TEMPLE PLACE, BOSTON, MA 02111  
617-451-2770

## SWAP LEGISLATIVE BREAKFAST SEPTEMBER 24, 2010

8:00 AM TO 10:00 AM

MEDWAY SENIOR CENTER

76 OAKLAND ST. MEDWAY, MA

You are cordially invited to join local legislators and community leaders for coffee and pastries and a facilitated discussion on topics of regional interest, including:

- Casino Legislation
- Regionalization of Services
- State Budget/Legislators' Priorities
- Zoning Reform

**Please save the date, and RSVP TO:**

Cynthia Wall  
MAPC SWAP Coordinator  
[cwall@mapc.org](mailto:cwall@mapc.org)

617-451-2770 ext. 2058

SWAP promotes cooperative action on land use, transportation and economic development in the subregion. Plan to take advantage of this opportunity to meet with area legislators.

*Bellingham*  
*Dover*

*Franklin*  
*MAPC*

*Hopkinton*  
*Medway*

*Milford*

*Norfolk*  
*Mills*

*Wrentham*  
*Sherborn*



**To:** Susan Affleck-Childs – Medway Planning and Economic Development Board  
Coordinator

**Fr:** Steven Bouley–Tetra Tech Rizzo

**Re:** **Williamsburg Way OSRD**  
**Review for Partial Bond Release**  
**Medway, MA**

**Dt:** August 20, 2010

---

At the request of the Medway Planning and Economic Development Board, Tetra Tech Rizzo (TTR) has performed an inspection of the Williamsburg Way OSRD in order to prepare a bond estimate for the remaining work and to determine whether the developer has satisfactorily completed the minimum infrastructure improvements as specified in Condition 12 of the approved Certificate of Action dated January 19, 2010 that need to be completed before the board authorizes a release to allow for construction of the dwelling units.

On Monday August 16, 2010, Steven Bouley from TTR performed an inspection to accomplish the tasks specified above. It was our determination that items remain outstanding and must be addressed prior to the board issuing a release. The outstanding items are as follows.

**Condition 12**

1. *Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales, infiltration systems or any other stormwater management facilities. (12.C.3)*
  - Several portions of the drainage system have not yet been constructed, including Forebays #2 and 3, the pipe from Forebay #3 to RES-5, and the Roof Drain Recharge Trench
2. *As-built plan of each detention pond and forebay and all critical elevations and details of the associated structures, pipes and headwalls. (12.C.4)*
  - No As-Built Plan has been submitted
3. *Street name signs in a size and form as specified by the Medway approved OSRD Definitive Plan. (12.C.5)*



- No Street Signs have been installed

4. *Stop line pavement markings.* (12.C.6)

- No pavement markings have been installed

Also, please find attached a draft bond estimate for preliminary discussion. This bond estimate will need to be revised prior to issuance, to include the outstanding items above. Once these items are addressed the attached bond estimate will be finalized and may be utilized by the planning board to assess a proper bond value. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.

P:\21583\127-21583-10002\DOCS\MEMO\MEMO-WILLIAMSBURG WAY BOND RELEASE\_082010.DOC

Project Williamsburg Way OSRD	Date 08-16-2010	Report No. 26
Location West Street, Medway, MA	Project No. 127-21583-10002	Sheet 1 of 1
Contractor Canesi Bros. Inc.	Weather A.M. P.M. SUNNY	Temperature A.M. P.M. 80

On Monday, August 16, 2010 Steven Bouley from Tetra Tech Rizzo visited the project site at the request of the Medway Planning and Economic Development Board to prepare a bond estimate for the remaining work and determine whether the developer has completed the minimum improvements. Our findings will be summarized in a corresponding memorandum and estimate, however the items below represent outstanding items which are required prior to release:

- ### CONTRACTOR'S FORCE AND EQUIPMENT

Sup't	Bulldozer	Asphalt Paver		Dept. or Company	Description of Work
Foreman	Backhoe	Asphalt Reclaimer			
Laborers	Loader	Vib. Roller			
Drivers	Rubber Tire Backhoe/Loader	Static Roller			
Oper. Engr.	Bobcat	Vib. Walk Comp.			
Carpenters	Hoeram	Compressor			
Masons	Excavator	Jack Hammer			
Iron Workers	Grader	Power Saw			
Electricians	Crane	Conc. Vib.			
Flagpersons	Scraper	Tree Remover			
Surveyors	Conc. Mixer	Chipper			
	Conc. Truck	Screener		OFFICIAL VISITORS TO JOB	
	Pickup Truck	Drill Rig			
	Dump Truck 6 Whl	Boom Lift			
	Dump Truck 10 Whl	Water Tank			
	Dump Truck 14 Whl	Lull			
	Dump Truck 18 Whl	Gradall			

Police Details: n/a	RESIDENT REPRESENTATIVE FORCE	
Time on site: 4:00 P.M.	Name	Name
CONTRACTOR'S Hours of Work:		
	Resident Representative Steven Bouley	



**TETRA TECH RIZZO**

**Bond Value Estimate  
Williamsburg Way  
Definitive Subdivision  
Medway, Massachusetts  
August 20, 2010**

One Grant Street  
Framingham, MA 01701  
Tel 508.903.2000 Fax 508.903.2001

DESCRIPTION	QUANTITY	UNIT	UNIT COST	ENGINEERS ESTIMATE
HMA Top Course - 1 1/2" Depth (Roadway)	180	TON	\$100.00	\$18,000
HMA Top Course - 1 1/2" Depth (Sidewalk)	37	TON	\$100.00	\$3,700
HMA Binder Course - 1 1/4" Depth (Sidewalk)	52	TON	\$90.00	\$4,680
HMA Berm - Modified	1,210	LF	\$5.00	\$6,050
HMA Curb	810	LF	\$6.00	\$4,860
Rip-Rap	50	CY	\$90.00	\$4,500
Loam	220	CY	\$40.00	\$8,800
Seeding	854	SY	\$1.50	\$1,281
Water Gate Adjustments	4	EA	\$125.00	\$500
Drain Structure Adjustments	7	EA	\$300.00	\$2,100
Sanitary Structure Adjustments	5	EA	\$300.00	\$1,500
Subdrains*	1	LS	\$15,000.00	\$15,000
24" HPDE Pipe (Roof Runoff Recharge Trench)	232	LF	\$60.00	\$13,920
8" HDPE Pipe (Roof Runoff Recharge Trench)**	140	LF	\$50.00	\$7,000
12" HDPE Pipe	236	LF	\$50.00	\$11,800
Street Signs	16	EA	\$300.00	\$4,800
Light Poles	8	EA	\$10,000.00	\$80,000
Street Trees	51	EA	\$420.00	\$21,420
Pavement Markings	1	LS	\$500.00	\$500
2 year Snow Plowing	1,178	LF/YR	\$2.50	\$5,890
2 year Road Maintenance	1,178	LF/YR	\$2.00	\$4,712
2 year Drainage Maintenance	1,178	LF/YR	\$2.00	\$4,712
As-built Plans	1,178	LF	\$5.00	\$5,890
Legal Services	1	LS	\$3,000.00	\$3,000

\$234,615

<b>Subtotal</b>	\$234,615
<b>Contingency (25%)</b>	\$58,654
<b>Recommended Bond Value</b>	<b>\$293,269</b>

Notes:

1. Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 8/2009 - 8/2010.

\* Subdrain lump sum estimate based on materials and installation of 6" subdrain. The proposed 4" subdrain does not have a value in Mass DOT weighted bid pricing. It is assumed that the pricing for pipe installation includes backfilling operations.

\*\* Roof runoff recharge trench pipe estimate based on materials and installation of 12" HDPE pipe. The proposed 8" HDPE does not have a value in Mass DOT weighted bid pricing.





TETRA TECH RIZZO

Bond Value Estimate  
Williamsburg Way  
Definitive Subdivision  
Medway, Massachusetts  
August 24, 2010

**REVISED**  
**8-24-10**

One Grant Street  
Frammingham, MA 01701  
Tel 508.903.2000 Fax 508.903.2001

DESCRIPTION	QUANTITY	UNIT	UNIT COST	ENGINEERS ESTIMATE
HMA Top Course - 1 1/2" Depth (Roadway)	180	TON	\$100.00	\$18,000
HMA Top Course - 1 1/2" Depth (Sidewalk)	37	TON	\$100.00	\$3,700
HMA Binder Course - 1 1/4" Depth (Sidewalk)	52	TON	\$90.00	\$4,680
HMA Berm - Modified	1,210	LF	\$5.00	\$6,050
HMA Curb	810	LF	\$6.00	\$4,860
Rip-Rap	50	CY	\$90.00	\$4,500
Loam	220	CY	\$40.00	\$8,800
Seeding	854	SY	\$1.50	\$1,281
Water Gate Adjustments	4	EA	\$125.00	\$500
Drain Structure Adjustments	7	EA	\$300.00	\$2,100
Sanitary Structure Adjustments	5	EA	\$300.00	\$1,500
Subdrains*	1	LS	\$15,000.00	\$15,000
24" HPDE Pipe (Roof Runoff Recharge Trench)	232	LF	\$60.00	\$13,920
8" HDPE Pipe (Roof Runoff Recharge Trench)	140	LF	\$40.00	\$5,600
12" HDPE Pipe	236	LF	\$50.00	\$11,800
Street Signs and Posts	8	EA	\$300.00	\$2,400
Additional Signs	8	EA	\$100.00	\$800
Light Poles	8	EA	\$5,300.00	\$42,400
Street Trees	51	EA	\$420.00	\$21,420
Pavement Markings	1	LS	\$250.00	\$250
2 year Snow Plowing	1,178	LF/YR	\$2.50	\$5,890
2 year Road Maintenance	1,178	LF/YR	\$2.00	\$4,712
2 year Drainage Maintenance	1,178	LF/YR	\$2.00	\$4,712
As-built Plans	1,178	LF	\$5.00	\$5,890
Legal Services	1	LS	\$3,000.00	\$3,000

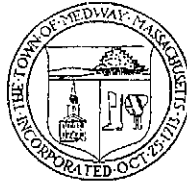
\$193,765

<b>Subtotal</b>	\$193,765
<b>Contingency (25%)</b>	\$48,441
<b>Recommended Bond Value</b>	\$242,206

**Notes:**

1. Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 8/2009 - 8/2010.

\* Subdrain lump sum estimate based on materials and installation of 6" subdrain. The proposed 4" subdrain does not have a value in Mass DOT weighted bid pricing. It is assumed that the pricing for pipe installation includes backfilling operations.



RECEIVED

AUG 02 2010

TOWN CLERK

**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*

*August 2, 2010*

**LEGAL NOTICE - PUBLIC HEARING**

***Charles River Village Open Space Residential Development (OSRD)***  
***Application for OSRD and Affordable Housing Special Permits***

In accordance with the Medway Zoning Bylaw, Section V. Use Regulations, Sub-Section T. Open Space Residential Development (OSRD) and Sub-Section X. Affordable Housing and the provisions of Massachusetts General Laws, Chapter 40A, Sections 9 & 11, the Medway Planning & Economic Development Board will conduct a public hearing on ***Tuesday, August 24, 2010 at 7:15 p.m. in Sanford Hall at Medway Town Hall, 155 Village Street, Medway, MA*** to consider the applications of Charles River Village LLC of Medway, MA for approval of an Affordable Housing Special Permit and an Open Space Residential Development (OSRD) Special Permit and Concept Plan entitled *Charles River Village – Neelon Lane – OSRD Special Permit Concept Plan*. The Concept Plan is dated July 28, 2010 and was prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying Co of Medway, MA.

Charles River Village LLC proposes to develop a thirteen (13) unit, cottage style residential condominium community on a 7.61 acre parcel located at 6 Neelon Lane in the Agricultural Residential II zoning district (Medway Assessors Map 1-7, Parcel 1D-33). Presently owned by Michael Acquafresca & Carol Supernor (*as the appointed executrix of Helen Grudzinkas*), the subject property is located south of Village Street, west of Neelon Lane, east of the ends of Cherokee Lane, Massasoit Street and Riverview Streets, and is bounded on the south by the Charles River. The applicant, Charles River Village LLC, is the prospective buyer/developer of the property.

The proposal is to divide the property to include a 3.2 acre development parcel on which thirteen (13) detached single family cottage style homes will be constructed. Two (2) of the 13 homes will be "affordable" for households earning at or below 80% of the metropolitan area's median income. The dwellings would range in size from 1500 to 2400 square feet; each home would have 3 bedrooms, a garage and additional driveway room for guest vehicles. The *Concept Plan* also shows 2 parcels totaling 4.2 acres of dedicated open space including the entire width (400ft+) of the parcel's frontage along the Charles River, all to be accessible to the general public.

Access to Charles River Village from Village Street is proposed through the end of Neelon Lane. The applicant plans to upgrade the entire existing length (280+ +/- feet) of Neelon Lane to a full depth, 18' paved width. The applicant will also construct a 150' southerly extension of Neelon Lane including a turnaround which will be deeded to the Town. From the "new" end of Neelon Lane at this turnaround, the applicant proposes to construct approximately 445 linear feet of an 18' wide, 2 way roadway to access the 13 new residences. This portion of the roadway will be privately owned and maintained by the future condominium association. In addition, the applicant proposes to install a 10' wide gravel access pathway between the site and Cherokee Lane to be used for emergency purposes only. Connections to Town water and sewer and the installation of two fire hydrants are also planned. A low impact approach to stormwater management and drainage is proposed.

Any person or party who is interested or wishes to be heard on this proposal is invited to review the plans and express their views at the August 24<sup>th</sup> public hearing. The application and concept plan for the Charles River Village Open Space Residential Development Special Permit and the application for an Affordable Housing Special Permit are on file with the Medway Town Clerk at the Medway Town Hall, 155 Village Street and may be inspected on Mondays from 8:00 am to 7:30 pm, Tuesday through Thursday from 8:00 am to 4:00 pm, and Fridays from 8:00 am to 1:00 pm. The documents are also available at the Planning and Economic Development office at Town Hall. Please direct your questions to Planning and Economic Development Coordinator Susy Affleck-Childs at 508-533-3291. Written comments are encouraged and may be forwarded to the Medway Planning and Economic Development Board at 155 Village Street, Medway, MA 02053 or emailed to: [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org).

Andy Rodenhiser  
Chairman

To be published in the *Milford Daily News*:

Monday, August 9, 2010

Tuesday, August 17, 2010



## MEDWAY TOWN CLERK

155 VILLAGE STREET  
MEDWAY, MASSACHUSETTS 02053  
(508) 533-3204 • FAX: (508) 533-3287  
mwhite@townofmedway.org

**MARYJANE WHITE, CMMC**

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

NOTARY PUBLIC

### CERTIFICATION

I, Maryjane White, Town Clerk of the Town of Medway hereby certify the following as my transcription of the Town Meeting record dated April 6, 1863. I also certify that Neelon Lane is on the list of accepted streets furnished to me when taking office as Town Clerk in 1991.

On Petition of Luther Metcalf and others we the Subscribers Selectmen of Medway have laid out the use of Francis Neeland and others in passing from the house of said Neeland to the old Hartford road (so called) a private way, on conditions that said Neeland shall remove the fence of Charles B. Whitney and reset the same on the easterly side of the proposed way, and also that he shall build and construct said way in such a manner, that it shall be safe and convenient for carriages.

Said way to be located partly on land set apart for a way by J. W. B. Wilson deceased, partly on land of said Neeland, and partly on land of C. B. Whitney and bounded as follows;

Beginning at the easterly end of the wall in front of the house of the heirs of John Karnes at the old Hartford road, and running southerly in a straight line to the easterly front in the picket fence separating land of said heirs, from land of said Neeland, and thence running in the same direction to a fence opposite the southerly side of said Neeland house, and to be twenty five feet wide on the easterly side of said line.

And we award to C.B. Whitney as land damage the sum of twenty dollars (\$20.00) and for fencing the sum of twenty dollars (\$20.00). We also award to the heirs of John Karnes the sum of ten dollars for cencing to be paid by the town.

Dated at Medway this twenty sixth day of March in the year 1863.

Wm Daniels  
Simeon Fisher  
G. Partridge

Selectmen of Medway

DATE.....August 24, 2010.....  
A true copy.....  
ATTEST.....Maryjane White.....

Meeting April 1863

291

An Petition of Luther Metcalf and others we the  
Subscribers Selectmen of Medway have laid out for the  
use of Francis Neeland and others in passing from  
the house of said Neeland to the old Hartford  
road (so called) a private way, on conditions that  
said Neeland shall remove the fence of Cha<sup>s</sup>. B.  
Whitney and reset the same on the easterly side  
of the proposed way, and also that he shall build  
and construct said way in such a manner, that  
it shall be safe and convenient for carriages.

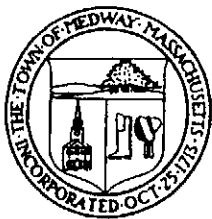
Said way to be located partly on land set  
apart for a way by J<sup>a</sup>. B. Wilson deceased, partly on  
land of said Neeland, and partly on land of  
C. B. Whitney and bounded as follows,

Beginning at the easterly end of the wall  
in front of the house of the heirs of John Barnes at  
the old Hartford road, and running southerly  
in a straight line to the easterly front in the picket  
fence separating land of said heirs, from land of  
said Neeland, and thence running in the same  
direction to a fence opposite the southerly side of  
said Neeland's ~~house~~, and to be twenty five feet  
wide on the easterly side of said line.

and we award to C. B. Whitney as land  
damage the sum of twenty dollars (\$20.00) and for  
fencing the sum of twenty dollars (\$20.00.) We also award  
to the heirs of John Barnes the sum of ten dollars  
for fencing to be paid by the town.

Dated at Medway this  
twenty sixth day of March in the year 1863.

W<sup>m</sup> Daniels }  
Simeon Fisher } Selectmen  
C. Partridge } Medway



## MEDWAY TOWN CLERK

155 VILLAGE STREET  
MEDWAY, MASSACHUSETTS 02053  
(508) 533-3204 • FAX: (508) 533-3287  
mwhite@townofmedway.org

**MARYJANE WHITE, CMMC**

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

NOTARY PUBLIC

I, Maryjane White, Town Clerk of the Town of Medway certify that Neelon Lane is an accepted street in the Town of Medway. Neelon Lane was accepted by the Town at a Town Meeting held April 6, 1863

A true copy.....

*Maryjane White*

TOWN CLERK

DATE.....

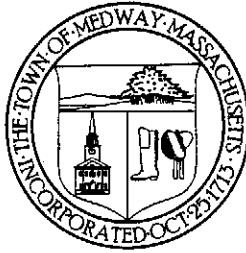
*August 19, 2010*

3years.

# Town of Medway Fire Department

Paul L. Trufant, Chief  
44 Milford Street  
Medway, MA 02053

Tel: (508) 533-3213  
Fax: (508) 533-3254



RECEIVED  
AUG 23 2010

TOWN OF MEDWAY  
PLANNING BOARD

August 23, 2010

To: The Medway Planning Board

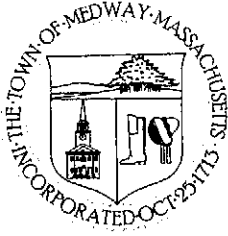
Re: Charles River Village Open Space Residential Development (OSRD)

Upon review of the preliminary plans, I have no problem or issue with the width of Neelon Lane. The design of the circle is suitable for emergency vehicles, in and out of the complex.

The width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of the fire hydrants on Neelon Lane, within the complex, and on the access road in from Cherokee Lane is acceptable.

For the Department,

Chief Paul L. Trufant



TOWN OF MEDWAY  
DEPARTMENT OF PUBLIC SERVICES  
MEDWAY, MASSACHUSETTS

*Entrusted To  
Manage The  
Public  
Infrastructure*

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AUG 23 2010

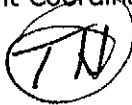
TOWN OF MEDWAY  
PLANNING BOARD

THOMAS M. HOLDER  
DIRECTOR

DAVID D'AMICO  
DEPUTY DIRECTOR

## MEMORANDUM

To: Susan Affleck-Childs, Planning and Economic Development Coordinator

From: Thomas Holder, Director | Department of Public Services 

Date: August 23, 2010

RE: **Neelon Lane – Project Development**

It is understood that a project named Charles River Village is being planned for property at or near Neelon Lane, Medway. This project is proposed to include thirteen residential units located within a built-to-be-private development. In hearing of the proposed development concept at a presentation held August 12<sup>th</sup>, there are a number of infrastructure components to the project that need verification.

1. The project calls for connecting the existing water lines on Neelon Lane and Cherokee Lane to provide for a looped water distribution system. Verification that adequate fire flow rates are available from both the existing water lines and planned water pipes servicing the development should be made to ensure proper fire fighting capabilities. If it is determined that adequate flows cannot be achieved, the project needs to include provisions for water system upgrades to meet required fire flows.
2. The project is planned to construct a sanitary sewer system that will discharge to the Town's sewer system at an existing manhole located at the end of Cherokee Lane. It needs to be verified that the proposed sewer system is designed to meet invert grades at the referenced manhole to allow for gravity sewer flow throughout the project.
3. The project calls for the extension of the existing public way on Neelon Lane to include a circular cul-de-sac with a landscaped center roundabout. It needs to be verified that the travel path is sized to an appropriate radius to allow for turning movements of any anticipated vehicles and equipment such as firefighting apparatus, snow plows, and garbage haulers. Snow storage along Neelon Lane and within the cul-de-sac should also be identified.
4. It needs to be verified that, this being a planned private development, the operation and maintenance of any and all stormwater infrastructure including discharge characteristics will be the responsibility of the homeowners association.

Thank you for the opportunity to bring awareness to these issues and please continue to involve the Public Services Department during this planning process.

HIGHWAY - WATER - SEWER - FLEET - PARKS - FACILITIES - SOLID WASTE

TOWN OFFICES | 155 VILLAGE STREET | MEDWAY, MASSACHUSETTS 02053 | TEL 508-533-3275



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## PGC ASSOCIATES, INC.

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)  
gino@pgcassociates.com

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August 19, 2010

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

### Re: **Charles River Village OSRD Special Permit**

Dear Mr. Rodenhiser:

I have reviewed the Charles River Village OSRD special permit application and plan. The owner/applicant is Charles River Village LLC (John Claffey) of Medway. The plan was prepared by Faist Engineering, Inc. of Southbridge and Lowell Robinson A.S.L.A. of Norfolk. The plan is dated July 28, 2010. The proposal is to develop a single-family cottage project of 13 units, of which two are proposed to be affordable.

I have comments as follows:

#### **Zoning**

1. **OSRD Purpose** – The bylaw specifies 11 purposes of an OSRD. A narrative statement was submitted by the applicant. The narrative does not specifically address the OSRD purposes. However, a case can be made that the proposal achieves at least 8 of the 11 purposes. These include greater flexibility and creativity in the design of residential development, protecting community water supply, minimizing disturbance of the site, encouraging permanent preservation of open space, creating a more efficient development pattern, furthering the goals of the master plan and/or Open Space and Recreation Plan, facilitating construction and maintenance of streets, and allowing for housing types that will diversify the community's housing stock including the provision of affordable housing. It appears that the plan meets the purpose and intent of the OSRD bylaw.
2. **Eligibility** – The proposal meets the requirement of Section T.2 in that the parcel is within the AR-II district, while it is less than 8 acres in size, it directly abuts the Charles River and it proposes a mix of units under condominium ownership as provided for in the bylaw.
3. **Pre-application** – Section T.4 requires a pre-application meeting with the Planning Board and owner permission for a site visit. The pre-application meeting was held.
4. **Four-Step Design Process** – Section T.5 requires that a 4-step design process be performed by an RLA. The applicant has submitted a statement indicating usage of the four-step process by a team including an RLA.

5. **Procedures** – (a) Section T.6 requires that a narrative statement describe how the OSRD proposal meets the general purposes and evaluation criteria of the bylaw, and why it is in the best interests of the Town to grant the OSRD rather than a conventional subdivision. A statement has been submitted. (b) A Site Context and Analysis Plan is required to provide certain information about existing conditions and the resources to be protected. This information has been provided. (c) A Concept Plan is also required to provide information similar to a preliminary subdivision plan. The submitted plan generally complies with this requirement. However, the Concept Plan is required to be prepared by a Registered Landscape Architect (RLA) or team including an RLA. The narrative statement states that the Site Context and Analysis Plan included the RLA, but the Concept Plan appears to have been prepared solely by the engineer and surveyor. The RLA should at least review and stamp that Concept Plan.
6. **Maximum Number of Dwelling Units** – The applicant provides a calculation purporting that the area of the parcel is eligible for 11 dwelling units per the formula. Section X (Affordable Housing) of the Zoning Bylaw requires that 15% of the units (2) be affordable. It also offers a density bonus allowing an additional market rate unit for each affordable unit required. The applicant is asking for a total of 13 units. It should be noted that the OSRD formula is to determine the maximum number of units not a guaranteed number.
7. **Reduction of Dimensional Requirements** – Since there are no lots in this proposal, the reduction in dimensional requirements for lots do not apply. The building dimensions pertaining to setbacks and garage doors appear to comply with this section. It should be noted, however, that while the dimensional requirements for lots do not apply, several of the buildings have less than the specified 25-foot setback from the conceptual road right-of-way. In any case, the PEBD has the authority to waive that requirement even if it did apply.
8. **Open Space Requirements** – Section T.9 requires that at least 50% of the subject tract be open space and that the percentage of wetlands and flood plains within the required open space be no greater than the percentage in the tract as a whole. The total area is 7.61 acres so a minimum of 3.81 acres is required to be open space. A total of 4.20 acres in two parcels is proposed.

Resource areas, including wetlands and floodplains comprise 10% of the total area. Therefore, wetlands and floodplains can constitute no more than 10% of the minimum required open space area of 3.81 acres, or .381 acres. Therefore, a minimum of 3.43 acres of the open space must be upland. The open space includes 3.44 acres of uplands so this requirement is met. It should also be noted that no more than 50% of the any utility easement can be counted toward the minimum required open space. A sewer easement through the open space area appears to contain approximately 10,320 square feet. Since all of the easement is within the open space, and only half counts toward the minimum, at least 3.92 acres of open space must be provided rather than 3.80. Since 4.20 acres is provided, this requirement is met. The resource areas are based on a previous plan and need to be confirmed by a new filing with Conservation Commission before they the open space calculations can be finalized.

The applicant proposes to convey the open space to the Conservation Commission. It would be maintained by the condominium association.

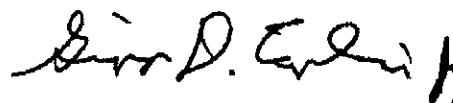
9. **General Design Standards** – The narrative statement addresses each of the first nine General Design Standards of Section T.10. It appears that these are generally met. The applicant has not addressed the last 2 standards. Item j concerns parking. A minimum of 2 spaces per dwelling unit is required. This is met. Item j also states that the Planning Board may require additional off-street spaces for guests. No additional parking is shown on the plan. Potential locations for off-street parking include the open space parcel abutting Neelon Lane and the ends of the streets that dead end on the open space parcel abutting the river. Pervious material should be considered for any such spaces.

Item k requires sidewalks along the entire frontage of the OSRD tract along existing Town ways. While there is not a lot of such frontage on Neelon Lane, no sidewalks are proposed.

### **General Comments**

10. The public way of Neelon Lane should be confirmed. The 1863 document provided by the applicant states that it is laying out a private way. Also, it is a document laying out the street by Selectmen; it is not a Town Meeting vote to accept the street.
11. Assuming Neelon Lane is a public way, it is under the control of the Board of Selectmen so the Selectmen would need to authorize any work done within the right-of-way.
12. The conceptual elevation plans submitted with the application do not match the footprints depicted on the Concept Plan. None of the elevations include garages as shown on the footprints. The elevations should match the footprints.
13. I suggest that a trail through the open space be included on the plan.
14. Section 7.1 of the subdivision rules and regulations requires that "Reasonable provision shall be made for extension of pavement and utilities to adjoining properties." The current design leaves the abutting property with 131 feet of frontage. Adding 19 feet would make the abutting parcel a conforming lot. Shifting the cul-de-sac slightly to the east to abut the adjacent property would provide for a future extension off the cul-de-sac and provide more efficient use of the land in the future.
15. The details of the gravel access path for emergency vehicles are not clear. It is not clear if that path will connect to the existing pavement of Cherokee Lane.

**Sincerely,**

A handwritten signature in black ink, appearing to read "Gino D. Carlucci, Jr.", with a stylized flourish at the end.

**Gino D. Carlucci, Jr.**

*Copy*

**Thomas J. Valkevich**  
**Attorney at Law**  
**99 Walnut Street, Suite G**  
**Saugus, Massachusetts 01906**  
**781-233-6812**  
**Facsimile 781-231-5124**  
**Email: tjvesq@netzero.com**

August 24, 2010

Town of Medway  
Planning & Economic Development Board  
155 Village Street  
Medway, Massachusetts 02053

RE: Charles River Village Open Space Residential Development (OSRD)  
Application for OSRD and Affordable Housing Special Permits

Dear Board Members:

Please be advised that I represent Mary E. McDonald of 9 Neelon Lane, Medway in the matter of the Application for OSRD and Affordable Housing Special Permits as to some issues raised by the plan as submitted. Ms. McDonald will also express some additional matters as to which she possesses personal knowledge as to site conditions and subsurface matters at the meeting.

Of utmost concern is the access to the site over Neelon Lane. Neelon Lane, according to the terms of the document recorded in 1863, was laid out as a private way. (see copy of acceptance document attached) As such, it not the same as a public way in many respects. The applicable statutes at the time created this kind of way, which became known as a "statutory private way". The applicable statutory reference is Chapter 82 of the General Laws, sections 21 through 24 (this being the laws in effect in 1863, the date of the layout by the Medway Selectmen. Of importance is the fact that such ways have a different legal status than a public way. There is also a question as to whether the layout should extend to the point where the Nealand (Neelon) house was or where the barn was. There appears to have been a correction of overwrite changing "house" to "barn" and the layout as shown on the existing plan may be inaccurate.

"A "statutory" private way is not a "public way" or a way "maintained and used as a public way" for the purposes of the subdivision control law (G.L. c. 41, Sections 81L and 81P), *Casagrande v. Town Clerk of Harvard*, 377 Mass. 703 (1979), and hence the division of land abutting on a statutory private way requires compliance with the definitive subdivision process and frontage on a statutory private way does not qualify for an ANR endorsement." **Complex Title Issues 2001 –19.03 Massachusetts Continuing Legal Education, Massachusetts Highway Law by F. Sydney Smithers, Esq.**

As a Land Division under Part T.,2.,c it would appear that the access does not qualify. Further, the proposal considered as a condominium project the access over Neelon Lane is questionable for a number of reasons beyond subdivision control.

The accepted private way is only twenty five feet wide and without any radius at its corners intersection with Village Street, and without sight line easements or other provision for safe access to that road. Clearly, the traffic impact of 13 three bedroom homes, with one or two cars, and multiple daily trips, with heavy usage during morning and evening commuting hours, and potentially hundreds of trips per week, together with delivery and service vehicles, including commercial trucks, create safety issues that warrant denial of any proposal that envisions Neelon Lane as its primary access. This is especially true given the fact that the parcel to be developed abuts Cherokee Lane on its westerly boundary, a conforming public way, which was obviously intended as future development access to the subject parcel, as was envisioned by prior boards.

Also relevant are certain issues regarding the nature of the existing way. Given its nature as still a private way, even if subject to public access, the usage of the way historically has permitted unlimited access by abutting owners over the entire length of their frontage on the way, and parking and standing on the way as long as passage was not prevented. The proposal requires changes to the usage which are not just up to the developer, as it has been established over generations. For the Town to impose such restrictions on a parcel that is not part of the ownership parcel of the developer is beyond the Boards authority, and would require additional takings by the town of the rights of abutting owners, or their mutual consent.

The Town has considered development of parcels in this location in the past, but not approved development using Neelon Lane as access. The issues raised by using Neelon Lane as access militate against approval of the plans as submitted. At most, Neelon Lane's public use should be consistent with its limited access as historically and legally existing. For all the foregoing reasons, the proposed plan does not comply with the OSRD by-law in numerous respects, namely by not complying with all sections of the Zoning By-law, the access over Neelon Lane is not compatible or in harmony with the character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, which impact can be mitigated by accessing the site over the existing public way Cherokee Lane, instead of over the accepted private way of Neelon Lane.

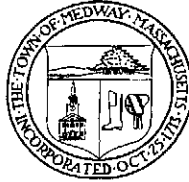
The proposal, as submitted fails to comply with the existing rights of parties on Neelon Lane, with accepted safety and traffic standards affecting the community at large and not just the abutters, the board's own standards for issuance of a special permit as stated in section 10 and sections 11 (g), (i), (j) , and (k). The proposal clearly does not meet the standards set out in the purposes section of site plan review, sections C.1. (c) (3), (8), (9), (10) and (11).

The Board rules at section 12 (d) of article T reference site plan review standards that shall be applied to the project which include protections of neighbors from noise fumes etc and safe access for emergency vehicles. The board does not have the authority to alter the nature of the accepted private way as to existing rights of abutters on said way.

Finally, the plan as drawn lays out a way and cul de sac which does abut the McDonald parcel. There exists a gap between the layout on the developer's parcel and the McDonald parcel and I note that previous versions of the developer's proposal actually laid out his cul de sac **on** the McDonald parcel, without permission. Leaving such a strip is certainly contrary to sound planning practices. I believe previous cases in other towns have given the nickname "spite strips" to this feature. Ms McDonald is concerned that, as drawn, this plan would adversely affect her property and possible development or changes. I note that if the private accepted way in fact extends to the barn, as may be the case, it would also require changes to the plan.

Respectfully submitted.

Thomas J. Valkevich



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*

August 24, 2010

Mr. Mark Smith  
Restaurant 45  
45 Milford Street  
Medway, MA 02053

Subject: Restaurant 45/45 Place – As-Built Plan Review

Dear Mark,

Medway Planning and Economic Development Board member Tom Gay has reviewed the as-built plans for the Restaurant 45/45 Place Site Plan as prepared by Faist Engineering. Tom has also visited the site on two occasions. He has come to the following conclusion:

- All of the conditions specified in the Board's April 2006 Site Plan Decision, the October 2008 revised site plan due to the Route 109/126 intersection reconstruction, and the July 2009 Master Sign Plan have essentially been either met or addressed as documented in the letter from Faist Engineering dated July 8<sup>th</sup>, 2010 except for one. The Installation of ten (10) "No Parking Either Side" signs on Rustic Road and/or Little Tree Road has not been completed (which is documented in the letter) but no proof of reason has been supplied. While we trust that you are committed to installing the signs, we would like to see some documented evidence from the owner of the unaccepted streets (Owen Sullivan) that they either have or have not granted permission.

In Tom's review of the submitted "As-Built Plan" for the site, he notes with annoyance that the as-built plans were NOT being drawn with the same orientation as the original design documents and the grief it causes to the reviewer. In the future, to facilitate as-built review, we will urge project engineers to orient the as-built plans in the same direction as the original plans.

In addition, Tom has found some specifics of the as-built plan in error when compared to what is actually on the ground. Those items are as follows:

- Details

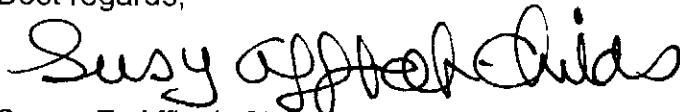
1. The east side curbing detail on the Milford Street entrance at the north-west corner of the site does not seem to faithfully represent the curve and angle from the drain back to the sidewalk.
2. The entrance detail at the north-west corner of the old building, near the deck split (middle of the total structure), does not faithfully represent the landing, steps and awning for that entrance. It does not extend far enough into the parking lot.
3. The shape of the curbing around the corner at the very east point of the building bordering the three motorcycle parking spots is shown as angled when it is really rounded.
4. The Dumpster Enclosure (fence and pad) adjoining the large cooler on the south side of the building (close to the building and adjacent to the HC Access Ramp) is neither the proper size nor shape.

- Questions

1. The layout of the two corner parking places in the south-west corner of the site, separated by a painted cross hatch, appears to be compromised and incorrectly shown on the as-built drawing
2. I fail to see how this in its current configuration counts as two spaces when a vehicle parked properly in either of the spaces would prevent use of the other space.
3. The question is how to fix and account for the spaces properly.

These details need to be faithfully represented for everyone's protection; please revise the plans accordingly and resubmit to the Board for another review. Tom will not recommend the Board's acceptance of the as-built plans or approval of a Certificate of Site Plan completion for this project until all the above these matters have been addressed to the Board's satisfaction. Tom is available to discuss his concerns with the applicant or engineer at your mutual conveniences.

Best regards,



Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

cc: Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering



<b>Tetra Tech Rizzo</b> One Grant Street Framingham, MA 01701		
Project Franklin Creek	Date 8-16-10	Report No. 21
Location Franklin Street	Project No. 1	Sheet 1 of 2
Contractor Wood Structure	Weather A.M. SUNNY P.M.	Temperature A.M. 80 P.M.

### FIELD OBSERVATIONS

On Monday, August 16, 2010, Dave Pellegrini from Tetra Tech Rizzo, upon request by the applicant, visited the project site to inspect the recently installed retaining wall proposed along the shoulder of Franklin Creek Lane, adjacent to Station 1+00.

#### 1. Observations

- A. The retaining wall was constructed with segmented blocks. The quality of the installation appeared good, however the approved plans called for a "Stone Retaining Wall" and includes a detail which shows the use of a more natural stone as opposed to the segmented block. From a structural standpoint, the segmented block is acceptable for this application, the decision to accept this as a substitute to the stone would be based on aesthetics. The wall however, is not highly visible since it faces existing wetlands, and only the top of the wall can be seen from the majority of view points along Franklin Street and Franklin Creek Lane.
- B. The length of the wall on the plans scales out to approximately 46 feet and no length is labeled. The length of the wall in the field is approximately 42'. The constructed wall appears to serve the intent of the plans and provide a flat shoulder area of at least 4' along the roadway. In our opinion the current length of the retaining wall is sufficient to meet the slope requirements.
- C. The caps on the wall need to be glued in place.
- D. The soil around the wall needs to be stabilized with seed or some other type of plantings/stabilization.
- F. During installation of the retaining wall a couple of rocks had fallen either onto the silt fence or into the wetlands. We notified the contractor and he said he would remove them immediately.

#### CONTRACTOR'S FORCE AND EQUIPMENT

#### WORK DONE BY OTHERS

Sup't		Bulldozer		Asphalt Paver		Dept. or Company	Description of Work
Foreman		Backhoe		Asphalt Reclaimer			
Laborers		Loader		Vib. Roller			
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.		Bobcat		Vib. Walk Comp.			
Carpenters		Hoeram		Compressor			
Masons		Excavator		Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tree Remover			
Surveyors		Conc. Mixer		Chipper			
		Conc. Truck		Screener		OFFICIAL VISITORS TO JOB	
		Pickup Truck		Drill Rig			
		Dump Truck 6 Whl		Boom Lift			
		Dump Truck 10 Whl		Water Tank			
		Dump Truck 14 Whl		Lull			
		Dump Truck 18 Whl		Gradall			

Police Details: n/a	<b>RESIDENT REPRESENTATIVE FORCE</b>	
Time on site: 5:30 P.M.	Name	Name
CONTRACTOR'S Hours of Work:		
	Resident Representative Dave Pellegrini	

Project Franklin Creek	Date 8-16-10	Report No. 21
Location Franklin Street	Project No. 127-21583-08001	Sheet 2 of 2
Contractor Wood Structure	Weather A.M. SUNNY P.M.	Temperature A.M. 80 P.M.

**FIELD OBSERVATIONS CONTINUED**

2. Schedule

- A. No work scheduled for the immediate future.

3. New Action Items

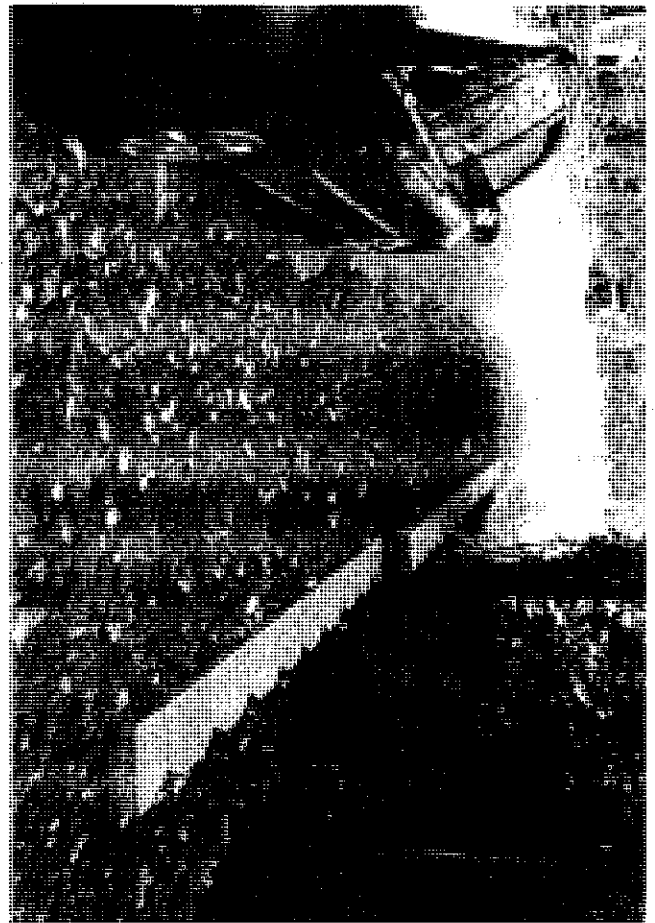
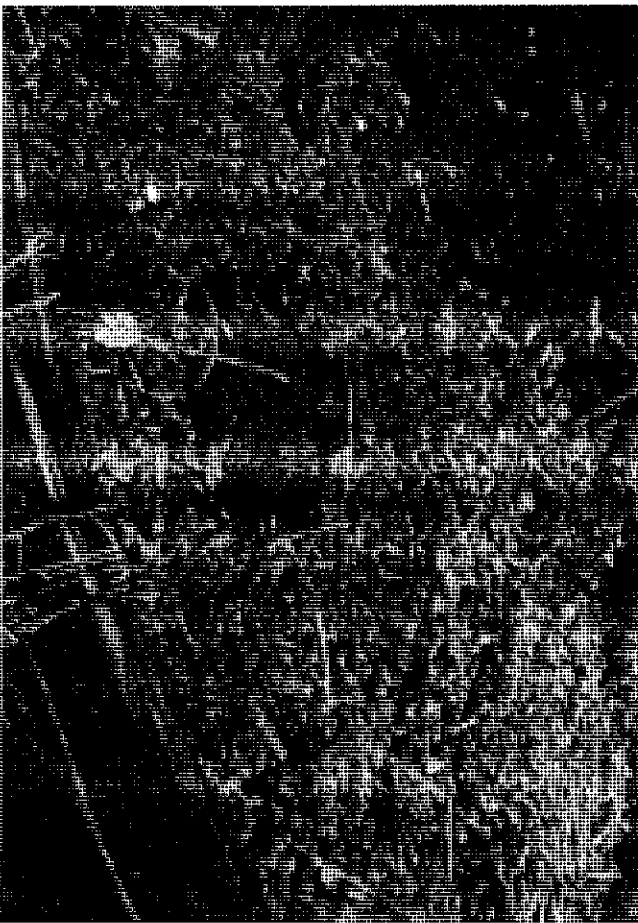
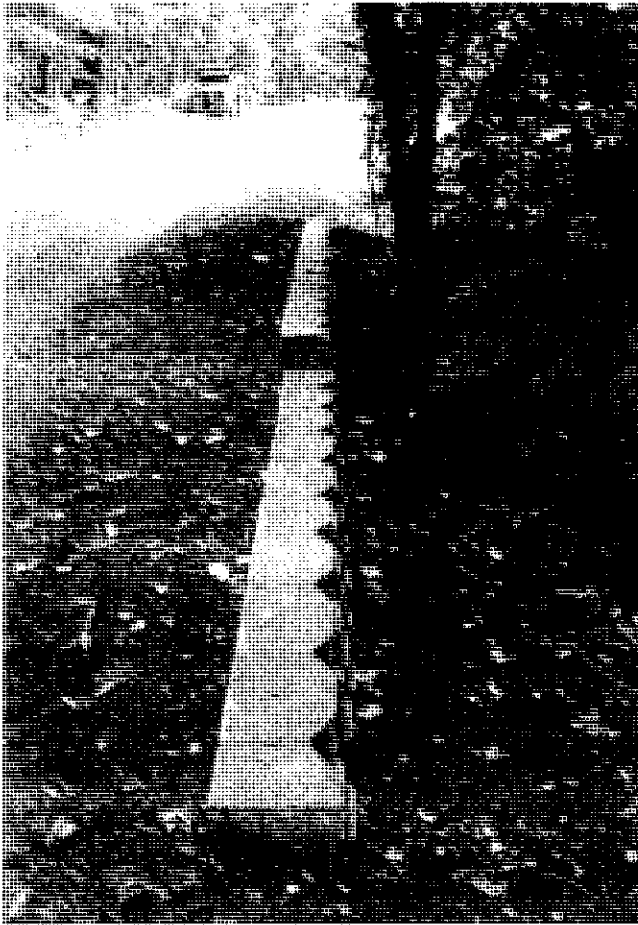
- A. The Planning and Economic Development board should review the discrepancies between the approved and constructed retaining walls.
- B. The caps should be glued.
- C. The soil requires stabilization.
- D. The rocks in and around the wetland/silt fence require removal.

4. Previous Open Action Items

- A. N/A

5. Materials Delivered to Site Since Last Inspection:

- A. N/A



## ***Medway Planning and Economic Development***

### **IDEAS for ZONING BYLAW AMENDMENTS & OTHER POSSIBLE TOWN MEETING WARRANT ARTICLES**

UPDATED 8-18-2010

<b><i>I. On-Going Substantive Zoning Work</i></b>	<b><i>NOTES</i></b>	<b><i>Priority for 2011ATM?</i></b>	<b><i>Lead Person</i></b>
A. Town Center/Commercial Mixed Use – 40R Overlay	Recommended in 2009 Master Plan		
B. Expand east side industrial park (Industrial I) - Rezone part of ARI			
C. Rezone area on Route 126/Main/Village Streets near Bellingham for business uses	What kind of uses would you want here?		
D. Traditional Neighborhood Design Overlay District	Draft completed by Gino Carlucci (2007 Smart Growth Grant); Recommended in 2009 Master Plan		
E. Oak Grove/Bottle Cap Lots - 40R Overlay			

<b><i>II. Zoning Amendment Recommendations from the 2009 Master Plan</i></b>	<b><i>NOTES</i></b>	<b><i>Priority for 2011 ATM?</i></b>	<b><i>Lead Person</i></b>
A. Establish a Transfer of Development rights option	Model bylaw available		
B. Establish a Wildlife Habitat Corridor Overlay Zoning District			
C. Adopt zoning to encourage mixed use development such as apartments above retail – also known as Top of Shop zoning			
D. Rezone property along Route 109 near Millis, at intersection of Routes 109/126, around the Police Station, and at Clark and Route 109 for new office space construction with residential appearance			
E. Create a new zoning classification for office space and light industry			
F. Rezone properties that are no longer suitable for industrial uses			
G. Review zoning to assure that design standards are consistent with master plan vision			
H. Create an overlay district to provide for mixed uses along portions of Village Street that will preserve historic and scenic areas where mixed uses already exist	This could be similar to the existing AUOD along Main Street – maybe this could be the same zoning and just offer it in another area		
I. Review/revise zoning for high volume drive thru businesses to reduce or eliminate such uses because of safety concerns			

<b>II. Zoning Amendment Recommendations from the 2009 Master Plan</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
J. Review zoning to ensure that aquifers, wellheads and watershed areas are preserved – expand protection area around wells			
K. Rezone parcels for optimal use and Town benefit, especially areas adjacent to currently zoned industrial property			

<b>III. Zoning Amendment Recommendations from 1999 Master Plan that Haven't Been Addressed</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
<p>A. Look at Commercial III (around Town Hall) and Commercial IV (around the Police Station) zones.</p> <ul style="list-style-type: none"> <li>• Evaluate the possibility of expanding boundaries of these zones and ways to strengthen the "village characteristics",</li> <li>• encourage preservation/ adaptive use and allow for mixed uses . . . similar to AUOD on Main Street/ Route 109.</li> <li>• Interface with Medway Historic Commission re: the new Medway Village National Register Historic District in the Commercial District III area.</li> </ul>	<p>These districts do not provide for any residential uses other than the construction of new single family homes</p>		
<p>B. Rezone contaminated lands for economic development.</p>			
<p>C. Create option for Neighborhood Conservation Districts (Zoning or general bylaw?)</p>			

<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
<p>A. Add/revise DEFINITIONS as requested/suggested by John Emidy, Building Commissioner/ZEO):</p> <ul style="list-style-type: none"> <li>• trailer</li> <li>• lot</li> <li>• parcel</li> <li>• street lot line</li> <li>• rear lot line</li> <li>• front lot line</li> <li>• side lot line</li> <li>• setback</li> <li>• frontage</li> <li>• farm</li> <li>• agricultural use</li> <li>• accessory family dwelling unit</li> <li>• industrial use</li> <li>• storage</li> </ul>			
<p>B. Revise new Commercial I</p> <ul style="list-style-type: none"> <li>• link special permits to site plan review; criteria, etc. to streamline and consolidate review process;</li> <li>• change authority so special permits are issued by the PB in conjunction with site plan review</li> </ul>	Work with Karen Johnson/ Charter Realty & Development		
C. OSRD – Revisit formula re maximum # of units and open space			
D. Establish Use & Dimensional Tables – Requested by Building Commissioner John Emidy			
E. Modify Affordable Housing Infill Bylaw to allow it to be used on undersized (but compatible) parcels created thru ANR process			



<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
F. Large Lot Zoning – Allow a single family home to be constructed on an oversize lot with less frontage than normally required with an automatic permanent deed restriction against future subdivision (by right or special permit?)	Many samples available from other towns.		
G. Create a new Village Residential (VR) zoning district for portions of ARII that are already more dense than the present ARII standards (150' frontage and 22,500 sq. ft of area)	This would better match the zoning text to the actual uses/sizes on the ground		
H. Contractor's Yards (outdoor) – Define and authorize as a by right use in Industrial I; not allow in residential districts at all (or allow by special permit???)			
I. Signs <ul style="list-style-type: none"> <li>• Pull sign provisions from zoning and convert to a general bylaw</li> <li>• Establish specific sign provisions for Medway Mill</li> <li>• Require DRC approval of sign design</li> </ul>			
J. Strengthen buffer requirements in commercial and industrial zoning districts where such are adjacent to residential districts			
K. Exempt Uses – Any clean-up or improvements needed (after having gone thru a limited site plan with the Marian Community's lodging center/retreat facility)??			
L. Land Clearance/Grading and Tree Preservation	<b>Model available</b>		

<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
M. Commercial I – revise zoning setback requirements			
N. Establish a setback requirement ( <i>from side lot lines</i> ) for driveway locations. (Requested by Bob Klein – 533-6212). He suggests a 6' setback.	Is this a zoning matter? Perhaps it might be better addressed in the <i>Subdivision Rules and Regs</i> and/or the DPS street opening permit requirements		
O. Noise standards			

<b>V. Zoning Map - Clean-Up Zoning District Boundaries</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
A. South side of Coffee Street near Main Street (Change from ARI to ARII)			
B. Southeast corner of Summer and Highland Streets. (Change from ARI to ARII)			
C. Refine ARI and ARII boundary near Brandywine Terrace east to Winthrop Street			
D. Refine ARI and ARII on east side of Winthrop Street north of Adams Street up to Lovering St.			
E. Refine boundary of ARII district along Lovering Street			
F.			
G.			
H.			
I.			

<b>VI. OTHER POSSIBLE TOWN MEETING WORK</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead</b>
A. Amend CPC Bylaw – Adjust composition of the CPC to include representative of the Open Space Committee			
B. General Bylaw/or article to authorize BOS to accept conveyance of land or interests therein when such is already provided for in a decision by the PB, ZBA or ConCom (instead of having to go to town meeting) – Medfield example; recommended by Mark Cerel			
C. General Bylaw - Right to Farm (recommended in 2009 Medway Master Plan)			
D. General Bylaw – Ban underground sprinkler systems (recommended in 2009 Medway Master Plan)			
E. Something on business hours of operation??? – Prohibit or regulate 24 hour operations.			

**August 31, 2010  
Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Chan Rogers, Tom Gay, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:**

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates (Town's Consulting Planner)  
Dave Pellegrini, Tetra Tech Rizzo (Town's Consulting Engineer)

The Chairman opened the meeting at 7:00 pm.

**PUBLIC HEARING CONTINUATION**

**146 Main Street – Adaptive Use Overlay District Special Permit:**

Mr. Steinhoff provided an overview of the revised plans for 146 Main Street.

Mr. Steinhoff informed the Board that he did meet with the Design Review Committee on March 1, April 5, and May 3, 2010. A letter dated August 26, 2010 from the Design Review Committee was provided to the Board for the review. The letter references several recommendations.

1. A larger gauge of tree should be used as frequently as possible to offer more buffer and screening.
2. Plantings at the base of the building sign should include evergreens in addition to the day lilies to offer year-round landscape.
3. A series of container plants be employed on the outdoor patio on the West side of the building.
4. Exterior stone material be used on the edifice. An exact sample of the stone material with the vendor name and colors should be produced. This was shown at the meeting.
5. The proposed retaining walls on the West side of the building should include a field stone surface.
6. There should be fencing around the dumpster site.
7. The sign needs to be further refined.

A full copy of the DRC letter is attached.

The applicant provided pictures of a like product which roughly imitated a random field stone pattern in natural color tones. It was indicated that the color green is the preference.

Mr. Steinhoff informed the Board that he proposes vertical wind turbines. It was suggested by the DRC that the proposed positions of the wind turbines be stricken from the site plan and that any future application to the ZBA for small wind systems special permit begin with a review by the DRC.

DRC member Matthew Buckley notes that the plantings are not shown on the plan. This will need to be noted on the revised plans. Affleck-Childs stated that this could also be included as a condition in the decision.

There was a question about the language regarding the wind turbine. Susy Affleck-Childs explained that some language had been developed regarding the location of the wind turbines on the plan. The language regarding the wind turbine is noted on page C2. *“This plan shows possible locations of vertical axis wind turbines as Steinhoff Realty Trust expects to install small wind electric turbines on this property in the future. The Planning and Economic Development Board’s endorsement of this plan for purposes of an adaptive Use Overlay District Special Permit does not constitute an approval of either the future use or the location of such small wind turbine system on this property. Steinhoff Realty Trust will apply separately for the use and location of the small wind system turbines by submitting a special permit request to the Medway Zoning Board of Appeals after the building is constructed and location testing is completed.”* Susy noted that the new wind generation section of the zoning bylaw requires the ZBA to refer any petition for a wind special permit to the DRC for review and comment.

Gino Carlucci, PGC Associates, Inc. provided a document dated August 26, 2010 with comments in relation to 146 Main St. AUOD Special Permit. All parking is to the rear and side as required. The parking lot shows compact spaces along the eastern edge of the parking lot. The lighting is required to be residential in scale and compatible with the architecture of the building. The proposal included a landscape plan that appears to provide adequate screening and buffering.

Dave Pellegrini, Tetra Tech Rizzo provided a memo dated August 25, 2010. It was noted that the site plan is in compliance with the AR-II Zoning District. An updated plan to AC2 was provided during the PEDB hearing on July 27, 2010. The expansion of the curb cut will be reviewed as part of the waiver process. In regards to the lighting, the report indicates that a revised lighting plan had been provided. It appears that the light levels slightly exceed the 0.01 regulatory limits at the property lines in several places. It was recommended that the plan supply details on the height and design of the lighting fixtures. The light poles are shown as 14 ft high and the bylaw notes the lights must be of a residential nature. It was discussed that if the applicant uses smaller poles, then more would need to be added. The Board agrees that 14 feet is too high. Mr. Steinhoff will look into providing a revision to this.

**Abutter, Michael Giovangelo, 144 Main St.** - Mr. Giovangelo wanted to know when the lights in this area will be turned off. He also wanted to know if a soil test was done on the property.

The Board informed the applicant that there cannot be an increase in light spill over off the property. Mr. Steinhoff communicated that a soil test was done. There were 7-8 test holes dug. Each hole has a detailed report.

The parking designations are visible on the plans. The spaces are compact. There are handicap parking spaces designated. It was noted in the Tetra Tech Rizzo report that the parking spaces for visitor and accessible spaces are marked on the plans.

A letter dated August 10, 2010 was received from the H.L. Turner Group, Mr. Steinhoff's engineering firm. This memo references the expansion of the curb cut. This is necessary to allow two-way traffic safe access to the site.

Mr. Steinhoff presented the color renderings of the building.

Susy Affleck-Childs informed the Board that she has received confirmation that member Bob Tucker has reviewed the meeting video from the first public hearing on July 27, 2010 when he was absent. He also has reviewed all documents and provided a Mullins Rules Certification so he can vote on this application. That is attached.

**Abutter, Mrs. Lambert, 7 Temple St.** Mrs. Lambert was inquiring whether there was going to be more greenery added to the North portion of the property. Mr. Steinhoff informed her that there would in fact be more greenery added to the North.

A memo dated August 23, 2010 was received from the Medway Economic Development Committee expressing support for the intentions of the adaptive use of the property on 146 Main St.

The Board is in receipt of a waiver list from Mr. Steinhoff. The Board appreciates the format in which the waiver request was submitted. Member Tucker indicated he would like this format used for all future waivers for other projects.

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to close the public hearing.**

Susy Affleck-Childs will draft a decision for consideration at the September meeting.

#### **CORRESPONDENCE:**

The Board received a memo from Tim Borchers dated August 23, 2010 regarding his resignation from the Medway Economic Development Committee. The Board thanked Mr. Borchers for his time spent on the committee.

#### **Informal Discussion – Mike Fasolino re: 2 Lot Subdivision at 25 Summer St.**

Mr. Fasolino informed the Board that an ANR plan had previously been submitted to the Board and it was determined that there was not sufficient frontage for a second lot on the adjacent private way (because the owner could not provide any documentation that he has rights to that private way). It lacks 37 feet shy of the required 150.

A new concept plan was prepared by O'Driscoll Land Surveying. Dan O'Driscoll was present. It was explained that this new design would be a regular cul-de-sac and ask for waivers for the drainage, street width and curbing. The Board is willing to work with the applicant if he chooses to go through the hearing process and suggested they do a basic drainage framework. The topography slopes down. Member Spiller-Walsh feels that this plan is viable. She suggests the applicant be creative and innovative with a safe turnaround.

The potential applicant noted that if it was approved it would be for two single family homes only; he would not seek a special permit from the ZBA for 2 family dwellings.

Susy Affleck-Childs noted that this could come in under the Board's private way standards which provide for reduced road widths.

**Informal Discussion – Rich Merrikin, Merrikin Engineering re: possible plan modification for Speroni Acres Subdivision**

Rich Merrikin from Merriken Engineering came before the Board for an informal discussion about the Speroni Acres Subdivision. He wants to try to resolve the drainage issues at Speroni Acres. He would like to find out the ground rules for fixing the basins since they are already built. Mr. Merriken was inquiring from the Board if they are willing to accept a solution which would be different from original design as long as it performed the same function. The Board informed Mr. Merriken that any change to the original plan will involve the filing of a plan modification.

Member Tucker notes that the initial ground rules must be followed and welcomes the engineer to think outside the box.

Affleck-Childs communicates to Mr. Merrikin that since the original plan was approved (1998), the Subdivision Rules and Regulations have changed and the stormwater aspect must be in compliance with the current standards.

**Construction Inspection Update: Consultant Report – Tetra Tech Rizzo**

**Franklin Creek Subdivision Retaining Wall:**

The Planning Board sent a letter to Franklin Creek regarding the use of segmented blocks instead of field stone for the retaining wall. The contractor for Franklin Creek was present. He disclosed that he did not view the plan prior to the construction of the segmented block wall. He wanted guidance on what to do next. The Board informed him that the applicant would need to apply for a plan modification to change the specifications for the retaining wall. The Board has to review that during a public meeting and make a determination.

**Williamsburg OSRD – Completion of Drainage System:**

Dave Pellegri from Tetra Tech Rizzo provided a field observation dated August 24, 2010. The site was visited and the installation of 2-118 drain lines from the forebay #3 to the proposed swale was inspected. It was recommended that filter fabric be installed between the crushed stone and proposed sandy gravel layers above the proposed drain pipe when backfilling the trench.

Affleck-Childs recommended that the applicant do a field change for this and Dave Pellegri will provide his recommendations on behalf of the Board.

The Board is in receipt of an email from Paul Yorkis. He requested that the Planning and Economic Development Board vote and sign the release the land for construction of additional buildings at Williamsburg Condominiums. He suggests that the release be retained in the PED office until Dave Pellegri from Tetra Tech authorizes that the minimum work has been completed.



**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to approve a release of the land for construction of additional buildings at Williamsburg Condominiums. This release document will not be provided until Dave Pellegri from Tetra Tech authorizes that the work has been completed.**

**Pine Meadow Project Status:**

An email was received from abutter Nick Turi about the pile of rocks, broken trees, construction equipment and the 4 foot high weeds. Dave Pellegri from Tetra Tech Rizzo informed the Board that he went to the site that afternoon and took photograph. The Board was able to review those. The Board would like a letter sent to the builder regarding the debris on the site and ask him to address these concerns.

Susy Affleck- Childs informed the Board that she supplied the Zoning Board of Appeals with testimony in relation to 25 Milford Street and attended the ZBA's 9/25/10 meeting. The Zoning Board voted to not grant the frontage variance.

There will be a community meeting on Thursday September 23, 2010 at 5:30 at the Thayer House, 2B Oak Street regarding development options.

Susy Affleck-Childs provided the members with an updated job description. She would like the member to review this and provide comments. The Town Administrator has asked for the updated list of duties.

The Board felt that it would be helpful to set up a meeting on September 21, 2010 to discuss the priorities for the May 2011 Town Meeting. One of the suggested topics recommended was the setback requirement in the Commercial Districts. A handout was included in the board packet with a list of possible ideas.

Members Rodenhiser and Gay communicated that they will not be at the September 14, 2010 meeting.

The Board felt that it would be beneficial to have a seminar on integrating wind power into residential areas. Karyl Spiller Walsh noted Paul Lukasz as an excellent possible speaker.

Gino Carlucci provided a map showing the 35 Towns who are designated as Green Communities. Mr. Carlucci informed the Board that adopting the STRETCH CODE is required for Medway to become a Massachusetts Green Community.

The Board is in receipt of an email communication from Attorney Peter Mello of Petrini and Associates in relation to the problems with the recent Public Hearing for the Charles River Village OSRD application. The information and options for next steps will be communicated to the applicant.

**Minutes:**

**July 12, 2010:**

**On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the minutes of July 12, 2010.**

**Chan Rogers abstained from voting as he was not present at the 8-24-10 meeting.**

**August 24, 2010:**

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to approve the minutes of August 24, 2010.**

**Bob Tucker abstained from voting as he was not present at the 8-24-10 meeting.**

**Future Meetings:**

The next regular meetings scheduled are: **Tuesday, September 14, & 28 2010.**

**Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to adjourn at 10:30 PM.**

The meeting was adjourned at 10:30 PM.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator

**September 14, 2010  
Medway Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Bob Tucker, Chan Rogers, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:** Andy Rodenhiser, and Tom Gay

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates Planning Consultant  
Dave Pellegrini, Tetra Tech Rizzo

The Vice Chairman opened the meeting at 7:00 pm.

**ANR Plan – 49 Pearl Street:**

Consultant Carlucci prepared a memo dated September 7, 2010 regarding 49 Pearl Street for an ANR Plan. The plan was prepared by Guerriere & Halnon and is dated June 17, 2010. It proposes to divide an existing Land Court lot of 18.4 acres by splitting off a 1.445-acre buildable lot with frontage on Walker Street plus a 2.758 acre-parcel that is not a separate building lot while leaving 14.2 acres of remaining land with 299.18 feet of frontage on Walker Street. There is an existing house on the property with a party wall separating it into 2 units on separate lots under different ownership. This is an existing condition not affected by the ANR.

It was recommended by Consultant Carlucci that Section 3.2.4 of the Subdivision Rules and Regulations requires that the distance from a new lot line to any existing building be shown. This was not done on the original plan, but has since been corrected on the revised plan delivered this evening.

Section 3.2.7 requires that the names and status of the streets be on the plan as well as whether a street is a scenic road. Walker Street is a scenic road, but this is not indicated on the plan. That omission has been addressed.

The proposed lot division meets the substantive requirements for endorsement. Consultant Carlucci recommended that the plan be endorsed.

The decision will make reference that a scenic road permit may be needed.

**On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, voted unanimously to endorse the ANR plan for 49 Pearl Street.**

**CORRESPONDENCE:**

**Charles River Village OSRD:**

The Board is in receipt of a letter from Paul Yorkis dated September 7, 2010. The letter requests the Planning and Economic Development Board grant a withdrawal without prejudice.

**On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to grant a withdrawal without prejudice for Charles River Village.**

**Construction Inspection Update:**

**Williamsburg Condominium OSRD:**

Tetra Tech conducted a site visit on September 1, 2010 and indicated that the forebays #2 and #3 are almost complete. The installation of the proposed subdrains appeared to be per the plan with the correct size pipe, crushed stone and trench. There was discussion about the installing of the flush mounted curb. This will be double checked by Tetra Tech. It was indicated that the sidewalk (on West Street) will be started and finished by the October 15, 2010 deadline.

The Board was in receipt of a memo dated September 9, 2010 from Tetra Tech. It was noted in the memo that the applicant has met the minimum requirements identified in Condition 12 of the approved Certificate of Action dated January 19, 2010. It was further noted that the Stormwater as-built information included in the September 8, 2010 “Roadway Drainage As-Built Plans” should be updated at the completion of the project and incorporated into the final project as-built plans.

Susy Affleck-Childs reported that based on receipt of the memo from Tetra Tech Rizzo, she had provided the previously signed lot release document to Mr. Yorkis and had notified the Building Department that construction could begin on the other buildings in the development.

**146 Main Street Adaptive Use Overlay Special Draft Decision:**

The members are in receipt of the draft of the Adaptive Use Special Permit Decision for Steinhoff Realty Trust for 146 Main Street prepared by Susy Affleck-Childs. The members would like one of the conditions to make reference to the maintaining of the snow removal. The section on lighting was reviewed and the Board felt that the exterior parking lot lights shall be turned off by 9:30 PM. The hours of operation was also discussed. It was the consensus that there shall be no deliveries prior to 7:00 am and no public access after 9:30 pm.

Susy Affleck-Childs mentioned to the Board that she would like to see some money placed aside by the applicant to review the as-built plan. It was also noted that a monthly status of the progress of the project would be beneficial. The Board agreed and discussed that the project architect/engineer will need to give a certificate of compliance.

**Consultant Report:**

**Franklin Creek Subdivision Wall:**

The Board has not received an application from the developer for a minor modification to the subdivision plan in relation to the retaining wall.

**Committee and Task Force Reports:**

Member Spiller-Walsh informed the members that the DCR had a meeting in the conference room at the library. The members were able to work on the new computer. It was a productive meeting. Thank you to the Library Board of Trustees for allowing the Design Review Committee to use their facility. The DCR is researching if they can redesign the town logo.

**Announcements:**

There will be a SWAP meeting on Thursday, September 24, 2010 at 8:00 am at the Senior Center. This is the annual legislative breakfast.

Gino Carlucci reported that the state has approved Medway's updated Open Space and Recreation Plan.

The Board of Selectmen authorized the contract with People GIS. Training and workshops will begin soon.

**Minutes:**

**August 31, 2010:**

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to approve the minutes of the August 31, 2010 meeting.**

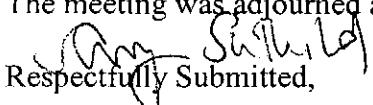
**Future Meetings:**

The next meetings scheduled are: **Tuesday, September 28, October 12 & 26, 2010.**

**Adjourn:**

• **On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to adjourn at 8:30 PM.**

The meeting was adjourned at 8:30 PM.

  
Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

  
Edited by Susan Affleck-Childs  
Planning and Economic Development Coordinator

**September 28, 2010  
Planning and Economic Development Board  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Chan Rogers, Tom Gay, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:** Susy Affleck-Childs, Planning and Economic Development Coordinator

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Gino Carlucci, PGC Associates Planning Consultant  
Dave Pellegri, Tetra Tech Rizzo

The Chairman opened the meeting at 7:00 pm.

**Williamsburg Condominium OSRD:**

**Request for Bond Reduction:**

The Board was provided a bond reduction estimate from Tetra Tech Rizzo dated September 20, 2010. See attached. The original bond estimate had been \$242,206.00. Tetra Tech Rizzo has reviewed the work and recommends a new bond amount of \$200,269.00. The reduction will be \$41,937.00.

Mr. Yorkis would like have a letter sent to Walpole Cooperative Bank indicating the reduction.

**On a motion made by Tom Gay and seconded by Bob Tucker, the Board voted unanimously to reduce the bond by \$41,937.00 to a new amount being \$200,269.00.**

**Charles River OSRD Village Public Hearing:**

Prior to the official opening of the public hearing, representatives of abutter Ms. McDonald (9 Neelon Lane) wanted clarity on some issues.

Attorney Thomas Valkevich asked if Mr. Yorkis had provided a disclosure letter for the record indicating that he serves on the Medway Economic Development Committee and the Planning and Economic Development Board is the appointing authority for that Committee.

John Sarkis – Friend of Beth McDonald (9 Neelon Lane). Mr. Sarkis wanted to know if there is an Associate Member of the Planning and Economic Development Board.

Chairman Rodenhiser indicated that there is no Associate Member of the Planning and Economic Development Board at this time.

Member Rogers wanted it noted that he does not believe that Mr. Yorkis has a conflict of interest in this case by serving as a member on the Medway Economic Development Committee.

The Chairman opened the “new” public hearing for the proposed Charles River Village condominium community. The subject parcel is a 7.6 acre site located at the end of Neelon Lane and abutting the Charles River.

The applicant is Charles River Village LLC. They have applied to the Planning and Economic Development Board for an Open Space Residential Development Special Permit and an Affordable Housing Special Permit. The applicant withdrew the original submittal and has resubmitted the application so that all the Board members may take part in the hearing.

The Chairman informed all that for the benefit of those present in the audience, to be aware that the meeting will be videotaped and broadcasted live on Medway local cable access.

The Chairman reminded all that this project is presently at the second phase in the review process. The public notice requirements for this project have been satisfied and abutter notices were sent to all owners of property located within 300 feet of the development site. The official legal notice for this public hearing was posted at the Medway Town Clerk’s office on September 8, 2010 and was published in the *Milford Daily News* on September 13 and 21, 2010.

**On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to dispense with a formal reading of the official public hearing notice.**

**NOTE - The public hearing notice is attached to these minutes.**

**Paul Yorkis, Charles River Open Space Residential Development:**

Mr. Yorkis provided a Power Point presentation. The show provided an overview on the original submittal along with reviewing specific points on the revised plan which the applicant distributed to the Board at the hearing. The revised plan is dated September 24, 2010, prepared by Faist Engineering and O’Driscoll Land Surveying Co. **A copy of the revised Charles River Special Permit Concept plan is attached.**

**Original Application:**

This slide show explained how the land would be divided within the original application.

The total area of the site is 7.61 acres.

The development parcel A is 3.20 acres.

The open space parcel B is 3.92 acres (upland is 3.16 acres)

Open space C is .28 acres (upland is .28 acres).

The Neelon Lane Extension D is .21 acres.

The Number of Dwellings:

The Market Rate Units = 9.

The affordable units = 2

The Bonus Market Rate Units = 2

The total number of units =13

**Revised Plan:**

The total area of the site is 7.61 acres.

The development parcel A is 3.43 acres

The Open Space parcel B is 4.18 acres (upland is 3.42 acres)

Development Area Increases by .02 acres

Open Space Area decreases by .02 Acres

The Number of Dwellings:

The Market Rate Units = 9

The affordable units =2

The Bonus Market Rate Units = 2

The total number of Units =13

No Change in the number of dwellings

The slide presentation showed the surroundings area along with the existing development surrounding the project location. It also made reference to the current Assessors map.

The next series of slides included information about Neelon Lane.

- Town of Medway has Neelon Lane listed officially as a public way.
- Dating back to the 1970's the Town of Medway has received State aid for Neelon Lane.
- The Town of Medway has improved and maintained Neelon Lane over the years.
- Attorney Thomas J. Valkevich questioned the public status of Neelon Lane at the original public hearing on August 24, 2010 Planning Board meeting on behalf of Mary E. McDonald.
- The applicant has since retained Attorney F. Sydney Smithers, ESQ. to review this matter.

Mr. Yorkis communicated that John Claffey had retained the services of Attorney Sydney Smithers to review the status of Neelon Lane. See attached letter from Attorney Smithers dated September 21, 2010.

Mr. Yorkis commented on the safety concerns that some residents brought up at the meeting. The slide presentation references that the Board is in receipt of three communications.

**1. Town of Medway Fire Department memo dated August 23, 2010.**

The Medway Fire Department Chief memo made reference that, "Upon review of the preliminary plans, I have no problem or issue with the width of Neelon Lane. The design of the circle is suitable for emergency vehicles, in and out of the complex. The width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of the fire hydrants on Neelon Lane, within the complex, and on the access road in from Cherokee Lane is acceptable."

**2. Town of Medway Police Department memo dated September 21, 2010.**



The Medway Police Department memo from Sergeant /Safety Officer Watson noted “The width of the roadway complies with the rules for a development of that size.” It was noted that the Medway Police Department feels that this is an adequate width for such a development. It was recommended that a no parking sign be placed on the East side of Neelon Lane 20 feet from the intersection of Village Street as to comply with the Town’s bylaw. This would enable emergency vehicles the ability to make the turn from Village Street onto Neelon Lane without any obstruction from such vehicles.

**3. Conley Associates memo dated September 2, 2010**

The memo from Conley Associates was stamped on September 23, 2010. Mr. Yorkis presented a statement from Conley Associates noting that the proposed widening of Neelon Lane to 18 feet meets the minimum recommended roadway width. According to ITE (Institute for Transportation Engineers), there would need to be approximately 42 single family homes in order for a wider roadway to be needed.

Copies of the above 3 letters are attached to these minutes.

The last portion of the slide show presentation showed the following photographs:

- View across Village Street from Neelon Lane.
- View showing typical existing pavement conditions of Neelon Lane.
- View looking from Village Street to Neelon Lane.
- View showing pavement conditions at 2 Neelon Lane.
- View showing pavement conditions at end of Neelon lane.

**The full PowerPoint presentation provided by Mr. Yorkis is attached hereto.**

**Engineer, David Faist:**

The Charles River Village LLC proposes to develop a thirteen unit cottage style residential condominium community. This is a 7.61 acre parcel located at 6 Neelon Lane. There was a visual showing the type of cottage. The homes will range in size from 1500 to 2400 square feet; each home would have 3 bedrooms and a garage. Mr. Faist noted that the Concept Plan has been revised based on the comments from the last meeting and was distributed to the Board. New plan date is September 24, 2010.

The Board would like a copy of the revised plan given to the Open Space Committee for additional comments.

Member Tucker communicated that the drainage is a big concern.

Mr. Yorkis noted that the Building Inspector is very strict and checks to make sure that everything is in compliance and if the drainage doesn’t work then the project cannot move forward.

Engineer David Faist indicated that there will be more exact calculation of numbers in relation to the drainage in the definitive plan stage of this process.

Member Spiller-Walsh had a question about the strip at the edge of the cul-de-sac.

The engineer noted that there is no longer a strip in the revised plan. The cul-de-sac is now shown with an easement for public passage.

Member Spiller-Walsh questioned if there is a conflict with the OSRD bylaw's requirement regarding 15 ft strips of land in the open space area. She also communicated that she is a member of the Design Review Committee and the DRC has not made any formal recommendations at this point. They did agree with the cottage flavor of the dwelling units and these would be very marketable.

The discussion was opened to the public:

**Attorney Thomas Valkevich (on behalf of Beth McDonald)**

The Board is in receipt of a memo dated August 24, 2010 from Attorney Valkevich who is representing Ms. McDonald and another memo dated September 28, 2010. Copies of both are attached.

Attorney Valkevich noted a variety of issues:

1. The first concern was that applicant's representative, Mr. Yorkis, is a member of the Medway Economic Development Committee and that the Planning and Economic Development Board is the appointing authority for the members of that Committee. Attorney Valkevich asks if the Board has a public disclosure on file.
2. The second concern is the access to the subject site over Neelon Lane. As noted in the certified document of the 1863 Town Meeting vote (certified by the Medway Town Clerk on August 24, 2010), Neelon Lane was laid out as a private way. This is known as a "statutory private way". It is his opinion that the applicable statutory reference is Chapter 82 of the Massachusetts General Laws, Section 21 through 24. Such statutory private ways have a different legal status than a public way.
3. He questions the overwrite in this document changing "house" to "barn".
4. He believes the roadway layout as shown on the existing Charles River Village concept plan may be inaccurate.
5. A statutory private way is not a public way or a way maintained and used as a public way for the purpose of the Subdivision Control Law. He does not believe that the access qualifies under the Subdivision Control Law. The applicant's proposal requires changes to the usage of Neelon Lane. For the Town to impose such restrictions on a parcel that is not part of the ownership parcel of the developer is beyond the Board's authority, and would require additional takings by the Town of the rights of abutting owners or their mutual consent.

Attorney Valkevich believes that the proposed plan also does not comply with the OSRD section of the Medway Zoning Bylaw. The access over Neelon Lane is not in harmony with the character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, which impact can be mitigated by accessing the site over existing public way Cherokee Lane instead of over Neelon Lane.

He further explains that the proposal fails to comply with the existing rights of parties owning property on Neelon Lane and the proposal does not meet the purposes standards of the Site Plan Review section of the Zoning Bylaw – SECTION V. USE REGULATIONS, Sub-Section C. - 1 (e) (3), (8), (9), (10) and (11). It is the opinion of Attorney Valkevich that the Board does not have the authority to alter the nature of the private way.

Another point of information which was provided by Attorney Valkevich was the existing width of Neelon Lane and the lack of radius at its corner intersection with Village Street. It lacks appropriate sight line easements or other provisions for safe access to the road and is not conducive to the proposed development.

It is his recommendation that a traffic study be required. It is the opinion of Attorney Valkevich that it is beyond the Board's authority to impose restrictions such as "no standing" and "no parking" on Neelon Lane as that land is not part of the ownership parcel of the developer nor is it a public way. To do so would require additional takings by the Town of rights of abutting owners, or their mutual consent to install such.

Attorney Valkevich concluded by noting that the plan as presented doesn't meet the Subdivision Control Standards for roadway width and it would be a detriment to the quality of life of the neighborhood if this development were to be approved.

**Abutter, Mary McDonald, 9 Neelon Lane:**

Ms. McDonald prepared a PowerPoint presentation for the Board to view. She wanted the Board to know that she is opposed to this project due to the noted issues:

- Safety of street (width) for emergency vehicles.
- There are also environmental issues. 55 gallon oil drums were taken out of the site. There was an oil spill on property and Ms. McDonald is waiting for the test results.
- Blasting is another concern along with the effect of that on her artisan well.
- This area has a high water table.
- There are existing springs.
- The devaluation of her property.
- There will be privacy issues once the trees are cut.
- There has been no drainage plan submitted.
- The results of the 21E evaluation need to be provided to the Board.
- The OSRD Section of the Zoning Bylaw notes that the open space must be left in its natural state and be accessible to the public. The plan does not show this.
- Ms. McDonald's indicated that engineer Guerriere and Halnon has reviewed the proposed plan and has noted a discrepancy with various measurements. This information will be provided to the Board.
- The added traffic will cause a hazard. She recommends that an independent traffic study be completed.
- What is going to be done with the dilapidated house?

Mr. Yorkis indicated that he will need a formal demolition permit to remove the existing house.

- Item 20 on Form F Development Impact Report indicated “no” as an answer to the question regarding whether the site has ever been used for the disposal for hazardous waste. Ms. McDonald wanted further clarification on that.
- Will there be a bond set up to cover damages that might be incurred from blasting?
- What is the plan for the snow storage?
- Ms. McDonald would like to see a federal salt study completed.
- Ledge is a big concern. She wanted to know how far down the applicant dug to determine the predominant soil type.

Engineer Faist communicated that they hit ledge at 10 ft in most spots.

- This area is a natural wildlife corridor. There are snapping turtles, red tail hawks, owls, river otters, turkeys, and other wildlife on this site.

Chairman Rodenhiser recommended that she go to the Conservation Commission with this concern.

Ms. McDonald concluded her presentation by asking the following questions:

- What are the benefits of this project?
- Who will use this?
- Who will be maintaining this?
- Why are so many waivers sought?
- What is the benefit to the homeowners?
- Why would an 18 ft - 2 way roadway with no sidewalks be acceptable?

A copy of Ms. Beth McDonald’s PowerPoint presentation is attached.

Ms. McDonald wanted it noted in the record that she would like a fence installed all the way down her property as a buffer if this project goes through.

**Abutter, Susan Diulio, 7 Massasoit St:**

Resident Susan Diulio is questioning how the proposal was originally submitted and then revisions were made and no one was able to view those revisions. It is also her concern that everything that was said at the other meeting will not be warranted.

The Chairman informed Mrs. Diulio that copies of the revised plans are on the table for all to view.

Mrs. Diulio expressed her concerns:

- Concerned about the slope.
- Traffic around corner will invite more people to travel through her neighborhood (Charles River neighborhood).
- Trespassing is a concern.
- Her house is located in the middle and will be looking over everything.

- Water within the fields is an issue.
- She does not want to see the pine trees cut which buffer the Tennis Club.

**Abutter, Mr. DiIulio, 7 Massasoit St.**

- He would like the project to have two points of access.
- The safety of the school children at the corner waiting for the bus is a concern.
- Traffic throughout is a big issue.
- The impact onto Village Street must be addressed.

**Abutter, Peter Newell, 2 Neelon Lane:**

Mr. Newell wanted to know why so many waivers were sought. He would also like to see an independent traffic study completed. He also wanted to know what the Board would do if an independent traffic study made a different recommendation than the Police and Fire Departments.

Member Rogers indicated that he would not take a position against the Fire and Police Department, but he would certainly listen to any further information which may be provided on the issue of traffic.

Mr. Yorkis communicated that the reason for the number of waiver requests has to do with the fact that the Planning Board's *Subdivision Regulations* in regards to the OSRD Development have not been revised.

Member Gay also communicated that upon review of the requested waivers, the waivers sought are mostly procedural in nature.

**Abutter, Marielaina Kaplan, 221 Village St:**

- Her concerns are about the row of trees which buffer her property and whether the trees will be taken down for roadway improvements to Neelon Lane. These currently serve as a buffer for noise and provide privacy.
- 18 ft wide roadway is not safe.
- She currently has difficulty getting out of her driveway (onto Neelon Lane).
- She is not opposed to change, but the project must be in the best interest of the Town.
- The property line is ambiguous and should be clarified.

Attorney Valkevich noted that there is 4 feet missing within the width of the roadway and it may be on any of the titles of the adjacent properties. One would have to research all titles to determine where the discrepancy is.

**John Sarkis, friend of Beth McDonald, Newbury, MA**

Mr. Sarkis introduced himself by explaining that he is a general contractor and is a current Planning Board member in the Town in which he resides. He provided the Board with his understanding of the OSRD Bylaw. The main purpose of the OSRD is to have the development of the land benefit the Town which would be different from the alternatives to conventional standards. He would like clarified what the considered benefits of this project are to the Town.

He would not consider the proposed open space area to be a benefit since the slope of this particular parcel is steep and essentially unbuildable.

He then questioned the OSRD formula and the resulting density yield. He indicated that his calculation of the yield differs from that of the applicant. The overall parcel yield is fewer than 13. If access were provided to this site from Cherokee Lane with a 50 ft. ROW, the yield would be only 3 lots as a conventional subdivision.

NOTE – There was no written documentation provided to the Board.

Mr. Sarkis indicated that the sole means of access to this proposed development being 25 feet wide is not suitable.

The second point that Mr. Sarkis wanted to discuss was the end of Neelon Lane at Village Street. Since the road does not have flared curbs, a driver turning into Neelon Lane from Village Street must stop and wait for a vehicle to exit Neelon Lane. This is extremely dangerous. There is no way to get two cars in and out.

Member Spiller-Walsh suggested that the neighborhood should have formed a neighborhood association and could have purchased this piece of land. The developer does have the right to build on this property.

The Board was in receipt of additional information regarding this proposed development:

- Open Space Committee memo dated September 14, 2010
- Town of Medway Department of Public Works memo dated August 23, 2010
- Design Review Committee memo dated September 17, 2010
- Notes from the September 9, 2010 site visit to the subject property
- ANR Plan of Land dated November 6, 1959 showing Neelon's Lane and Lots 1 and 2.
- Town of Medway Assessor's Field Card for the subject property – Map 1D, Parcel 33.
- Minutes from March 23, 2010 Planning and Economic Development Board meeting.
- Minutes of January 26, 2010 Planning and Economic Development Board meeting
- Communication dated August 24, 2010 from Medway Town Clerk regarding street acceptance for Neelon Lane.
- Certification of Medway Town Clerk dated August 24, 2010 regarding the 1863 Town Meeting vote regarding Neelon Lane.

The public hearing was continued to the next Planning and Economic Development Board meeting on Tuesday October 12, 2010 at 7:15 p.m.

It was determined that Town Counsel's opinion would be sought regarding the legal status of Neelon Lane.

#### **146 Main Street – Adaptive Use Special Permit**

The Board has received a draft copy of the special permit decision dated September 23, 2010 regarding the Adaptive Use Special Permit for the Steinhoff Realty Trust for 146 Main Street.

A copy of the 9-23-10 draft decision is attached.

Consulting Planner Gino Carlucci's review comments dated August 26, 2010 were provided to the Board.

Tetra Tech representative Dave Pellegrini informed the Board about some issues related to the replacement of the Main Street. A memorandum dated September 16, 2010 from Dave Pellegrini is attached.

The Board does not want to sign off on the Special Permit until the sidewalk issue is further reviewed by Susy Affleck-Childs.

**Correspondence:**

- The Fall Town Meeting is scheduled for November 15, 2010.
- A memo dated September 17, 2010 came from Petrini & Associates regarding new legislation extending Municipal Permits and Approvals.

**Meeting Minutes:**

**September 14, 2010:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the minutes of the September 14, 2010 meeting. (Member Gay abstained from vote).**

**Future Meetings:**

The next meetings are scheduled for: **Tuesday, October 12<sup>th</sup> & 19<sup>th</sup>, 2010.**

**Adjourn:**

- **On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to adjourn at 10:30 PM.**

The meeting was adjourned at 10:30 PM.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary



TETRA TECH RIZZO

**Bond Value Estimate  
Williamsburg Way  
Definitive Subdivision  
Medway, Massachusetts  
September 20, 2010**

One Grant Street  
Frammingham, MA 01701  
Tel 508.903.2000 Fax 508.903.2001

DESCRIPTION	QUANTITY	UNIT	UNIT COST	ENGINEERS ESTIMATE
HMA Top Course - 1 1/2" Depth (Roadway)	180	TON	\$100.00	\$18,000
HMA Top Course - 1 1/2" Depth (Sidewalk)	37	TON	\$100.00	\$3,700
HMA Binder Course - 1 1/4" Depth (Sidewalk)	52	TON	\$90.00	\$4,680
HMA Berm - Modified	1,210	LF	\$5.00	\$6,050
HMA Curb	810	LF	\$6.00	\$4,860
Rip-Rap	5	CY	\$90.00	\$450
Loam	220	CY	\$40.00	\$8,800
Seeding	854	SY	\$1.50	\$1,281
Water Gate Adjustments	4	EA	\$125.00	\$500
Drain Structure Adjustments	7	EA	\$300.00	\$2,100
Sanitary Structure Adjustments	5	EA	\$300.00	\$1,500
24" HPDE Pipe (Roof Runoff Recharge Trench)	232	LF	\$60.00	\$13,920
8" HDPE Pipe (Roof Runoff Recharge Trench)	140	LF	\$40.00	\$5,600
Additional Signs	5	EA	\$100.00	\$500
Light Poles	8	EA	\$5,300.00	\$42,400
Street Trees	51	EA	\$420.00	\$21,420
Pavement Markings	1	LS	\$250.00	\$250
2 year Snow Plowing	1,178	LF/YR	\$2.50	\$5,890
2 year Road Maintenance	1,178	LF/YR	\$2.00	\$4,712
2 year Drainage Maintenance	1,178	LF/YR	\$2.00	\$4,712
As-built Plans	1,178	LF	\$5.00	\$5,890
Legal Services	1	LS	\$3,000.00	\$3,000

\$160,215

**Subtotal** \$160,215  
**Contingency (25%)** \$40,054  
**Recommended Bond Value** \$200,269

Notes:

1. Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 9/2009 - 9/2010.

**RECEIVED**  
 SEP 22 2010

**TOWN OF MEDWAY  
 PLANNING BOARD**

*Note - the bond amount is  
 presently \$242,206.00*

*SA*





RECEIVED

SEP 08 2010

TOWN CLERK

**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*

September 7, 2010

**LEGAL NOTICE - PUBLIC HEARING**

***Charles River Village Open Space Residential Development (OSRD)***  
***Application for OSRD and Affordable Housing Special Permits***

The Medway Planning & Economic Development Board will conduct a public hearing on **Tuesday, September 28, 2010 at 7:15 p.m. in Sanford Hall at Medway Town Hall, 155 Village Street, Medway, MA** to consider the re-submitted applications of Charles River Village LLC of Medway, MA for approval of an Affordable Housing Special Permit and an Open Space Residential Development (OSRD) Special Permit and Concept Plan. Dated July 28, 2010, the *Charles River Village – Neelon Lane – OSRD Special Permit Concept Plan* was prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying Co of Medway, MA.

The original hearing on this project was held on August 24, 2010. The hearing is being re-held, re-advertised, and re-noticed because there were technical difficulties with the recording equipment in the meeting room during the first public hearing and the hearing was not recorded. The applicant has withdrawn their original applications from consideration and has re-filed those applications with the Town. This starts a new public hearing and review process. There are no changes to the applications or plans from the previous submittals.

Charles River Village LLC proposes to develop a 13 unit, cottage style residential condominium community on a 7.61 acre parcel located at 6 Neelon Lane (Medway Assessors Map 1-7, Parcel 1D-33) in the ARII zoning district. The proposal is to divide the property into a 3.2 acre development parcel and 2 parcels totaling 4.2 acres of dedicated open space. The development would include two "affordable" dwelling units.

Any person or party who is interested or wishes to be heard on this proposal is invited to review the plans and express their views at the public hearing. The special permit applications and Concept Plan are on file with the Medway Town Clerk at the Medway Town Hall, 155

Village Street and may be inspected on Mondays from 8:00 am to 7:30 pm, Tuesdays through Thursdays from 8:00 am to 4:00 pm, and Fridays from 8:00 am to 1:00 pm. Written comments may be forwarded to the Board at 155 Village Street, Medway, MA 02053 or emailed to: [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org). Please contact the Medway Planning and Economic Development office at 508-533-3291 with any questions.

*Andy Rodenhiser*  
Chairman

To be published in the *Milford Daily News*:

Monday, September 13, 2010  
Tuesday, September 21, 2010

**Cain Hibbard & Myers PC**  
Counselors at Law

66 West Street, Pittsfield, Massachusetts 01201-5764, 413-443-4771 Fax 413-443-7694  
Direct Extension: 413-629-1304 email: fssmithers@cainhibbard.com

**F. Sydney Smithers**

September 21, 2010

Mr. Andy Rodenhiser , Chairman  
Planning and Economic Development Board  
Town of Medway  
155 Village Street  
Medway, MA 02053

Re: Charles River Village - Neelon lane  
Proposal by John Claffey

Dear Mr. Rodenhiser:

This office has been retained by John Claffey to render our opinion to your board with respect to the status of Neelon Lane, so called, which extends southerly from Village Street in Medway.

In rendering this opinion we have reviewed copies of the following:

1. A copy of the warrant, dated March 25, 1863 for the town meeting to be held at 11:00 a.m. on Monday, April 6, 1863 including Warrant Article 12<sup>th</sup>, as follows:

To see if the town will accept the doings of the Selectmen in laying out a private way from the Old Hartford Road (so-called) to the house of Frances Neland [sic] as petitioned for by Luther Metcalf and others.

2. The town meeting minutes for the April 6, 1863 town meeting including the action taken on Article 12<sup>th</sup>, as follows:

Voted to accept the Report of the Selectmen in relation to said road as follows:

On petition of Luther Metcalf and others we the subscribers Selectmen of Medway have laid out for the use of Francis Neeland and others in passing from the house of said Neeland to the old Hartford Road (so-called) a private way on condition that Neeland shall remove the fence of Chas B. Whitney and reset the same on the easterly side of the proposed way and also that he shall build and

September 21, 2010

Page 2

F. Sydney Smithers

construct said way in such a manner that it shall be safe and convenient for carriages.

Said way to be located partly on land set apart for a way by J. W. B. Wilson deceased, partly on land of said Neeland, and partly on land of C. B. Whitney and bounded as follows:

Beginning at the easterly end of the wall in front of the house of the heirs of John Karnes at the old Hartford Road, and running southerly in a straight line to the easterly front in the pickit fence separating land of said heirs, from land of said Neeland, and thence running in the same direction to a fence opposite the southerly side of said Neeland's barn and to be twenty five feet wide on the easterly side of said line.

And we award C.B. Whitney as land damage the sum of twenty dollars (\$20.00) and for fencing the sum of twenty dollars (\$20.00) We also award to the heirs of John Karnes the sum of ten dollars for fencing to paid by the Town.

Dated at Medway the 26 of March, in the year 1863

Wm Danials	Selectmen
Simeon Fisher	of
C Partridge	Medway

3. A plan entitled "Existing Conditions Plan Neelon Lane, Medway, Massachusetts" dated August 23, 2010 and prepared O'Driscoll Land Surveying Co. (the Existing Conditions Plan"); and

4. A plan entitled "Context & Analysis Plan 'Charles River Village' - OSRD Neelon Lane, Medway, Massachusetts", sheet 2 of 4 (the "Context Plan").

The selectmens' layout, upon acceptance at Town meeting, created a statutory private way.

M.G.L. c 82, §§ 21 and 23, provide for statutory private ways, as follows:

September 21, 2010

Page 3

F. Sydney Smithers

c. 82, § 21

The Selectmen or road commissioners of a town or city counsel of a city may lay out, relocate, or alter town ways, for the use of the town or city, and private ways for the use of one or more of the inhabitants thereof; or they may order specific repairs to be made upon such ways; and town, at a meeting, or the city council of a city, may discontinue a town way or a private way.

c. 83, § 23

No town way or private way which has been laid out, relocated, or altered by the selectmen or road commissioners shall, except as hereinafter provided, be established until such laying out, relocation, or alteration, with the boundaries and measurements of the way, is filed in the office of the town clerk and, not less than seven days thereafter, is accepted by the town at a town meeting. This section shall not apply to cities.

The report of the selectmen dated March 26, 1863 constitutes the "lay out" of a statutory private way, and the vote of the town meeting held on April 6, 1863 constitutes the town's "acceptance" of that statutory private way.

A statutory private way is laid out at the request of or for the convenience or accommodation of individuals, but is available for use by the members of the public at large. As was said in Flagg v. Flagg, 82 Mass. 175 at 180 (1860):

It is a private way, only as distinguished from a highway or common road, and because in its origin it was laid out for the accommodation and benefit of individuals. But when laid out and established, it becomes a way or easement in its nature public, which anyone having occasion may use and enjoy until it is lawfully discontinued.

Turning to the 1863 report of the selectmen, it is clear that the way to be laid out was what is now known as a statutory private way. In addition to the fact that it is stated to be "a private way", it was further laid out on the conditions that "Neeland shall remove the fence of Chas B. Whitney and reset the same on the easterly side of the proposed way and also that he shall build and construct said way in such a manner, that it shall be safe and convenient for carriages." Finally, as we read the report, Neeland was obliged to pay the land damages and damages for fencing to C.B. Whitney.

September 21, 2010  
Page 4

F. Sydney Smithers

The ancient statutes make it clear that whether a road is public or private for up-keep purposes depends, not just upon *whether* it was laid out upon *why* it was laid out. The “why” of it is best indicated by who paid for it.

United States v. 125.07 Acres of Land More or Less 707 F. 2d 11 at 14 (1983).

The US Court of Appeals in that same case gave a explanation of the kinds of public roads that existed in early Massachusetts:

First, there were highways, laid out and paid for by the county [citation omitted]. Second, there were town ways laid out and paid for by the town [citation omitted]. Third, there were certain ‘particular and private ways’ necessary for access to ‘the lands of particular persons or proprietors.’ These were also laid out by the town, but they might be paid for by either the town or the ‘inhabitants or proprietors who desire and reap the benefit of the same.’ [citation omitted]. Such a road is public in the sense of providing access, see Denham v. Commissioner of Bristol [108 Mass. 202, 205(1871)] Flagg v. Flagg, 82 Mass. (16 Gray) 175 (1860), but its latter day descendent is the ‘statutory private way’, Mass. Gen. Laws ch. 82 § 21, see Casagrande v. Town Clerk of Harvard, 377 Mass. 703, 387 N.E. 2d 571, 574 (Mass. 1979), a kind of road for which neither town, county, nor commonwealth bears upkeep responsibility. See Mass. Gen. Laws ch. 40 §6 N; id. ch. 84, §14 [other citations omitted]

The case of Casagrande v. Town Clerk of Harvard, 377 Mass. 703 (1973) is instructive. There, the Casagrandes who owned the entire length of a statutory private way named Sawyer Lane, submitted a plan dividing sixteen lots with frontage on Sawyer Lane to the Harvard Planning Board seeking a so-called “subdivision approval not required” endorsement authorizing the division of those lots. They alleged that Sawyer Lane was either a “public way” or a way that was “maintained and used as a public way” thereby permitting the division of land abutting thereon pursuant to G.L. c. 41 § 81P.

For at least fifty years prior to the institution of this action, Harvard maintained Sawyer Lane by removing snow, and by gravelling, grading, and removing brush [Foot Note 4: The Town discontinued maintenance when this action was initiated.] In the 1930’s the Towns of Harvard and Littleton jointly widened Sawyer Lane to facilitate snow plowing. In 1945 the selectmen of Harvard, pursuant to authority from the Town meeting, officially named Sawyer Lane; and in 1970, Sawyer Lane was included on a ‘List of Public Roads.’ The Town of Harvard received reimbursement under G.L. c. 81, §26, for the cost of

September 21, 2010

Page 5

F. Sydney Smithers

maintaining Sawyer Lane. The Planning Boards of both Harvard and Littleton have previously endorsed, as not requiring approval, plans showing division [foot note omitted] of parcels bordering on Sawyer Lane. Id. at 705-706.

Notwithstanding that high degree of municipal maintenance activity on Sawyer Lane, the fact that it was laid out as a statutory private way and not as a public way obviated any opportunity to obtain an ANR endorsement of lots abutting on Sawyer Lane because municipalities are not obliged to maintain statutory private ways. The care distinguishes statutory private ways from town ways in Foot Note 2, at 704. Foot Note 2 reads in part:

A statutory private way is a way laid out and accepted by town officials 'for the use of one or more inhabitants....' G.L. c. 82, §§ 21, 23.... Repairs on a private way may be made by the town on the application of any person, provided the town is reimbursed for most expenses. [citation omitted] Some public money may be appropriated for removal of snow and ice from public ways if a town elects to do so [citation omitted]

Town ways are established for the use of the town and must be maintained at public expense. See G.L. c. 82, § 21; G.L. c. 84, §1

The fact that the town of Medway has maintained, in part, Neelon Lane and had received state reimbursement for some of its expenses, does not change the fact that Neelon Lane is a statutory private way.

Neelon Lane is an easement (Flagg v. Flagg supra at 180) of public passage (Opinion of the Justices, 313 Mass. 779 (1943) where it was said, at 782; "... [T]he words 'private ways' may occasionally be used in the statutes with a different meaning, see, for example, G.L. (Ter. Ed) c. 84, §§ 12-14, they commonly mean ways of a special type laid out by public authority for the use of the public. G.L. (Ter. Ed) c. 82, §§ 21-32A. Such 'private ways' are private only in name, but are in all other respects public. Denham v. Bristol County Commissioners, 108 Mass. 202, 208 [other citations omitted]."

Neelon Lane was laid out as a public easement of passage twenty five feet in width and extending southerly from what is now Village Street (formerly the old Hartford Road) an unstated distance to a fence opposite the southerly side of a barn on Neeland's land.

We have been advised that the barn at 6 Neelon Lane is likely the former Neeland barn. We therefore conclude that Neelon Lane extends from Village Street southerly to about the point shown on the Context Plan as "Ex. Bit. Driveway." We conclude that Neelon

September 21, 2010  
Page 6

F. Sydney Smithers

Lane extends about 125 feet further south from the point labeled "End of Existing Public R.O.W." on the Context Plan.

As a public easement of passage twenty five feet in width, the entire width of the easement may be appropriated for public passage. As such, the entire 25 foot width may be occupied by the installation of paved traveled ways, sidewalks, storm drainage and municipal utilities. The paved traveled way may be located anywhere within the 25 foot width of the easement, on either side, or centered.

The owner of the former Neeland land may be charged with the reasonable expense of alteration, improvement, paving or installation of utilities in Neelon Lane.

To the extent the proposed cul-de-sac is outside the limits of Neelon Lane as originally laid out, the town should require that it be granted as easement of public passage in the cul-de-sac and any land adjacent to it needed for maintenance, storm drainage and snow storage.

If we can be of further assistance, please feel free to call us.

Very truly yours,

CAIN HIBBARD & MYERS PC



F. Sydney Smithers

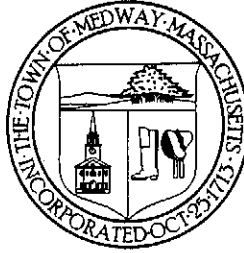
FSS/klm  
Enclosure



# Town of Medway Fire Department

Paul L. Trufant, Chief  
44 Milford Street  
Medway, MA 02053

Tel: (508) 533-3213  
Fax: (508) 533-3254



RECEIVED  
AUG 23 2010

TOWN OF MEDWAY  
PLANNING BOARD

August 23, 2010

To: The Medway Planning Board

Re: Charles River Village Open Space Residential Development (OSRD)

Upon review of the preliminary plans, I have no problem or issue with the width of Neelon Lane. The design of the circle is suitable for emergency vehicles, in and out of the complex.

The width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of the fire hydrants on Neelon Lane, within the complex, and on the access road in from Cherokee Lane is acceptable.

For the Department,

Chief Paul L. Trufant



# Medway Police Department

315 Village Street  
Medway, MA 02053

Phone: 508-533-3212  
FAX: 508-533-3216  
Emergency: 911

Allen M. Tingley  
Chief of Police

RECEIVED  
SEP 21 2010

TOWN OF MEDWAY  
PLANNING BOARD

September 21, 2010

To: Medway Planning Board

From: Jeffrey W. Watson  
Sergeant/Safety Officer  
Medway Police Department

Ref: "Charles River Village" Neelon Lane

I have looked at the Concept plan Dated 07/28/2010 for the "Charles River Village" located off of Neelon lane. I have been asked to comment on the safety of an 18 foot wide roadway (Neelon Lane) leading into the development. This would be the minimum width that we would be able to safely get emergency vehicles in and out of the development.

If an 18 foot wide roadway adheres to the towns regulations. I would recommend that a no parking sign be placed on the East side of Neelon lane 20 feet from the intersection of Village Street. This would enable emergency vehicles the ability to make the turn from Village St. onto Neelon lane without any obstruction such as vehicles. The 20 foot rule follows our town by-laws.

I was also asked to comment on a need for a sidewalk to be installed on Neelon Lane. A side walk on Neelon Lane is a good idea. It would give a safe place for the children coming out of the development along with the children on Neelon Lane a safe place to wait for the school bus and walk to school.

If a side walk was to be installed I believe that any side walk construction would have to comply with the Americans with Disabilities Act Requirement: "When streets and roads are newly built or altered, they must have ramps wherever there are curbs or other barriers to entry from a pedestrian walkway. Likewise, when new sidewalks or walkways are built or altered, they must contain curb ramps or sloped areas wherever they intersect with streets or roads". I would be concerned that if a new sidewalk was installed on Neelon Lane the town might be obligated to continue the sidewalk down Village or across Village street.

If you have any questions please contact me.

**CONLEY**  
**ASSOCIATES**

# Memorandum

To: Mr. John Claffey  
From: Mr. Brian J. Beisel  
CC: Mr. David Faist  
Date: September 2, 2010  
Re: Charles River Village Access

---

Conley Associates, Inc. has reviewed the site plan prepared by Faist Engineering, Inc. for the Charles River Village residential development accessed via Neelon Lane in Medway, Massachusetts. Currently Neelon Lane provides access to three residential single family homes, not including the house located on the Site Property (which will be removed as part of this development). The proposed development consists of building 13 additional single family homes for a total of 16 homes accessed via Neelon Lane. As part of the development of the 13 homes, Neelon Lane will be widened to 18 feet with a four foot sidewalk.

## **Trip Generation**

As per industry standard, Conley Associates, Inc. determined the trip generation of the existing and proposed homes based on the Institute of Transportation Engineer's (ITE) manual, Trip Generation, 8<sup>th</sup> Edition, 2008. Land Use Code (LUC) 210--Single Family Detached Housing was utilized in order to determine the trip generation of the existing and proposed houses. Table 1 summarizes the trip generation of the single family homes.

RECEIVED  
SEP 23 2010

TOWN OF MEDWAY  
PLANNING BOARD

**Table 1: ITE Trip Generation Summary**

	<b>Existing<sup>1</sup></b>	<b>Proposed<sup>2</sup></b>	<b>Total</b>
<b>Weekday Daily Total</b>			
In	14	62	76
Out	<u>14</u>	<u>62</u>	<u>76</u>
Total	28	124	152
<b>Weekday AM Peak Hour</b>			
In	1	3	4
Out	<u>2</u>	<u>7</u>	<u>9</u>
Total	3	10	13
<b>Weekday PM Peak Hour</b>			
In	2	8	10
Out	<u>1</u>	<u>5</u>	<u>6</u>
Total	3	13	16

1. Trip generation based on Trip Generation, 8<sup>th</sup> Edition, published by Institute of Transportation Engineers, 2008. Assumes 3 units of LUC 210, Single Family Detached Housing.
2. Trip generation based on Trip Generation, 8<sup>th</sup> Edition, published by Institute of Transportation Engineers, 2008. Assumes 13 units of LUC 210, Single Family Detached Housing.

As shown in Table 1, the existing three houses are generating approximately 28 vehicle trips during the course of typical weekday. According to ITE, the proposed 13 houses are expected to generate approximately 124 additional vehicle trips throughout the course of a typical weekday. Therefore, 152 vehicles trips are expected to access Neelon Lane to and from the 16 homes. The trip generation worksheets are attached to this memorandum.

### **AASHTO Minimum Width Requirements**

Conley Associates, Inc. researched the American Association of State Highway and Transportation Officials (AASHTO) publication, "A Policy On Geometric Design of Highway and Streets" (AASHTO Green Book) to determine the minimum width recommended for a roadway with a daily traffic volume of approximately 150 vehicles. Exhibit 5-5, 'Minimum Width of Traveled Way and Shoulders' states that with a design speed of 40 mph or less, an 18 foot roadway can accommodate up to 400 vehicles per day. Therefore, the proposed widening of Neelon Lane to 18 feet meets the minimum recommended roadway width. In fact, according to ITE, there would need to be approximately 42 single family homes in order for a wider roadway to be recommended. Exhibit 5-5 of the AASHTO Green Book is attached to this memorandum.

### **Emergency Access**

Conley Associates, Inc. is in receipt of a letter written by the Town of Medway Fire Chief dated August 23, 2010. This letter states that Chief has "no problem or issue with the width of Neelon Lane." A copy of the letter can be found attached to this memorandum.

## TRIP GENERATION WORKSHEET

x= 3 Dwelling Units

LUC: Single-Family Detached Housing (210)

### WEEKDAY

Average Rate = 9.57  
Total Trips = 28.71

Fitted Curve Equation =  $\ln(T) = 0.92 * \ln(X) + 2.71$   
Total Trips = 41.29

### AM PEAK HOUR of ADJACENT STREET

Average Rate = 0.75  
Total Trips = 2.25  
25% of Trips In = 1  
75% of Trips Out = 2

Fitted Curve Equation =  $T = 0.70 * X + 9.74$   
Total Trips = 11.84  
25% of Trips In = 3  
75% of Trips Out = 9

### PM PEAK HOUR of ADJACENT STREET

Average Rate = 1.01  
Total Trips = 3.03  
63% of Trips In = 2  
37% of Trips Out = 1

Fitted Curve Equation =  $\ln(T) = 0.90 * \ln(X) + 0.51$   
Total Trips = 4.48  
63% of Trips In = 3  
37% of Trips Out = 2

### AM PEAK HOUR of GENERATOR

Average Rate = 0.77  
Total Trips = 2.31  
26% of Trips In = 1  
74% of Trips Out = 2

Fitted Curve Equation =  $T = 0.70 * X + 12.37$   
Total Trips = 14.47  
26% of Trips In = 4  
74% of Trips Out = 11

### PM PEAK HOUR of GENERATOR

Average Rate = 1.02  
Total Trips = 3.06  
64% of Trips In = 2  
36% of Trips Out = 1

Fitted Curve Equation =  $\ln(T) = 0.88 * \ln(X) + 0.62$   
Total Trips = 4.89  
64% of Trips In = 3  
36% of Trips Out = 2

### SATURDAY

Average Rate = 10.08  
Total Trips = 30.24

Fitted Curve Equation =  $\ln(T) = 0.95 * \ln(X) + 2.59$   
Total Trips = 37.85

### PEAK HOUR of GENERATOR

Average Rate = 0.93  
Total Trips = 2.79  
54% of Trips In = 2  
46% of Trips Out = 1

Fitted Curve Equation =  $T = 0.89 * X + 9.56$   
Total Trips = 12.23  
54% of Trips In = 7  
46% of Trips Out = 6

### SUNDAY

Average Rate = 8.77  
Total Trips = 26.31

Fitted Curve Equation =  $T = 8.84 * X - 13.31$   
Total Trips = 13.21

### PEAK HOUR of GENERATOR

Average Rate = 0.86  
Total Trips = 2.58  
53% of Trips In = 1  
47% of Trips Out = 1

Fitted Curve Equation =  $\ln(T) = 0.91 * \ln(X) + 0.35$   
Total Trips = 3.86  
53% of Trips In = 2  
47% of Trips Out = 2

## TRIP GENERATION WORKSHEET

x= 13 Dwelling Units

LUC: Single-Family Detached Housing (210)

### WEEKDAY

Average Rate = 9.57  
Total Trips = 124.41

Fitted Curve Equation =  $\ln(T) = 0.92 \cdot \ln(X) + 2.71$   
Total Trips = 159.14

### AM PEAK HOUR of ADJACENT STREET

Average Rate = 0.75  
Total Trips = 10  
25% of Trips In = 3  
75% of Trips Out = 7

Fitted Curve Equation =  $T = 0.70 \cdot X + 9.74$   
Total Trips = 18.84  
25% of Trips In = 5  
75% of Trips Out = 14

### PM PEAK HOUR of ADJACENT STREET

Average Rate = 1.01  
Total Trips = 13.13  
63% of Trips In = 8  
37% of Trips Out = 5

Fitted Curve Equation =  $\ln(T) = 0.90 \cdot \ln(X) + 0.51$   
Total Trips = 16.75  
63% of Trips In = 11  
37% of Trips Out = 6

### AM PEAK HOUR of GENERATOR

Average Rate = 0.77  
Total Trips = 10.01  
26% of Trips In = 3  
74% of Trips Out = 7

Fitted Curve Equation =  $T = 0.70 \cdot X + 12.37$   
Total Trips = 21.47  
26% of Trips In = 6  
74% of Trips Out = 16

### PM PEAK HOUR of GENERATOR

Average Rate = 1.02  
Total Trips = 13.26  
64% of Trips In = 8  
36% of Trips Out = 5

Fitted Curve Equation =  $\ln(T) = 0.88 \cdot \ln(X) + 0.62$   
Total Trips = 17.76  
64% of Trips In = 11  
36% of Trips Out = 6

### SATURDAY

Average Rate = 10.08  
Total Trips = 131.04

Fitted Curve Equation =  $\ln(T) = 0.95 \cdot \ln(X) + 2.59$   
Total Trips = 152.43

### PEAK HOUR of GENERATOR

Average Rate = 0.93  
Total Trips = 12.09  
54% of Trips In = 7  
46% of Trips Out = 6

Fitted Curve Equation =  $T = 0.89 \cdot X + 9.56$   
Total Trips = 21.13  
54% of Trips In = 11  
46% of Trips Out = 10

### SUNDAY

Average Rate = 8.77  
Total Trips = 114.01

Fitted Curve Equation =  $T = 8.84 \cdot X - 13.31$   
Total Trips = 101.61

### PEAK HOUR of GENERATOR

Average Rate = 0.86  
Total Trips = 11.18  
53% of Trips In = 6  
47% of Trips Out = 5

Fitted Curve Equation =  $\ln(T) = 0.91 \cdot \ln(X) + 0.35$   
Total Trips = 14.65  
53% of Trips In = 8  
47% of Trips Out = 7

Metric					US Customary				
Minimum width of traveled way (m) for specified design volume (veh/day)					Minimum width of traveled way (ft) for specified design volume (veh/day)				
Design speed (km/h)	under 400	400 to 1500	1500 to 2000	over 2000	Design speed (mph)	under 400	400 to 1500	1500 to 2000	over 2000
20	5.4	6.0 <sup>a</sup>	6.0	6.6	15	18	20 <sup>a</sup>	20	22
30	5.4	6.0 <sup>a</sup>	6.6	7.2 <sup>c</sup>	20	18	20 <sup>a</sup>	22	24 <sup>c</sup>
40	5.4	6.0 <sup>a</sup>	6.6	7.2 <sup>c</sup>	25	18	20 <sup>a</sup>	22	24 <sup>c</sup>
50	5.4	6.0 <sup>a</sup>	6.6	7.2 <sup>c</sup>	30	18	20 <sup>a</sup>	22	24 <sup>c</sup>
60	5.4	6.0 <sup>a</sup>	6.6	7.2 <sup>c</sup>	40	18	20 <sup>a</sup>	22	24 <sup>c</sup>
70	6.0	6.6	6.6	7.2 <sup>c</sup>	45	20	22	22	24 <sup>c</sup>
80	6.0	6.6	6.6	7.2 <sup>c</sup>	50	20	22	22	24 <sup>c</sup>
90	6.6	6.6	7.2 <sup>c</sup>	7.2 <sup>c</sup>	55	22	22	24 <sup>c</sup>	24 <sup>c</sup>
100	6.6	6.6	7.2 <sup>c</sup>	7.2 <sup>c</sup>	60	22	22	24 <sup>c</sup>	24 <sup>c</sup>
Width of graded shoulder on each side of the road (m)					Width of graded shoulder on each side of the road (ft)				
All speeds	0.6	1.5 <sup>ab</sup>	1.8	2.4	All speeds	2	5 <sup>ab</sup>	6	8
<sup>a</sup> For roads in mountainous terrain with design volume of 400 to 600 veh/day, use 5.4-m [18-ft] traveled way width and 0.6-m [2-ft] shoulder width. <sup>b</sup> May be adjusted to achieve a minimum roadway width of 9 m [30 ft] for design speeds greater than 60 km/h [40 mph]. <sup>c</sup> Where the width of the traveled way is shown as 7.2 m [24 ft], the width may remain at 6.6 m [22 ft] on reconstructed highways where alignment and safety records are satisfactory. See text for roadside barrier and offtracking considerations.									

Exhibit 5-5. Minimum Width of Traveled Way and Shoulders

N/F	NOW OR FORMERLY
CB DM	CONCRETE BOXED WITH DRILL HOLE
FNO.	FOUND
EXIST.	EXISTING
PROP.	PROPOSED
INV.	INVERT
R.C.P.	REINFORCED CONCRETE PIPE
APPROX.	APPROXIMATE

[illegible]

**RECORD OWNER: MICHAEL ACQUAFRESCA & CAROL SUPERNOFF  
EXECUTIVE OF HELEN GRUDZINSKAS**

CONTACT: CAROL SUPERNO  
71A TINDRO DRIVE  
WORCESTER, MA 01603  
(508) 770-0625

PREPARED FOR: CHARLES RIVER VILLAGE, LLC  
ASSESSORS REFERENCE: MAP 1-7 PARCEL 10/33

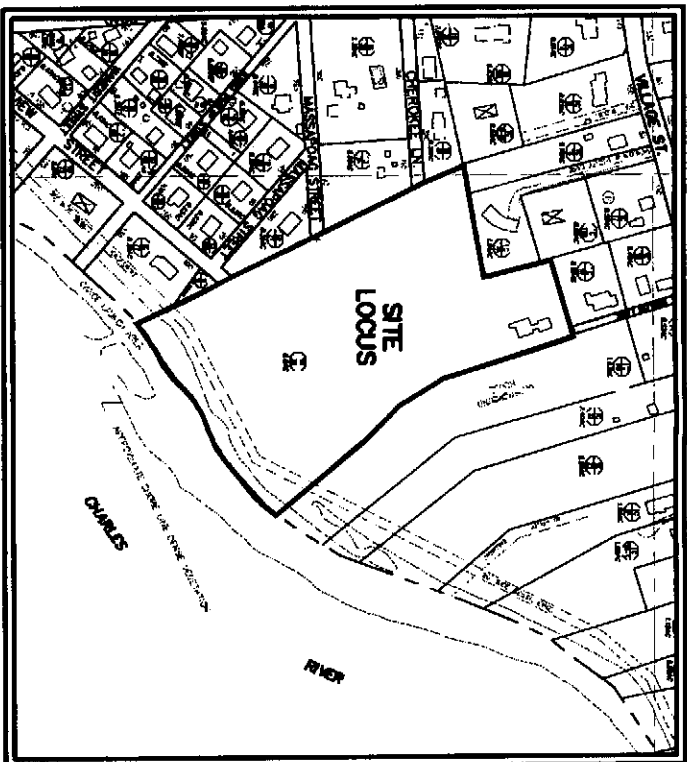
DEED REFERENCE: NORTOLK COUNTY REGISTRY OF DEEDS  
BOOK 16973 PAGE 237  
BOOK 09848 PAGE 353  
ORCD SETWELL EASEMENT:  
BOOK 05224 PAGE 185

**ZONING DISTRICT:** AGRICULTURAL - RESIDENTIAL, M (AR II)  
MIN. REQUIRED AREA: 22,500 S.F.  
MIN. REQUIRED FRONTAGE: 150'  
MIN. SETBACK FROM STREET LINE: 30'  
MIN. SIDE AND REAR LOT LINE: 15'

1) LIMITED EXISTING CONDITIONS & SITE PROPERTY BOUNDARIES ARE BASED ON AN ON-THE-GROUND SURVEY BY OTHRSOILL LAND SURVEYING CO. DURING JUNE-JULY 2010. INFORMATION SHOWN IS FOR OSD SPECIAL PERMIT CONCEPT PLAN PURPOSES ONLY.

- 2) TOPOGRAPHY, WETLANDS, RIVER BANK AND FLOOD PLAIN LOCATIONS ARE BASED ON A PLAN PROVIDED BY THE APPLICANT AND ARE NOT BASED ON ANY OF THE GROUND SURVEY INFORMATION. THE APPLICANT SHALL EMPLOY A PROFESSIONAL WETLANDS CONSULTANT TO DETERMINE WETLANDS, RIVER BANK AND FLOOD PLAIN LOCATIONS AND FILE AN OFFICIAL AWARD WITH THE MEDWAY CONSERVATION COMMISSION.
- 3) THE PROPOSED PROJECT SHALL BE SERVED BY TOWN WATER AND TOWN SEWER VIA EXISTING MEDWAY 18" DRAINAGE SHEET 1 AND CHANNELS RIVER ROAD THROUGH MEDLOW LANE AND CHORLEIGH LANE.
- 4) NO CUTS OR FILLS GREATER THAN 6' OR SLOPES GREATER THAN 2:1M WILL BE NECESSARY FOR THIS PROJECT. BASED ON A PRELIMINARY REVIEW OF AVAILABLE TOPOGRAPHIC DATA.
- 5) AREAS OF 100-YEAR FLOOD SHOWN BASED ON PLAIN, FLOOD INSURANCE RATE MAP FOR THE TOWN OF MEDWAY MASSACHUSETTS 18, 0 OF 5, COMMUNITY PANEL NUMBER 250243 0003 B, EFFECTIVE DATE: JUNE 16, 1990.

- THIS PLAN TO BE USED FOR PRELIMINARY SITE PLANNING PURPOSES ONLY -



LOCUS MAP  
SCALE: 1"=200'

“CHARLES RIVER VILLAGE”  
NEELON LANE – MEDWAY, MASSACHUSETTS  
SPECIAL PERMIT – CONCEPT PLANS  
OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

CHARLES RIVER WILAGE, LLC  
P.O. BOX 1  
MEDWAY, MA 02053  
P. (508)-326-7505

DAVID T. FAIST, P.E.  
FAIST ENGINEERING, INC.  
600 CHARLTON STREET  
SOUTHERIDGE, MA 01350  
PH: (508) 765-7795

DANIEL A. O'DRISCOLL, P.L.S.  
O'DRISCOLL LAND SURVEYING, CO.  
46 COTTAGE STREET  
MEDWAY, MA 02053  
P: 1-508-533-3314

MICHAEL AQUAFRESCA & CAROL SUPERIOR  
EXECUTIVE OF HELEN CRUDENKAS  
282 PURCHASE STREET  
MILFORD, MA 01757

WOLFESELE, WA 91803  
(508) 770-0825

**LOWELL ROBINSON**  
LANDSCAPE ARCHITECT  
92 SEDGWICK STREET  
NORFOLK, MA 02056-1111  
PH: (508) 528-3503

\* REDUCED SCALE PLOT \*  
SEE FULL SIZE (24"X36")  
1"=40' SCALE PLANS

RESERVED FOR REGISTRY USE

**TOWN OF MEDWAY PLANNING &  
ECONOMIC DEVELOPMENT BOARD**

APPROVAL DATE  
ENDORSEMENT DATE

1. MARYJANE WHITE, CLERK OF THE TOWN OF MIDWAY, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO NOTICE OF APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

TOWN CLERK	DATE

## PLAN INDEX

SHEET 1:	TITLE SHEET
SHEET 2:	CONTEXT & ANALYSIS PLAN
SHEET 3:	CONCEPT PLAN "CHARLES RIVER VILLAGE" OSD
SHEET 4:	YIELD PLAN

"CHARLES RIVER VILLAGE"  
SPECIAL PERMIT - CONCEPT PLANS  
OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)  
IN

MEDWAY, MASSACHUSETTS

DATE: JULY 28, 2010

**COPIES DESTROYED**

**O'DRISCOLL**

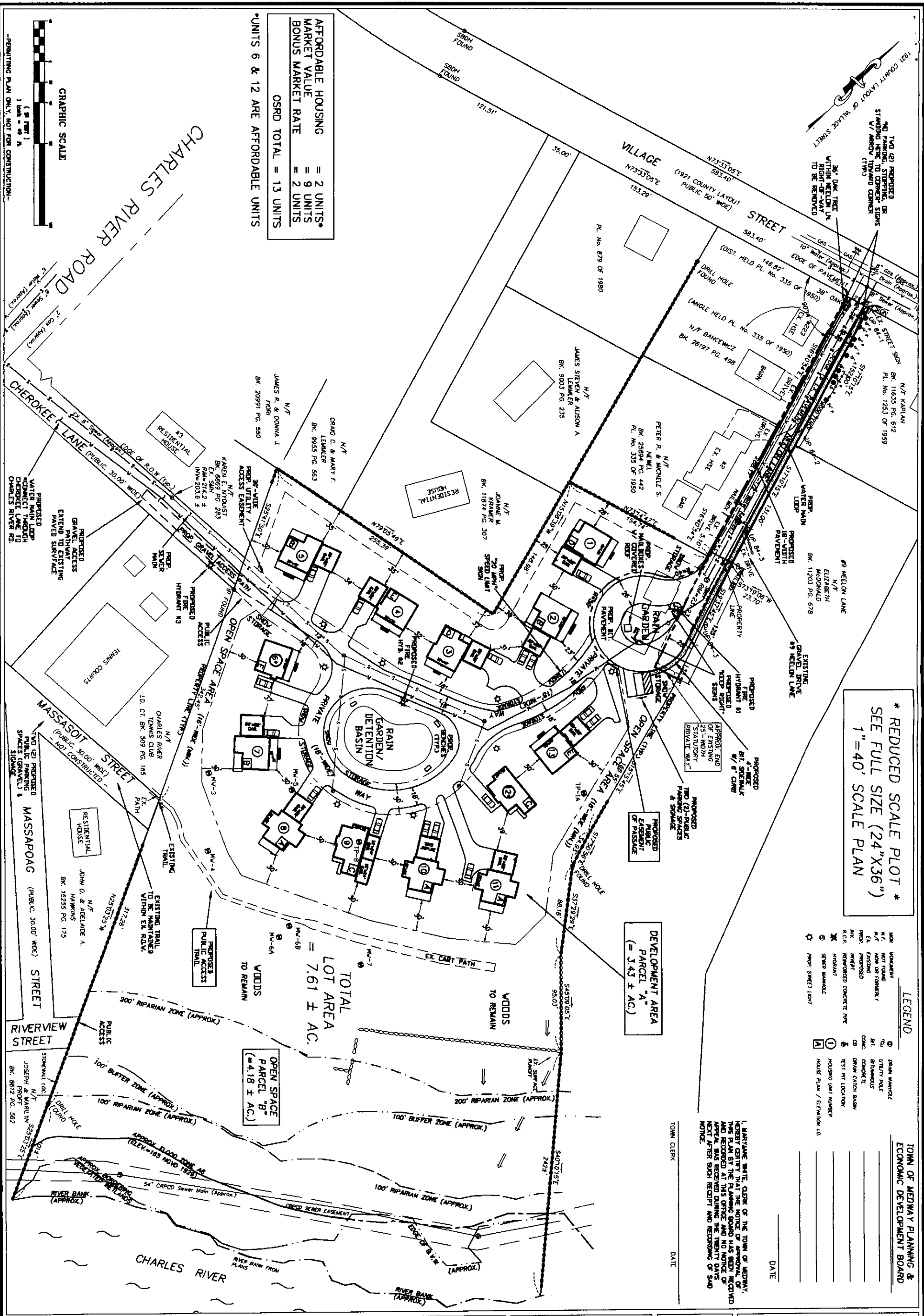
**LAND SURVEYING Co.**

LAND SURVEYING GPS MAPPING LAND CONSULTING  
46 COTTAGE STREET MEDWAY, MASSACHUSETTS 02053 (508) 533-3114

**FAIST ENGINEERING, INC.**  
600 Charlton Street  
Southbridge, MA 01550  
MA Phone/Fax: (508) 765-7755  
e-mail: [dfrust@faisteng.com](mailto:dfrust@faisteng.com)







**AFORDABLE HOUSING**  
 MARKET VALUE = 2 UNITS\*  
 BONUS MARKET RATE = 9 UNITS  
 OSRD TOTAL = 13 UNITS

\*UNITS 6 & 12 ARE AFFORDABLE UNITS

\* REDUCED SCALE PLOT \*  
 SEE FULL SIZE (24"x36")  
 1"=40' SCALE PLAN

- LEGEND**
- ① DRAWN BY: [ ]
  - ② CHECKED BY: [ ]
  - ③ DESIGNED BY: [ ]
  - ④ ENGINEERED BY: [ ]
  - ⑤ REVIEWED BY: [ ]
  - ⑥ APPROVED BY: [ ]
  - ⑦ DATE: [ ]
  - ⑧ TOWN CLERK: [ ]
  - ⑨ DATE: [ ]

**TOWN OF MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD**

1. I, MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD, hereby certify that the plan of subdivision shown on this plan has been reviewed and approved by the Planning Board and the Board of Selectmen of the Town of Medway, Massachusetts, and that the plan has been recorded in the Registry of Deeds for the County of Norfolk, Massachusetts, and that the plan is in full compliance with the provisions of Chapter 260A of the Massachusetts General Laws, and that the plan is in full compliance with the provisions of Chapter 260A of the Massachusetts General Laws, and that the plan is in full compliance with the provisions of Chapter 260A of the Massachusetts General Laws.



Norfolk Registry of Deeds  
Dedham, Mass.

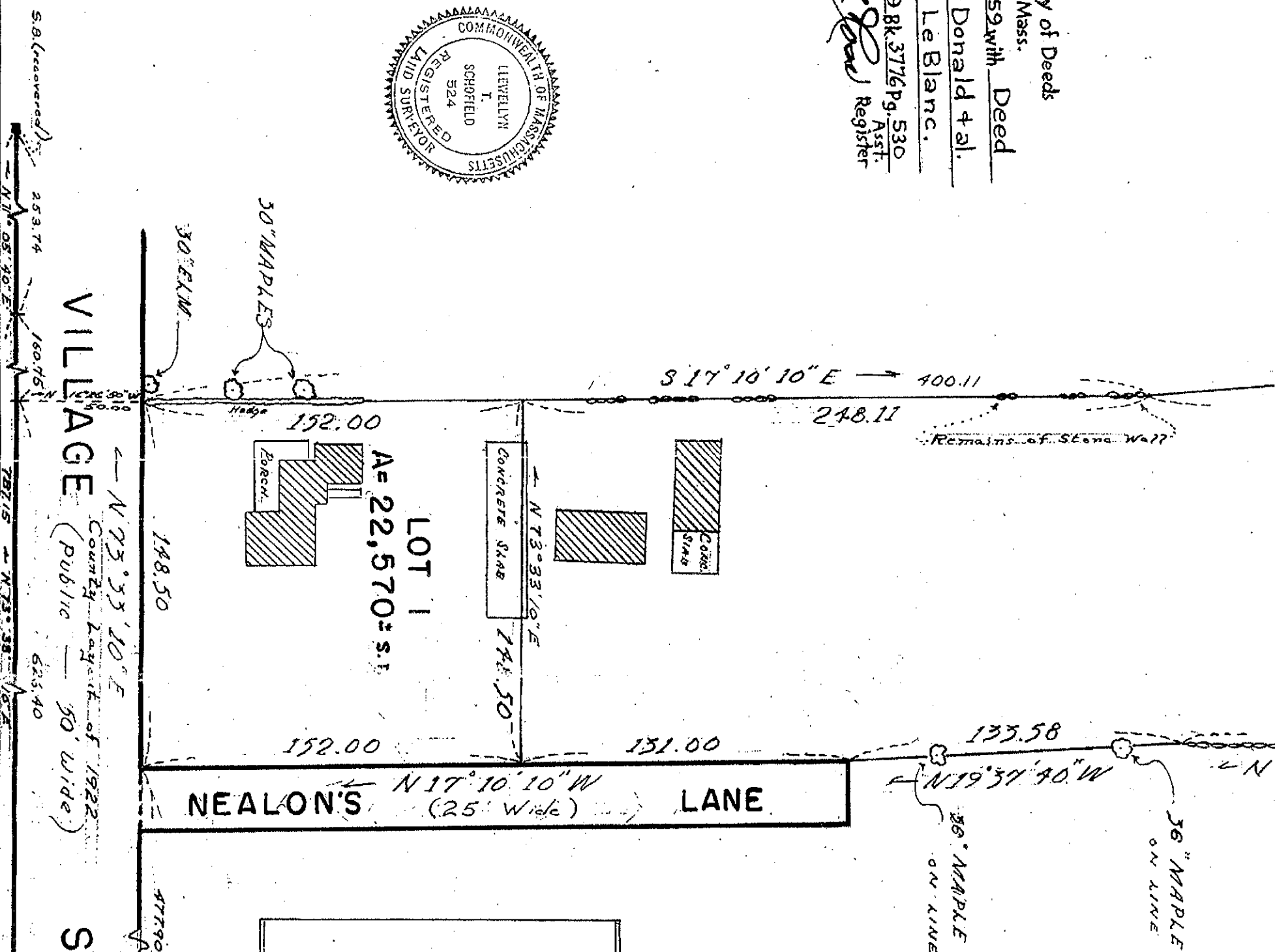
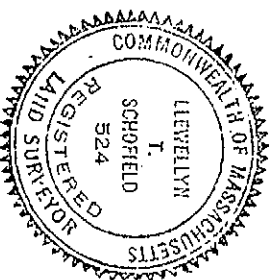
Received Nov. 16, 1952 with Deed

William S. McDonald et al.

to Norman J. A. LeBlanc.

Filed as No. 1253.1952 Bk. 3776 Pg. 530

Attest: Shirley J. Davis Asst. Register



Approval under the Subdivision  
Control Law not required.  
Medway Planning Board

Joseph D. McElroy  
Samuel W. Randall  
Attest: S. Dickinson

Date: November 6, 1959

Plan of Land  
in  
**MEDWAY, MASS.**  
Property of William S. McDonald et ux  
Scale 1" = 50' October 21, 1959.  
Schofield Brothers. Reg. Civil Engineers.  
48 Park Street, Framingham, Mass.  
Offices in Framingham & Orleans, Mass.

**RECEIVED**  
AUG 24 2010  
TOWN OF MEDWAY  
PLANNING BOARD

Paul Yeates -

PowerPoint Presentation

9-28-10

File

9/28/10

9/28/2010

## CHARLES RIVER VILLAGE OPEN SPACE RESIDENTIAL DEVELOPMENT

## CHARLES RIVER VILLAGE ORIGINAL APPLICATION

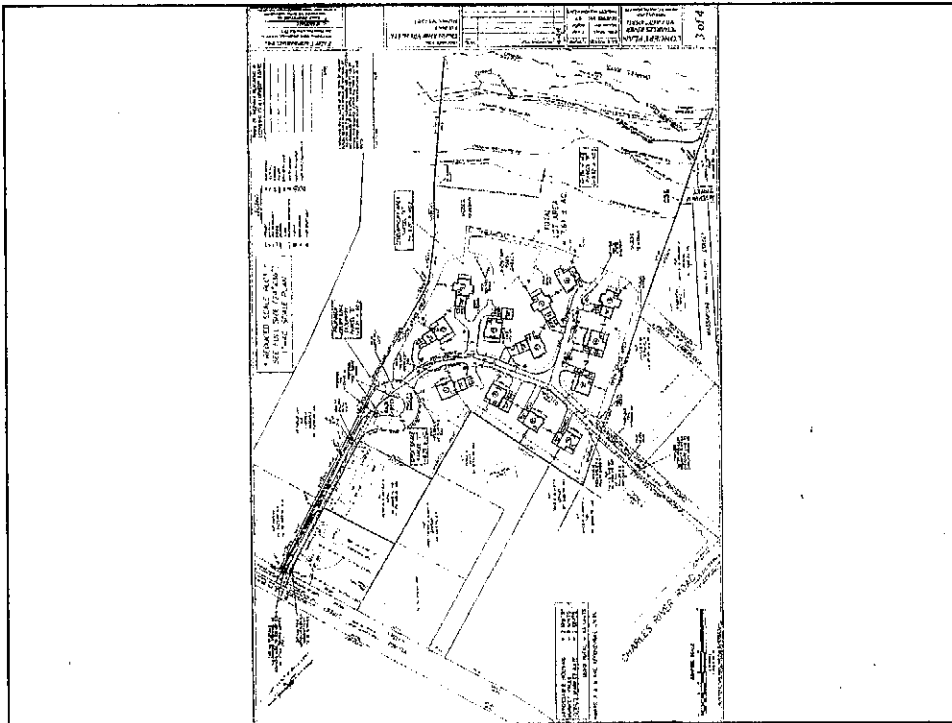
### HOW THE LAND WILL BE DIVIDED

- Total area of site is 7.61 acres
- Development parcel A is 3.20 acres +/-
- Open Space parcel B is 3.92 acres +/-  
(upland is 3.16 acres)
- Open Space parcel C is .28 acres +/-  
(upland is .28 acres)
- Neelon Lane Extension D is .21 acres +/-

## CHARLES RIVER VILLAGE ORIGINAL APPLICATION

### THE NUMBER OF DWELLINGS

- MARKET RATE UNITS = 9
- AFFORDABLE UNITS = 2
- BONUS MARKET RATE UNITS = 2
- TOTAL NUMBER OF UNITS 13



## **CHARLES RIVER VILLAGE REVISED APPLICATION**

### **HOW THE LAND WILL BE DIVIDED**

- Total area of site is 7.61 acres
- Development parcel A is 3.43 acres +/-
- Open Space parcel B is 4.18 acres +/-  
(upland is 3.42 acres)

**DEVELOPMENT AREA INCREASES BY .02 ACRES**

**OPEN SPACE AREA DECREASES BY .02 ACRES**

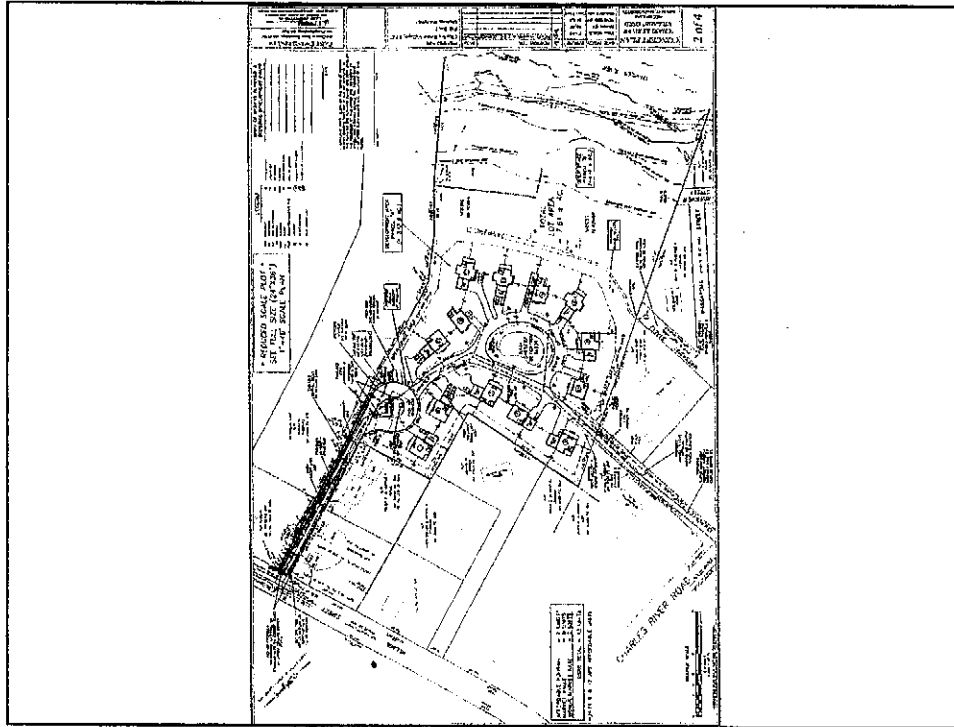
## **CHARLES RIVER VILLAGE REVISED APPLICATION**

### **THE NUMBER OF DWELLINGS**

- MARKET RATE UNITS = 9
- AFFORDABLE UNITS = 2
- BONUS MARKET RATE UNITS = 2
- TOTAL NUMBER OF UNITS 13

**NO CHANGE IN THE NUMBER OF DWELLINGS**

9/28/2010



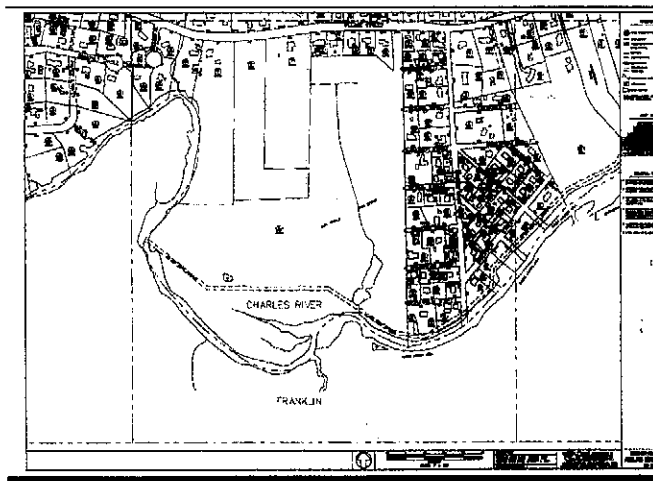
CHARLES RIVER VILLAGE  
OPEN SPACE RESIDENTIAL  
DEVELOPMENT  
THE SURROUNDING  
AREA



## EXISTING DEVELOPMENT SURROUNDING THE PROJECT LOCATION



## THE ASSESSORS MAP TODAY



## NEELON LANE

- TOWN OF MEDWAY OFFICIALLY HAS NEELON LANE LISTED AS A PUBLIC WAY
- TOWN OF MEDWAY HAS RECEIVED STATE AID FOR NEELON LANE GOING BACK TO THE 1970S
- TOWN OF MEDWAY HAS IMPROVED AND MAINTAINED NEELON LANE
- ATTORNEY THOMAS J. VALKEVICH QUESTIONED THE PUBLIC STATUS OF NEELON LANE AT THE AUGUST 24 PLANNING BOARD MEETING ON BEHALF OF MARY E. MCDONALD
- THE APPLICANT RETAINED ATTORNEY F. SYDNEY SMITHERS, ESQ .

## NEELON LANE

ATTORNEY SMITHERS REVIEWED THE FOLLOWING:

- WARRANT FROM MARCH 25, 1863 FOR TOWN MEETING HELD OF APRIL 6, 1863.
- TOWN MEETING MINUTES FROM APRIL 6, 1863
- EXISTING CONDITIONS PLAN FOR NEELON LANE PREPARED BY O'DRISCOLL LAND SURVEYING
- CONTEXT AND ANALYSIS PLAN FOR CHARLES RIVER VILLAGE

## NEELON LANE

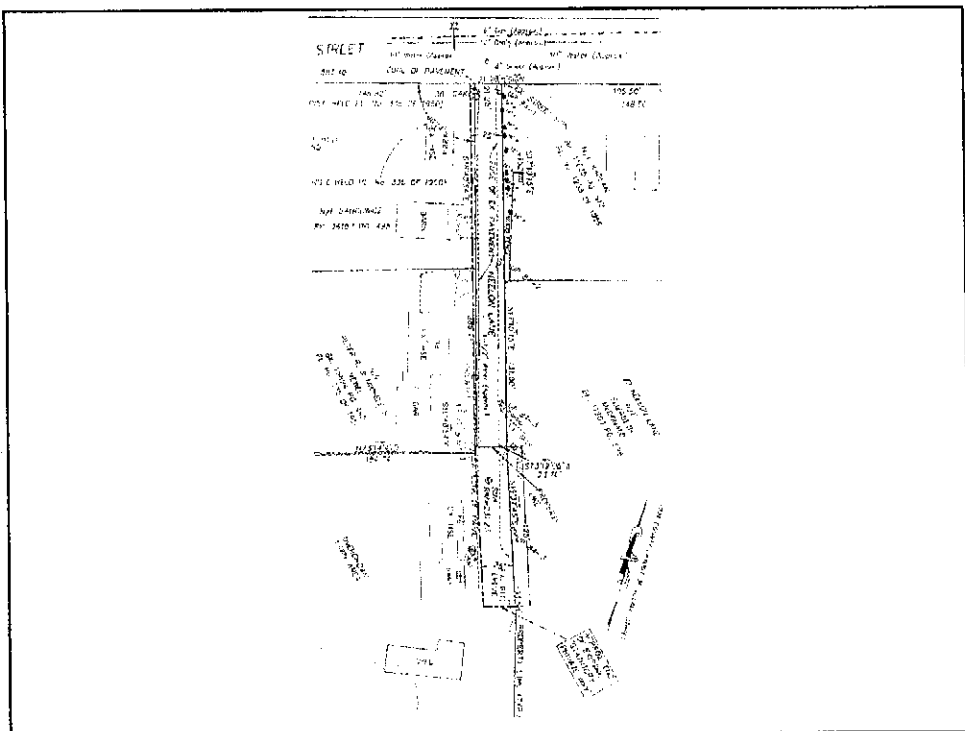
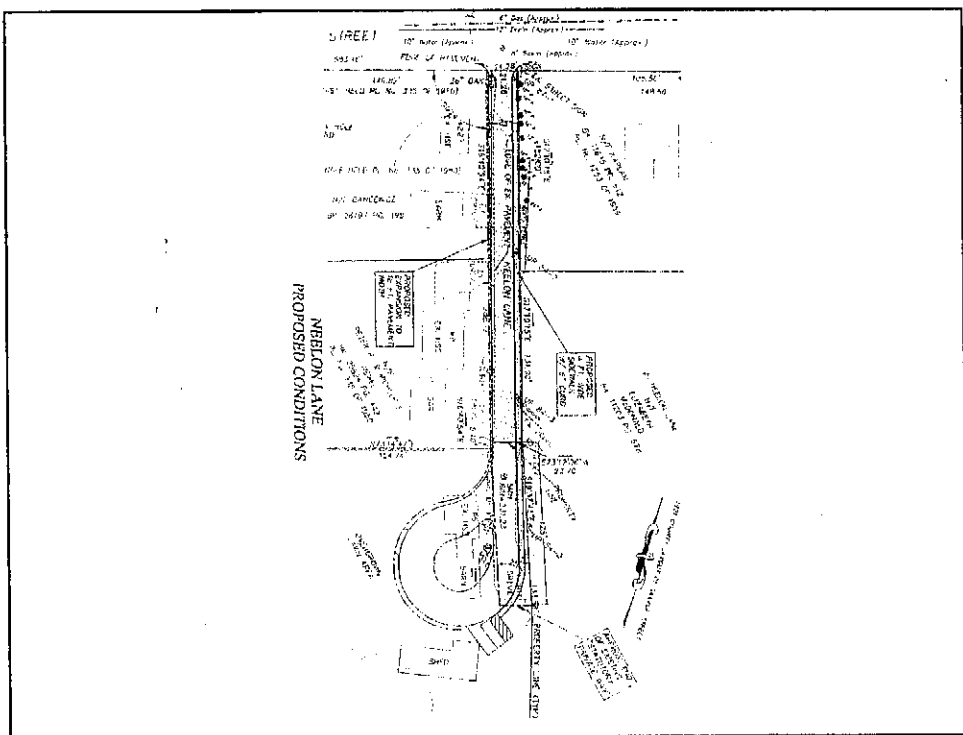
ATTORNEY SMITHERS HAS CONCLUDED THE FOLLOWING:

- "THE SELECTMENS' LAYOUT, UPON ACCEPTANCE AT TOWN MEETING, CREATED A STATUTORY PRIVATE WAY."
- THE FACT THAT NEELON LANE IS A STATUTORY PRIVATE WAY OBVIATES ANY OPPORTUNITY TO OBTAIN AN ANR ENDORSEMENT FOR LOTS ABUTTING NEELON LANE.
- "THE FACT THAT THE TOWN OF MEDWAY HAS MAINTAINED, IN PART, NEELON LANE AND HAD RECEIVED STATE REIMBURSEMENTS FOR SOME OF ITS EXPENSES, DOES NOT CHANGE THE FACT THAT NEELON LANE IS A STATUTORY PRIVATE WAY."
- "NEELON LANE WAS LAID OUT AS A PUBLIC EASEMENT OF PASSAGE TWENTY-FIVE FEET IN WIDTH AND EXTENDING SOUTHERLY FROM WHAT IS NOW VILLAGE STREET (FORMERLY OLD HARTFORD ROAD) AN UNSTATED DISTANCE TO A FENCE OPPOSITE THE SOUTHERLY SIDE OF A BARN ON NEELAND'S LAND."

## NEELON LANE

ATTORNEY SMITHERS ALSO CONCLUDED:

- "WE HAVE BEEN ADVISED THAT THE BARN AT 6 NEELON LANE IS LIKELY THE FORMER NEELAND BARN. WE THEREFORE CONCLUDE THAT NEELON LANE EXTENDS FROM VILLAGE STREET SOUTHERLY TO ABOUT THE POINT SHOWN ON THE CONTEXT PLAN AS 'EX. BIT. DRIVEWAY.' WE CONCLUDE THAT NEELON LANE EXTENDS ABOUT 125 FEET FURTHER SOUTH FROM THE POINT LABELED 'END OF EXISTING PUBLIC R.O.W.' ON THE CONTEXT PLAN."
- "AS A PUBLIC EASEMENT OF PASSAGE TWENTY FIVE FEET IN WIDTH, THE ENTIRE WIDTH OF THE EASEMENT MAY BE APPROPRIATED FOR PUBLIC PASSAGE. AS SUCH, THE ENTIRE 25 FOOT WIDTH MAY BE OCCUPIED BY THE INSTALLATION OF PAVED TRAVELED WAYS, SIDEWALKS, STORM DRAINAGE AND MUNICIPAL UTILITIES. THE PAVED TRAVELED WAY MAY BE LOCATED ANYWHERE WITHIN THE 25 FOOT WIDTH OF THE EASEMENT, ON EITHER SIDE, OR CENTERED."
- "THE OWNER OF THE FORMER NEELAND LAND MAY BE CHARGED WITH THE REASONABLE EXPENSE OF ALTERATION, IMPROVEMENT, PAVING OR INSTALLATION OF UTILITIES IN NEELON LANE."
- "TO THE EXTENT THE PROPOSED CUL-DE-SAC IS OUTSIDE THIS LIMITS OF NEELON LANE AS ORIGINALLY LAID OUT, THE TOWN SHOULD REQUIRE THAT IT BE GRANTED AN EASEMENT OF PUBLIC PASSAGE IN THE CUL-DE-SAC AND ANY LAND ADJACENT TO IT NEEDED FOR MAINTENANCE, STORM DRAINAGE AND SNOW STORAGE."



## SAFETY CONCERNS

The Planning and Economic Development Board is in receipt of three communications:

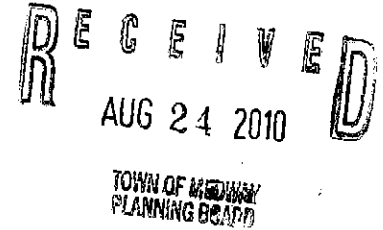
1. From the Medway Fire Department Chief stating, "Upon review of the preliminary plans, I have not problem or issue with the width of Neelon Lane. The design of the circle is suitable for emergency vehicles, in and out of the complex. The width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of fire hydrants on Neelon Lane, within the complex, and on the access road in from Cherokee Lane is acceptable."
2. From Sergeant/Safety Officer Watson of the Medway Police Department stating, "The width of the roadway complies with the rules for a development of that size. See attachment of (Norfolk County Land Subdivision Rules and regulations for Medway). The Medway Police Department feels that this is an adequate width for such a development. I would recommend that a no parking sign be placed on the East side of Neelon lane 20 feet from the intersection of Village Street as to comply with our Towns By-law. This would enable emergency vehicles the ability to make the turn onto Neelon lane without any obstruction such vehicles."

## SAFETY CONCERNS

3. From Conley Associates, traffic engineers stating, "Conley Associates, Inc. researched the American Association of State Highway and Transportation Officials (AASHTO) publication, "A Policy on Geometric Design of Highway and Streets" to determine the minimum width recommended for a roadway with a daily traffic volume of approximately 150 vehicles. Exhibit 5-5, 'Minimum Width of Traveled Way and Shoulders' states that with a design speed of 40 mph or less, an 18 foot roadway can accommodate up to 400 vehicles per day. Therefore, the proposed widening of Neelon Lane to 18 feet meets the minimum recommended roadway width. In fact, according to ITE, there would need to be approximately 42 single family homes in order for a wider roadway to be recommended."

Copy

*Thomas J. Valkevich*  
*Attorney at Law*  
*99 Walnut Street, Suite G*  
*Saugus, Massachusetts 01906*  
*781-233-6812*  
*Facsimile 781-231-5124*  
*Email: tjvesq@netzero.com*



August 24, 2010

Town of Medway  
Planning & Economic Development Board  
155 Village Street  
Medway, Massachusetts 02053

RE: Charles River Village Open Space Residential Development (OSRD)  
Application for OSRD and Affordable Housing Special Permits

Dear Board Members:

Please be advised that I represent Mary E. McDonald of 9 Neelon Lane, Medway in the matter of the Application for OSRD and Affordable Housing Special Permits as to some issues raised by the plan as submitted. Ms. McDonald will also express some additional matters as to which she possesses personal knowledge as to site conditions and subsurface matters at the meeting.

Of utmost concern is the access to the site over Neelon Lane. Neelon Lane, according to the terms of the document recorded in 1863, was laid out as a private way. (see copy of acceptance document attached) As such, it not the same as a public way in many respects. The applicable statutes at the time created this kind of way, which became known as a "statutory private way". The applicable statutory reference is Chapter 82 of the General Laws, sections 21 through 24 (this being the laws in effect in 1863, the date of the layout by the Medway Selectmen. Of importance is the fact that such ways have a different legal status than a public way. There is also a question as to whether the layout should extend to the point where the Neeland (Neelon) house was or where the barn was. There appears to have been a correction of overwrite changing "house" to "barn" and the layout as shown on the existing plan may be inaccurate.

"A "statutory" private way is not a "public way" or a way "maintained and used as a public way" for the purposes of the subdivision control law (G.L. c. 41, Sections 81L and 81P), Casagrande v. Town Clerk of Harvard, 377 Mass. 703 (1979), and hence the division of land abutting on a statutory private way requires compliance with the definitive subdivision process and frontage on a statutory private way does not qualify for an ANR endorsement." **Complex Title Issues 2001 -19.03 Massachusetts Continuing Legal Education, Massachusetts Highway Law by F. Sydney Smithers, Esq.**

As a Land Division under Part T.,2.,c it would appear that the access does not qualify. Further, the proposal considered as a condominium project the access over Neelon Lane is questionable for a number of reasons beyond subdivision control.

The accepted private way is only twenty five feet wide and without any radius at its corners intersection with Village Street, and without sight line easements or other provision for safe access to that road. Clearly, the traffic impact of 13 three bedroom homes, with one or two cars, and multiple daily trips, with heavy usage during morning and evening commuting hours, and potentially hundreds of trips per week, together with delivery and service vehicles, including commercial trucks, create safety issues that warrant denial of any proposal that envisions Neelon Lane as its primary access. This is especially true given the fact that the parcel to be developed abuts Cherokee Lane on its westerly boundary, a conforming public way, which was obviously intended as future development access to the subject parcel, as was envisioned by prior boards.

Also relevant are certain issues regarding the nature of the existing way. Given its nature as still a private way, even if subject to public access, the usage of the way historically has permitted unlimited access by abutting owners over the entire length of their frontage on the way, and parking and standing on the way as long as passage was not prevented. The proposal requires changes to the usage which are not just up to the developer, as it has been established over generations. For the Town to impose such restrictions on a parcel that is not part of the ownership parcel of the developer is beyond the Boards authority, and would require additional takings by the town of the rights of abutting owners, or their mutual consent.

The Town has considered development of parcels in this location in the past, but not approved development using Neelon Lane as access. The issues raised by using Neelon Lane as access militate against approval of the plans as submitted. At most, Neelon Lane's public use should be consistent with its limited access as historically and legally existing. For all the foregoing reasons, the proposed plan does not comply with the OSRD by-law in numerous respects, namely by not complying with all sections of the Zoning By-law, the access over Neelon Lane is not compatible or in harmony with the character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, which impact can be mitigated by accessing the site over the existing public way Cherokee Lane, instead of over the accepted private way of Neelon Lane.

The proposal, as submitted fails to comply with the existing rights of parties on Neelon Lane, with accepted safety and traffic standards affecting the community at large and not just the abutters, the board's own standards for issuance of a special permit as stated in section 10 and sections 11 (g), (i), (j) , and (k). The proposal clearly does not meet the standards set out in the purposes section of site plan review, sections C.1. (c) (3), (8), (9), (10) and (11).

The Board rules at section 12 (d) of article T reference site plan review standards that shall be applied to the project which include protections of neighbors from noise fumes etc and safe access for emergency vehicles. The board does not have the authority to alter the nature of the accepted private way as to existing rights of abutters on said way.

Finally, the plan as drawn lays out a way and cul de sac which does abut the McDonald parcel. There exists a gap between the layout on the developer's parcel and the McDonald parcel and I note that previous versions of the developer's proposal actually laid out his cul de sac **on** the McDonald parcel, without permission. Leaving such a strip is certainly contrary to sound planning practices. I believe previous cases in other towns have given the nickname "spite strips" to this feature. Ms McDonald is concerned that, as drawn, this plan would adversely affect her property and possible development or changes. I note that if the private accepted way in fact extends to the barn, as may be the case, it would also require changes to the plan.

Respectfully submitted.

Thomas J. Valkevich



**Thomas J. Valkevich**  
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September 28, 2010

Town of Medway  
Planning & Economic Development Board  
155 Village Street  
Medway, Massachusetts 02053

RE: Charles River Village Open Space Residential Development (OSRD)  
Application for OSRD and Affordable Housing Special Permits  
Hearing date September 28, 2010

Dear Board Members:

Please be advised that I represent Mary E. McDonald of 9 Neelon Lane, Medway in the matter of the Application for OSRD and Affordable Housing Special Permits as to some issues raised by the plan as submitted. Ms. McDonald will also express some additional matters as to which she possesses personal knowledge as to site conditions, access issues, neighborhood matters and subsurface concerns at the meeting.

As a procedural matter, we have concern that the representative for the applicant is Mr. Paul Yorkis who, according to available records, is a member of the Economic Development Committee, and that the Planning and Economic Development Board is the appointing authority for members of that Committee. We ask if the Board has a public disclosure on file as to this relationship as to this matter.

Of utmost concern is the access to the site over Neelon Lane. Neelon Lane, according to the terms of the document recorded in 1863, was laid out as a private way. (see copy of acceptance document attached) As such, it not the same as a public way in many respects, nor treated as a strictly private way in critical aspects. The applicable statutes at the time created this kind of way, which became known as a "statutory private way". The applicable statutory reference is Chapter 82 of the General Laws, sections 21 through 24 (this being the laws in effect in 1863, the date of the layout by the Medway Selectmen. Of importance is the fact that such ways have a different legal status than a public way. There is also a question as to whether the layout should extend to the point where the Nealand (Neelon) house was or where the barn was. There appears to have been a correction or overwrite changing "house" to "barn" and the layout as shown on the existing plan may be inaccurate.

"A "statutory" private way is not a "public way" or a way "maintained and used as a public way" for the purposes of the subdivision control law (G.L. c. 41, Sections 81L and

81P), *Casagrande v. Town Clerk of Harvard*, 377 Mass. 703 (1979), and hence the division of land abutting on a statutory private way requires compliance with the definitive subdivision process and frontage on a statutory private way does not qualify for an ANR endorsement." **Complex Title Issues 2001 -19.03 Massachusetts Continuing Legal Education, Massachusetts Highway Law by F. Sydney Smithers, Esq.**

As a Land Division under Part T.,2.,c it would appear that the access does not qualify. Further, the proposal considered as a condominium project the access over Neelon Lane is questionable for a number of reasons beyond subdivision control.

The accepted private way is only "twenty five feet" wide under the terms of the layout in 1863, (copy attached) and of questionable width and length on the ground, as was indicated previously by applicants engineers. This is also confirmed by my client's surveyor, as shown on a certain sketch entitled "Conceptual layout of Town Accepted Private Way Known as Neelon Lane in Medway, Massachusetts." The exact dimensions, title issues, and length, as well established usage and possible prescriptive rights in Neelon Lane are in issue. The McDoanld family has used access extending close to 200 feet beyond the length of Neelon Lane as shown on the proposal for decades, and the proposed plan eliminates such established access. See Sketch areas highlighted in yellow and engineers notations. These rights are further addressed below.

In addition, the width of the way, the lack of radius at its corner intersection with Village Street, the lack of sight line easements or other provision for safe access to that road are not conducive to the envisioned development. Clearly, the traffic impact of 13 three-bedroom homes, with one or two cars, and multiple daily trips, with heavy usage during morning and evening commuting hours, and potentially hundreds of trips per week, together with delivery and service vehicles, including commercial trucks, create safety issues that warrant denial of any proposal that envisions Neelon Lane as its primary access. This is especially true given the fact that the parcel to be developed abuts Cherokee Lane on its westerly boundary, a thirty foot wide public way, which was obviously intended as future development access to the subject parcel, as was envisioned by prior boards. A traffic study should be required given the fact that the volume of traffic likely to be generated by the units, and the limited width of Neelon Lane, on their face, clearly demonstrate the inadequacy of Neelon Lane as safe and convenient access. Given the limitations of the statutory private way, and density of the proposed housing, the board's discretion to require a traffic study should surely be exercised on the side of safety.

Also relevant are certain issues regarding the nature of the existing way. Given its nature as still a private way, even if subject to public access, the usage of the way historically has permitted unlimited access by abutting owners over the entire length of their frontage on the way, and parking and standing on the way as long as passage was not prevented. The proposal requires changes to the usage in a manner that is not just up to the developer, and beyond any of the Board to change. For the Town to impose such restrictions such as "no standing", "no parking" or curb cuts on a parcel, that is not part of the ownership parcel of the developer is beyond the Boards authority, and would require additional takings by the town of the rights of abutting owners, or their mutual consent.

The problems with the use of Neelon Lane include the fact that any proposal that would suggest the installation of utilities or sidewalks would not be permissible. The language of the layout document provides only for safe passage of carriages. Any other uses would have to be created by some other means. As a statutory private way, this way does not fall within the purview of MGL Chapter 187 Section 5, which would extend the installation of utilities to private ways. Those private ways included under Chapter 187 Section 5, only include, it has been held by the Courts, are ways :

“ “for travel not laid out by public authority or dedicated to public use, that are wholly the subject of private ownership...” *Barlow v. Chongris*, 38 Mass App Ct. 297, 299” as cited in a certain article prepared by Chicago Title Insurance Company, entitled “Understanding Paper Streets” as it appears at [worcesterdeeds.com](http://worcesterdeeds.com).

That Article concludes:

“According to the language in *Barlow* it would appear that Section 5 would not apply to statutory private ways since they are laid out by a public authority.” *Understanding Paper Streets*, Chicago Title Insurance Company, as reproduced at [worcesterdeeds.com](http://worcesterdeeds.com).

The acceptance document reproduced and attached and highlighted, clearly states that the Selectmen have “laid out” ...” a private way” .....”convenient for carriages” Thus any plan calling for installation of utilities and sidewalks clearly exceeds the nature of the layout, and would thus be impermissible, and not extended by the statute at MGL Chapter 187, Section 5.

Additionally, the plan as proposed fails to recognize the usage by the McDonald family of the land in question beyond, the length of Neelon Lane for decades, well long enough to establish the current owner, Beth McDonald and perhaps others, prescriptive rights over the subject parcel to access her property. The Layout clearly denies Ms McDonald of the historical use well beyond the “house” of Neelon ( aka Neeland) and in fact beyond the barn , for access and turning around. Any development not continuing the access as it shown on the ground now would necessitate action to formalize such rights in McDonald. The acceptance document clearly is unclear as to whether the private way extends to the “barn” of Neeland/Neelon, and the overwriting rather clearly begins with the letter “b.”

The Town has considered development of parcels in this location in the past, but not approved development using Neelon Lane as access. The issues raised by using Neelon Lane as access militate against approval of the plans as submitted. At most, Neelon Lane’s public use should be consistent with its limited access as historically and legally existing. For all the foregoing reasons, the proposed plan does not comply with the OSRD by-law in numerous respects, namely by not complying with all sections of the Zoning By-law, the access over Neelon Lane is not compatible or in harmony with the character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, and safe, convenient access over such a narrow, substandard route, cannot be demonstrated.



# **Charles River Neighborhood Alliance**

***Issues & Concerns***

About

**Charles River Village  
Proposed OSRD Development**



# Legal Issues

- ❖ Neelon Lane –

- ❖ listed as a Statutory Private Way
- ❖ Width & length of street not established by CRV engineers/surveyors as of previous meeting
- ❖ Exact location of street not established by CRV LLC
- ❖ ***Shouldn't this information be known before CRV can move forward with any plans?***

- ❖ Neelon Lane – 21E not applied for and MA DEP concerns about leak from 55 gallon drums not addressed by town or Mr. Yorkis who has reports of drum contents. Nearby well possibly affected. Leaks not reported to fire chief. Out of state (Hudson, N.H.) hazardous waste contractor used.

# Safety Issues



Neelon Lane from Village St.;  
Parked landscape trailer.

8 ft. wide trailer parked – SAFE  
2-way STREET? This is the width  
of a fire truck.

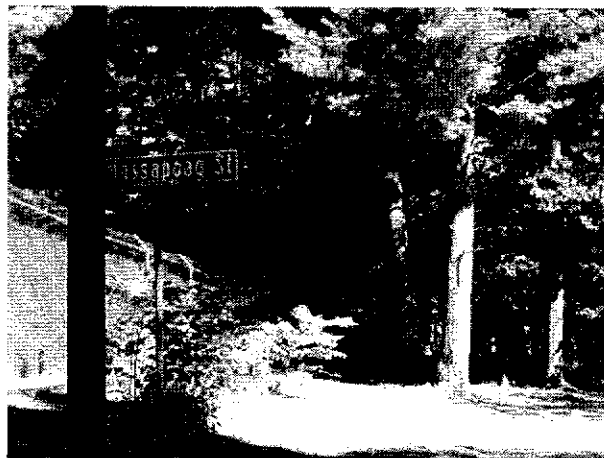
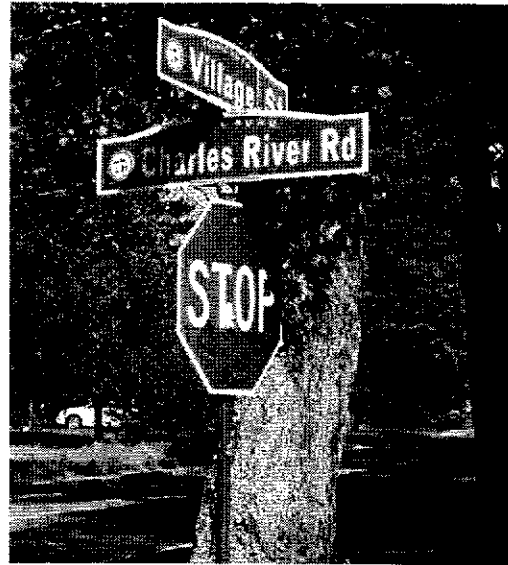
❖ **Neelon Lane** – CRV  
would overburden  
an already narrow  
lane.



# Safety Issues

## Charles River Rd. neighborhood concerns:

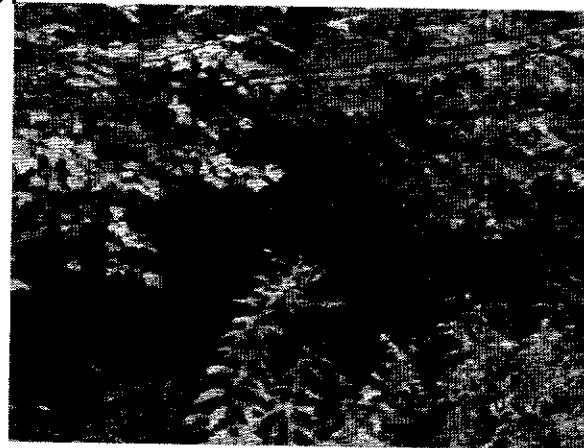
- Existing congested traffic area would worsen. Three streets converge near Cherokee Lane.
- Emergency access concerns
- Existing water issues would worsen



Cherokee Ln. homes affected by CRV

# Safety Issues

- **Independent Traffic Study** – needed to address Neelon Lane, Cherokee, Massapoag & Charles River Rd. safety issues and concerns.
- **What are CRV's plans for #6 Neelon Lane** – (abandoned farmhouse/barn/chicken coop)
  - Fire Hazard to neighboring homes
  - **Open Uncovered well is dangerous to area children**
  - Need a varmint control plan prior to demo of structures
  - Broken windows need to be boarded up to keep kids out of farmhouse & barn locked.





# Environmental Concerns

- Existing chemical spill on property NOT addressed with MA DEP and NOT mentioned on Land Subdivision – Form F (item 20) “ *Has the site ever been used for the disposal of hazardous waste? Has a 21E study been conducted for the site?*” listed as NO answer

Out-of-state hazardous waste company used to remove 55 gallon drums from chicken coop and barn in March 2010. Both Mr. Yorkis & Mr. Zoulias mentioned that the barrels had leaked into the soil. Barrels removed at night in a heavy rainstorm.

---

## **A-ZOULIAS ENVIRONMENTAL ENTERPRISES, LLC**

---

*a-z-environmental.com*

**William “Bill” Zoulias**  
Principal

134 Musquash Road  
Hudson, NH 03051

→ Tel: 978-697-0943  
Fax: 877-774-2954  
azeellc@yahoo.com



# Environmental Concerns (cont'd)

- **WATER CONCERNS –**

- **Bond for damages** – washouts/flooding from high water tables; clay and ledge and too many square feet of impermeable surfaces for this fragile property – Should the town be responsible for the environmental damage?
- **Snow storage** – what is CRV's plan?
  - How will they keep the salt from the river and neighboring well?
  - See Federal Salt Study (Arthur D. Little Report)– concerns about effects of road salt on the drinking water from roads & driveways on Charles & Lake Populatic and the towns drinking water
  - Existing algae problems due to salt & phosphorous build-up in river (per CRWA, DEP & EPA)
  - Existing water run-off problems from this property onto Massapoag St. that town has not addressed. What will happen when the land is cleared of vegetation?



# Environmental (cont'd)

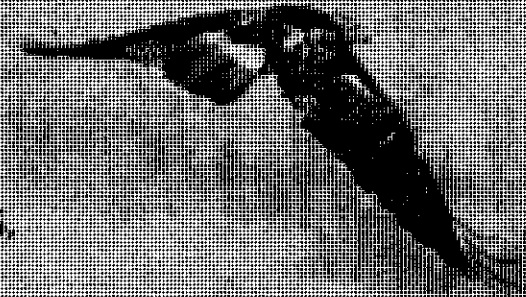
- **Blasting** – Need to insure that company is bonded & well insured. (site Wakefield, MA case). Damage to nearby homes and well could be prohibitively expensive. **WHO PAYS FOR THE DAMAGES?** (Nearby underground home and artesian well; Cherokee, Massapoag, Massasoit and Charles River Rd. homes are built on ledge.)
- **Geological Study** – Need an independent firm who can testify to EPA & DEP accurately with soil study and test holes regarding soil types. Questionable answer to Development Impact Report (Form – F) Item #9  
**“Predominant soil type(s) on site ?** Soil type Woodbridge fine sandy loam 3-8% slope; ? **WHO VERIFIES THIS FOR ACURACY?**

# Environmental Concerns (cont'd)

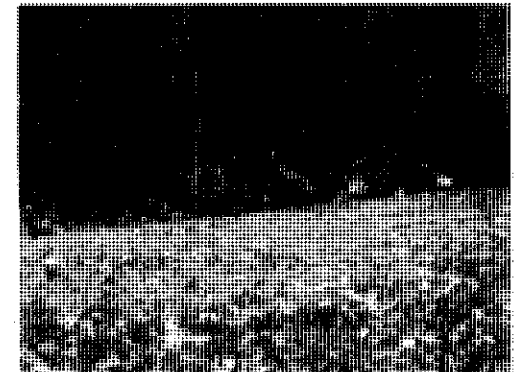
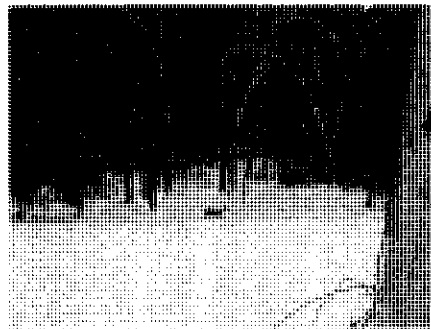
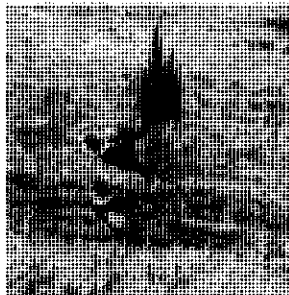
Snapping turtles annual egg-laying



- **Natural Wildlife Corridor** - the variety of animals that use this ENTIRE property for reproducing, grazing, nesting, hunting, etc is vast. This is a partial list:



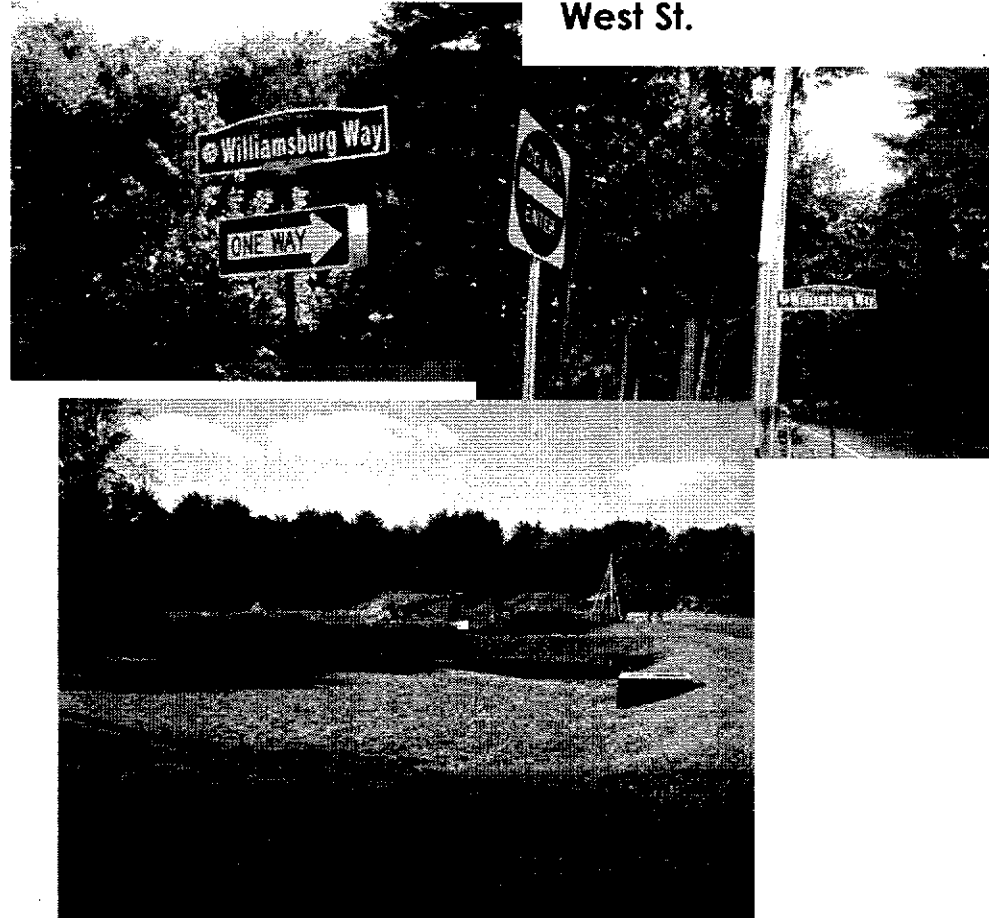
HERONS, RED-TAIL HAWKS, BARN OWLS, SCREECH OWLS, FISHER CATS, TURKEYS, RIVER OTTERS, WHITE TAIL DEER, FOX, WEASELS, RACCOONS, SKUNKS, BADGER, COYOTES, BATS, GROUNDHOGS, PHEASANT, POSSUMS, SNAPPING TURTLES, PAINTED TURTLES, DUCKS & GEESE. This section of the Charles River has 4 different types of trout.



# Charles River Village Issues & Concerns

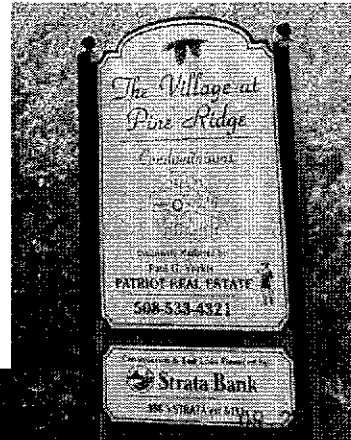
- What is the benefit to the citizens of Medway and the abutters?
  - Is a dark wooded area that is steep and hard to access such a great gift?
  - Is it a reason to allow this OSRD to move forward?
  - Who will really use this?
  - Who will maintain it?
- Why 22 waivers? What is the benefit to the homeowners? The abutters? The town?
- Doesn't safety matter?
- If Mr. Yorkis's West St. project has **an 18 ft. street width ONE WAY with sidewalks**, what makes his CRV project acceptable?

Williamsburg Project  
West St.



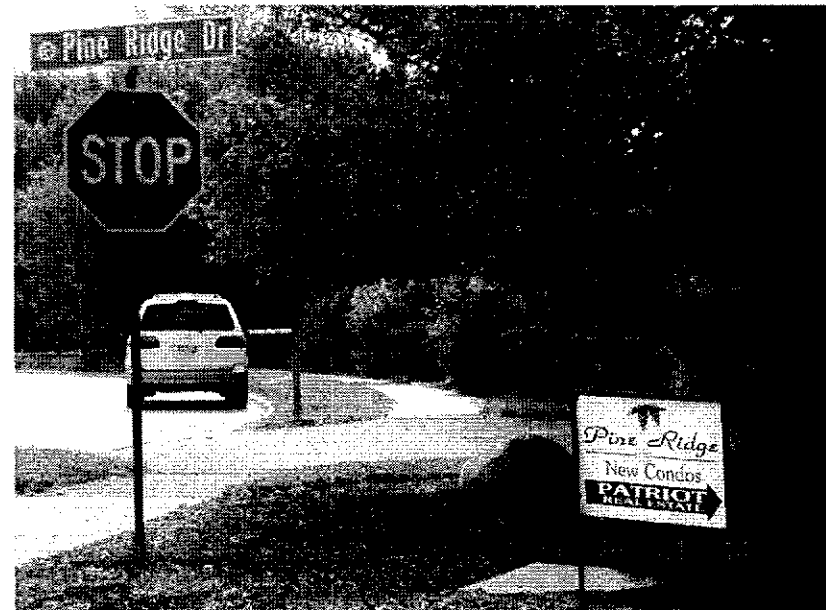
**"Rainwater Garden"  
or detention pond**

# Charles River Village Issues & Concerns (cont'd)

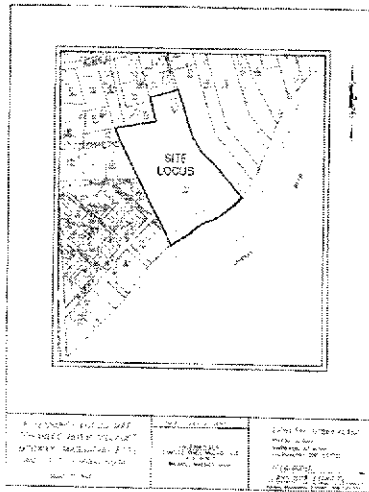


- **STREET WIDTH CONCERNS**

If Mr. Yorkis's Pine Ridge Development has 24 ft. wide streets and X number of units, why would 18 feet 2-way without sidewalks be acceptable?



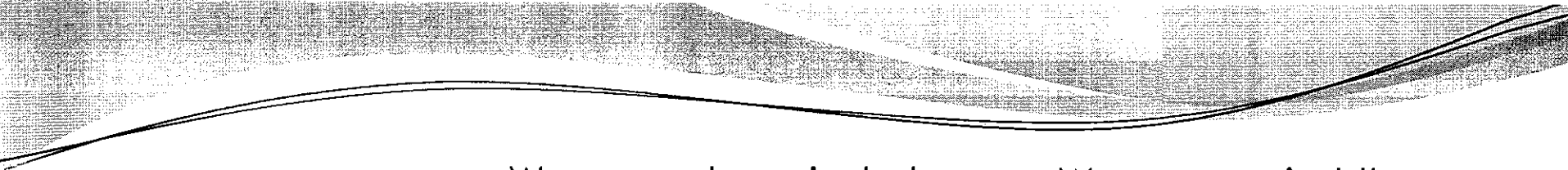
# Charles River Village Issues & Concerns (cont'd)

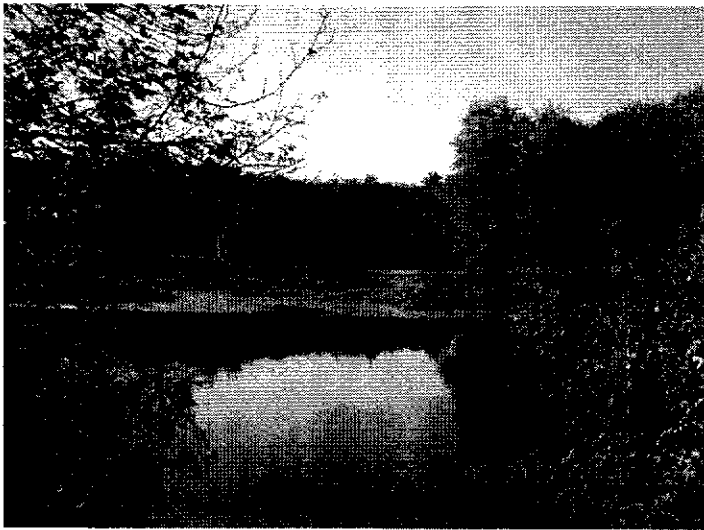


**What is the Benefit of the OSRD to Medway, the abutters and Charles River neighborhood?**

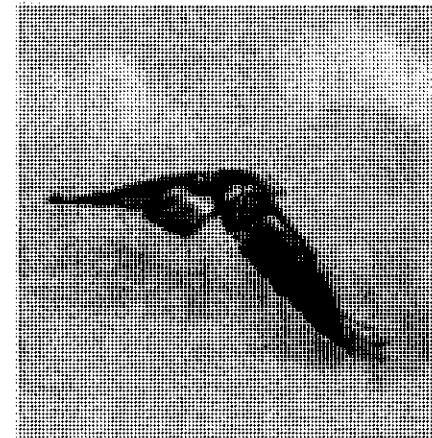
**Where is the park entrance to enjoy the Open Space?**

- Safety issues
- Overburdened streets
- Environmental concerns with water, wildlife, pollution (light, noise, salt & phosphorous run-off from impermeable surfaces)
- Poor drainage plans; mosquito ponds
- Emergency access through Cherokee Ln. Gated? Locked?
- **Buffer Zones should not be counted as Open Space.**
- Buffer Zones should run the length of the property for all abutters
- **Parking spaces for OSRD should be within CRV & not affect abutters**

- 
- We are not against change. We are against the reckless, irresponsible development of one of the most pristine and fragile sections of the Charles River that leaves little benefit to the townspeople of Medway, or the environment.



# Charles River Neighborhood Alliance





**RECEIVED**  
SEP 20 2010

**TOWN OF MEDWAY  
PLANNING BOARD**



**Town Of Medway  
Open Space Committee**  
155 Village Street  
Medway, Massachusetts 02053

Tina Wright, Chairman  
Jim Wickis, Vice-Chairman & Clerk  
Bruce Hamblin  
Patrick McHallam  
Glenn Murphy  
John Schroeder  
Jim Sullivan

September 14, 2010

Re: Recommendations regarding the proposed Charles River Village OSRD

Dear Members of the Medway Planning and Economic Development Board:

On Thursday, September 9, 2010, several members of the Open Space Committee met with representatives of the Charles River Village development team and walked the site to gather information and perspective for the Open Space aspects of this project. Several Committee members had also attended the presentation at Sanford Hall by the development team and had walked the parcel previously.

The Committee recognizes that discussions and approval of this application are still in process. From that perspective, the Committee would like to offer the following recommendations, which were developed from its meeting on the evening of September 9, 2010 after the site walk, and were based upon the drawings provided at that time and with abutters in attendance.

1. There is a .28 acre parcel of land, located at the terminus of Neelon Lane, and is proposed as open space for this project. The Committee believes that this piece of land does not meet the standards of the OSRD regulations (not contiguous to the other open space piece) and is not considered suitable as a parking access for open space purposes.
2. The Committee requests confirmation that the fifteen foot buffer around the perimeter of the project is not to be counted as open space.
3. The Committee would like to recommend that two parking spaces be provided to allow for reasonably contiguous access to the open space parcel. Two areas have been suggested: near or at the rain water garden or by the cart path on the western corner of the proposed development.
4. The Committee asks the board to consider requesting the developer define and gravel 2 parking spaces that are currently in use, informally, by the Tennis Club, in addition extending that path to Massasoit Street and the parking area. We also request consideration be given to having the cart path be included in the open space and that it be maintained in good working order as part of the maintenance plan..



**Town Of Medway  
Open Space Committee**  
155 Village Street  
Medway, Massachusetts 02053

Tina Wright, Chairman  
Jim Wickis, Vice-Chairman & Clerk  
Bruce Hamblin  
Patrick McHallam  
Glenn Murphy  
John Schroeder  
Jim Sullivan

5. The Committee recommends, if possible, the use of native plant varieties on the grounds and in the proposed rain garden. Plant species suggestions are included in the attachment.

We recognize that changes may be made to the proposed development as it moves through the planning and approval process. The Open Space Committee would like the opportunity to review those changes and amend or adjust our recommendations if those vary in any way from the proposed drawing provided on September 9, 2010 to the committee.

Thank you for your consideration. We appreciate the opportunity to consult with you on these matters.

Sincerely,

Tina Wright  
Chairman

Jim Wickis  
Vice Chairman/Clerk

## Native Plant Suggestions for Medway

Developed by the Medway Open Space Committee, 2010

### Trees\*

<i>Acer pensylvanicum</i>	Striped Maple
<i>Acer rubrum</i>	Red Maple
<i>Acer saccharum</i>	Sugar Maple
<i>Betula alleghaniensis</i>	Yellow Birch
<i>Betula nigra</i>	River Birch
<i>Betula papyrifera</i>	Paper Birch
<i>Carpinus caroliniana</i>	Hornbeam or Blue Beech
<i>Chamaecyparis thyoides</i>	Atlantic White Cedar
<i>Fagus grandifolia</i>	American Beech
<i>Fraxinus americana</i>	White Ash
<i>Fraxinus pensylvanica</i>	Green Ash
<i>Juglans nigra</i>	Black Walnut
<i>Nyssa sylvatica</i>	Black Gum
<i>Ostrya virginiana</i>	Ironwood
<i>Picea glauca</i>	White Spruce
<i>Platanus occidentalis</i>	American Sycamore
<i>Sassafras albidum</i>	Sassafras
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus coccinea</i>	Scarlet Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus rubra</i>	Red Oak
<i>Quercus velutina</i>	Black Oak
<i>Tilia americana</i>	Basswood
<i>Tsuga Canadensis</i>	Hemlock
<i>Ulmus americana</i>	American Elm (blight-resistant variety)

### Shrubs/Understory Trees

<i>Amelanchier canadensis</i>	Shadbush
<i>Amelanchier laevis</i>	Allegheny/Smooth Serviceberry
<i>Aronia arbutifolia</i>	Red Chokeberry
<i>Aronia melanocarpa</i>	Black Chokeberry
<i>Cercis canadensis</i>	Redbud A good substitute for Sargent Cherry
<i>Clethra alnifolia</i>	Pepperbush
<i>Cornus alternifolia</i>	Pagoda Dogwood
<i>Cornus florida</i>	Flowering Dogwood
<i>Cornus sericea</i>	Redtwig Dogwood
<i>Crataegus phaenopyrum</i>	Washington hawthorn
<i>Hammamelis</i> spp.	Witchhazel
<i>Ilex glabra</i>	Inkberry
<i>Ilex opaca</i>	American Holly, can be a substitute for other evergreens
<i>Ilex verticillata</i>	Winterberry

<i>Itea virginica</i>	Sweetspire
<i>Juniperus virginiana</i>	Red Cedar
<i>Kalmia latifolia</i>	Mountain Laurel
<i>Lindera benzoin</i>	Spicebush
<i>Morella pensylvanica</i>	Bayberry
<i>Rhododendron maximum</i>	Rosebay Rhododendron
<i>Rhododendron periclymenoides</i>	Pink Azalea
<i>Rhododendron prinophyllum</i>	Early Azalea
<i>Rhododendron viscosum</i>	Swamp Azalea
<i>Salix discolor</i>	Pussy Willow
<i>Sambucus canadensis</i>	Elderberry
<i>Thuja occidentalis</i>	Arborvitae, Northern White Cedar
<i>Vaccinium angustifolium</i>	Lowbush Blueberry
<i>Vaccinium corymbosum</i>	Highbush Blueberry
<i>Viburnum dentatum</i>	Arrowwood
<i>Viburnum Nudum</i>	Witherod or Possumhaw
<i>Viburnum trilobum</i>	Highbush Cranberry

#### Groundcovers\*\*

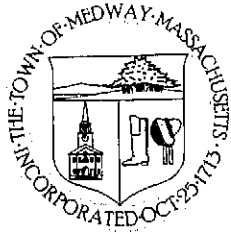
<i>Juniperus horizontalis</i>	Creeping juniper
<i>Arctostaphylos uva-ursi</i>	Bearberry
<i>Heuchera americana</i>	American Alumroot

\*The listed trees are recommended for any non-street use. However, relatively few trees can withstand the severe growing conditions alongside streets. Please see the list developed by the Medway Tree Warden for trees that can be successful on street edges.

\*\*Native groundcovers that require relatively little maintenance are limited but the three listed are good choices. If using a non-native groundcover, such as *Pachysandra* or *Vinca*, have a physical barrier (sidewalk, lawn, etc) between the plants and unmanaged land.

Note 1: the above plant species are suggestions only. There may be other native species a landscaper or home gardener may wish to use.

Note 2: cultivars of the above species are completely acceptable and are often a good choice for their particular characteristics.



TOWN OF MEDWAY  
DEPARTMENT OF PUBLIC SERVICES  
MEDWAY, MASSACHUSETTS

*Entrusted To  
Manage The  
Public  
Infrastructure*

RECEIVED  
AUG 23 2010

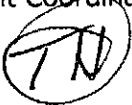
THOMAS M. HOLDER  
DIRECTOR

DAVID D'AMICO  
DEPUTY DIRECTOR

TOWN OF MEDWAY  
PLANNING BOARD

## MEMORANDUM

To: Susan Affleck-Childs, Planning and Economic Development Coordinator

From: Thomas Holder, Director | Department of Public Services 

Date: August 23, 2010

RE: **Neelon Lane – Project Development**

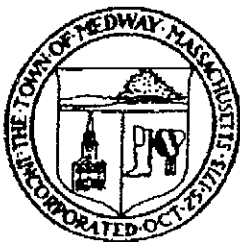
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It is understood that a project named Charles River Village is being planned for property at or near Neelon Lane, Medway. This project is proposed to include thirteen residential units located within a built-to-be-private development. In hearing of the proposed development concept at a presentation held August 12<sup>th</sup>, there are a number of infrastructure components to the project that need verification.

1. The project calls for connecting the existing water lines on Neelon Lane and Cherokee Lane to provide for a looped water distribution system. Verification that adequate fire flow rates are available from both the existing water lines and planned water pipes servicing the development should be made to ensure proper fire fighting capabilities. If it is determined that adequate flows cannot be achieved, the project needs to include provisions for water system upgrades to meet required fire flows.
2. The project is planned to construct a sanitary sewer system that will discharge to the Town's sewer system at an existing manhole located at the end of Cherokee Lane. It needs to be verified that the proposed sewer system is designed to meet invert grades at the referenced manhole to allow for gravity sewer flow throughout the project.
3. The project calls for the extension of the existing public way on Neelon Lane to include a circular cul-de-sac with a landscaped center roundabout. It needs to be verified that the travel path is sized to an appropriate radius to allow for turning movements of any anticipated vehicles and equipment such as firefighting apparatus, snow plows, and garbage haulers. Snow storage along Neelon Lane and within the cul-de-sac should also be identified.
4. It needs to be verified that, this being a planned private development, the operation and maintenance of any and all stormwater infrastructure including discharge characteristics will be the responsibility of the homeowners association.

Thank you for the opportunity to bring awareness to these issues and please continue to involve the Public Services Department during this planning process.

HIGHWAY - WATER - SEWER - FLEET - PARKS - FACILITIES - SOLID WASTE



Town of Medway  
**DESIGN REVIEW COMMITTEE**  
155 Village Street  
Medway MA 02053  
508-533-3291  
[drc@townofmedway.org](mailto:drc@townofmedway.org)

RECEIVED  
SEP 23 2010

TOWN OF MEDWAY  
PLANNING BOARD

September 17, 2010

TO: Medway Planning & Economic Development Board  
Re: Charles River Village

On Monday, September 13<sup>th</sup>, The DRC met with Paul Yorkis, in regards to the development proposal for the *Charles River Village* Open Space Residential Development. We reviewed plans and artist renderings of the potential architectural aesthetic that the proposed dwellings in the OSRD will feature. The illustrations were only single views of the homes, and, as such, the DRC cannot make any recommendations at this time based on the lack of detail that was presented to us at the meeting. The presentation was lacking:

- Architectural plans detailing all four views of the proposed structures
- Landscape plan detailing suggested rain garden plan
- Buffer zone landscape architecture plan
- Development signage plan
- Lighting design plan

We suggest that the applicant return to the DRC at a future date with a more comprehensive presentation.

Sincerely,

**Matthew Buckley**

Chairman, Medway Design Review Committee

**Design Review Committee Members**

Matthew Buckley, Chairman

Julie Fallon, Vice-Chairman

Karyl Spiller-Walsh, Planning & Economic Development Board Liaison

Rachel Walsh, Corresponding Secretary

Mary Weafer, Recording Secretary

Gary Jacob Associate Member

## ***Report of September 9, 2010 Site Visit – 6 Neelon Lane***

The Medway Planning and Economic Development office scheduled a site walk of the property for the proposed Charles River Village residential development at 6 Neelon Lane to take place at 5:30 pm on Thursday, September 9, 2010. The gathering location was the end of Neelon Lane. The purpose of the site walk was to acquaint the members of the Medway Open Space Committee with the proposed open space parcels. The Planning and Economic Development Board had requested the Open Space Committee's input regarding the proposed open space for this development proposal. The site walk was NOT a continuation of the Planning and Economic Development Board's public hearing which had started 8-31-10.

The site visit was properly posted with the Medway Town Clerk as a meeting of the Open Space Committee. The notice of the site walk was also circulated to the allied Medway land use boards/committees which were invited to attend. The Medway Planning and Economic Development Coordinator contacted several adjacent abutters about the site walk as had been promised during the 8-31-10 public hearing.

Present were:

- Open Space Committee members Jim Wickis, John Schroeder & Pat McHallam
- Planning and Economic Development Board members Andy Rodenhiser, Chan Rogers and Karyl Spiller-Walsh
- Charles River Village development team members John Claffey (applicant), Paul Yorkis (official representative), David Faist (engineer), Dan O'Driscoll (land surveyor) and Lowell Robinson (landscape architect).
- 12-15 abutters/neighbors including Beth McDonald, Richard and Susan DiIulio, Elaina Kaplan
- Medway DPS Director Tom Holder
- Medway Engineering Consultant Dave Pellegri from Tetra Tech Rizzo
- Medway Conservation Agent Karon Skinner-Catrone

As the group was gathering, applicant John Claffey became concerned about the size of the group. Paul Yorkis asked who had the authority to invite non Town officials to the site walk. He asked Mr. Claffey if he would allow those not formally associated with the Town of Medway to walk the site. They were concerned about their liability due to the number of people and the heavily wooded nature of the site. Mr. Claffey determined that he would not permit non-Town personnel to enter the property to participate in the site walk.

The neighbors were upset and angry at not being allowed access to walk the property with Town officials. The abutters had many questions they wanted answered about Neelon Lane and associated access issues.

The Town officials and the development team walked south from the end of Neelon Lane toward the established cart path, turning right and traversing the property from east to west toward Massasoit Street. Where the property meets Massasoit, members of the Open Space Committee proceeded southerly along Massapoag to Riverview. Other walkers proceeded off site to Cherokee Lane where they were met by several abutters who owned property there including Barbara Ryan.

Topics discussed included parking options for public access to the open space, roadway connections, and other possible property improvements including the nature of the emergency access through Cherokee Lane. .

At the conclusion of the site walk, members of the Open Space Committee reconvened at the Medway Senior Center on Oakland Street to discuss the project further and to develop their recommendations to the Planning and Economic Development Board.



Patriot Properties Inc.

PROPERTY LOCATION

No	Alt No	Direction/Street/City
6		NEELON LN, MEDWAY
OWNERSHIP		
Owner 1:	ACQUAFRESCA MICHAEL &	
Owner 2:	CAROL SUPERIOR EXECUTRIX OF	
Owner 3:		
Street 1:	HELEN GRUDZINKAS	
Street 2:	282 PURCHASE STREET	
Town/City:	MILFORD	
SubProv:	MA	County
Postal:	01757	Own Occ
PREVIOUS OWNER		
Owner 1:	ACQUAFRESCA HELEN B. &	
Owner 2:		
Street 1:	6 NEELON LN.	
Town/City:	Medway	
SubProv:	MA	County
Postal:	2053	

NARRATIVE DESCRIPTION

This Parcel contains 8. Acres of land mainly classified as ONE FAMILY with a(n) COLONIAL Building Built about 1890. Having Primarily VERT BRD Exterior and ASPHALT SHNG Roof Cover, with 1 Units, 1 Baths, 0 HalfBaths, 0 3/4 Baths, 7 Rooms, and 3 Bdrms

OTHER ASSESSMENTS

Code	Description	Amount	Com. Int
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IN PROCESS APPRAISAL SUMMARY

Use Code	Building Value	Yard Items	Land Size	Land Value	Total Value	Legal Description	User Acct
101	90,600		8.000	133,800	224,400		3780
Total Card	90,600		8.000	133,800	224,400		
Total Parcel	90,600		8.000	133,800	224,400		
Source: Market Adj Cost				Total Value per SQ unit /Card: 198.23	Parcel: 198.23	Entered Lot Size	GIS Ref
						Total Land:	GIS Ref
						Land Unit Type:	Insp Date
							07/31/02

PREVIOUS ASSESSMENT

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date
2011	101	PV	86,900		8.000	133,800	220,700	220,700	growth	7/28/2010
2010	101	FV	78,500		8.000	133,900	213,200	213,200	CONV	6/17/2010
2009	101	FV	84,400		8.000	141,000	226,200	226,200	CONV	6/17/2010
2008	101	FV	90,400		8.000	149,100	240,300	240,300	CONV	6/17/2010
2007	101	FV	96,800		8.000	163,800	261,200	261,200	CONV	6/17/2010
2006	101	FV	98,300		8.000	163,800	262,900	262,900	CONV	6/17/2010
2005	101	FV	94,000		8.000	133,200	226,000	228,000	CONV	6/17/2010
2004	101	FV	85,100		8.000	121,000	206,900	206,900	CONV	6/17/2010

SALES INFORMATION

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Assoc PCL Value	PAT ACCT.	Notes
ACQUAFRESCA HEL	16973-237		8/7/2002	X							
	05949-353		1/1/1900	X							

BUILDING PERMITS

Date	Number	Descrp	Amount	CO	Last Visit	Fed Code	F. Descrp	Comment
10/8/1993	93-313	DET STRU		C				
1/1/1900	SS	SPLIT/SU		C				
1/1/1900	SS09-4	SPLIT/SU		C	11/25/2008			ac fm 1D-33-167 &

ACTIVITY INFORMATION

Date	Result	By	Name
8/7/2002	REVIEWED	TB	TB
7/31/2002	MEASURED	BB	BB
7/31/2002	INSPECTED	BB	BB

LAND SECTION (first 7 lines only)

Use Code	Description	LUC	No of Units	Depth/ PricedUnits	Unit Type	Land Type	LT	Base Value	Unit Price	Adj	Neigh Infl	Neigh Mod	Infl 1	%	Infl 2	%	Infl 3	%	Appraised Value	Alt Class	Spec Land Code	J	Facd	Use Value	Notes
101	ONE FAMILY		43996		SF Site	SITE		0	3.1	0.900	1		R-3		-10				122,759					122,800	
101	ONE FAMILY		304484		SF Excess	EXCESS	1.0	0	0.04	0.900	1		R-3		-10				10,961					11,000	



See pages 1 & 2  
re: Neelon Lane

**March 23, 2010**

**Medway Planning and Economic Development Board Meeting  
Medway Town Hall  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers.

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:03 pm.

**CITIZEN COMMENTS**

Mr. Yorkis presented the Board with information regarding three options for the Neelon Lane property.

The first plan showed the right-of-way from Village Street on Neelon Lane. This right-of-way would be for an 18' wide paved surface. The P cul-de-sac would provide the ability for the vehicles to turn around.

The second plan shows that the P cul-de-sac can be constructed entirely on land that is part of the purchased property. There will be no change to the open space.

The third plan shows that the P-cul-de-sac which would be built by the applicant on adjacent property owned by Beth McDonald. This would have adequate frontage. There will be a new fire hydrant on Neelon Lane, along with a twenty foot utility easement connecting to Cherokee Lane. A new fire hydrant would be located at the end of Cherokee. A ten foot wide gravel pathway would be used for emergency vehicle and pedestrian access. The third plan has been reviewed by the Town of Medway Fire Chief Paul Trufant and the Police Sergeant Jeff Watson.

Mr. Yorkis also communicated that he has met with all three parties whose driveways are located on Neelon Lane. He also informed the Board that the exact width is not 100% clear at this point.

The Board members had comments in regard to the plans. Member Rogers indicated that he is not opposed to this, but a lot is going on with this plan. Member Gay is not sure about the presented options, but he is concerned about Neelon Way and the flip flop of the turn around.

Mr. Gay informed Mr. Yorkis that he would like to make sure that the same kind of information is presented on all the plans and that the proposals are consistent.

Chairperson Rodenhiser noted that the road and right of way width is of concern, along with the access for emergency vehicles. Another concern is the traffic going down the street. Member Spiller-Walsh would like the design to allow for some vista views by some creative stacking of units. Member Tucker noted that there is too much to fit in at this property.

Abutter Kaplan of 221 Village Street was concerned about the width of the street.

The Chairman informed the abutter that those issues will be addressed once the official submittal is presented to the Board.

### **PROPOSED ZONING ARTICLES**

The Board reviewed the draft articles for Green Communities Work – Definitions. Affleck – Childs will be presenting these definitions to the Energy Committee at their meeting on Wednesday evening. The definitions have been reviewed by Town Counsel. The Board was in agreement with the definitions as presented in the draft of March 17, 2010. The Board is also comfortable with the amendments to the Medway Zoning Bylaw, Section V. Use Regulations, Sub-Section M., Industrial I Zoning District by adding items j and K to paragraph #1, and subsection N, Industrial II by deleting e) in paragraph 1 and replacing it with the noted revision. Items h) & i) in paragraph #1. Under Industrial III Zoning District items g & h will be added to paragraph #1 under allowed uses.

The section in relation to the Site Plan Review was reviewed and it was noted that the inclusion of a definition was recommended.

#### **Article Pertaining to Sign Regulations:**

The Board reviewed the sign definitions and would like the Section regarding Temporary Banner Type (20) to indicate 32 square feet instead of 24 square feet. The discussion continued in relation to the exempt signs. It was recommended that under (23) Contractor's temporary lawn sign that these not exceed a total of 4 square feet and not the 12 square feet proposed. The Board was comfortable with the "Now hiring" signs. Under (25), Signs for community based organizations, it was suggested that there not be a maximum of six signs per organization. In relation to the temporary product promotional signs, member Tucker questioned if the Board wants to regulate this? The Chairman concurred asking if the Board really wants to limit at this time. After discussion, it was suggested that this be removed. The Board was comfortable with numbers (27) and (28). The discussion next moved to the prohibited signs. Under (k), it was recommended that the word outside be included. The Board would like it indicated that signs are prohibited for Home Based Occupations/Home Based Businesses.

#### **Sign Standards – All Zoning Districts:**

The Board was comfortable and agreement with the highlighted suggestions as presented in Sections a), j), l), m), q), r), and s). Under Section m), member Gay wanted to make sure that the

*Charles River Village*  
*Informal*  
*1-26-2010*  
*Neelon Lane*

**January 26, 2010**

**Planning and Economic Development Board  
Medway Town Hall - 155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, Chan Rogers

**ABSENT WITH NOTICE:** John Williams

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Dave Pellegri, Tetra Tech Rizzo  
Amy Sutherland, Meeting Recording Secretary

The Vice Chairman Tucker opened the meeting at 7:03 pm.

**BOARD BUSINESS:**

**Minutes:**

**January 12, 2010:**

- On a motion made by Tom Gay, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from January 12, 2010 with the noted revisions.

**January 19, 2010:**

- On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to accept the minutes from January 19, 2010 with the noted revisions. (NOTE - These minutes will have as an attachment, the draft decision of Williamsburg Condominium OSRD Definitive Draft Decision as noted in minutes).

**Construction Update:**

**Williamsburg:**

Consultant Pellegri noted that a site visit was done on January 26, 2010. There is clearing and grubbing taking place on site. The contractor is cleaning up and disposing of scrap metals including old tires and computers. These items are being disposed of properly. The erosion control measures are in place. The big boulders are being stock piled. There is currently no breaking up of the asphalt on West. St. Mr. Yorkis communicated to Consultant Pellegri that he will be meeting with the DPW about the street opening permits. Mr. Yorkis will also be seeking a permit for utilities.

**Applegate Modification:**

Susy Affleck-Childs reported that Mr. Costello has submitted an application to modify the Applegate Farm Definitive Subdivision decision; the plan was endorsed in late January 2007. The three year window per the Town of Medway Subdivision Rules and Regulations will expire

in three days thus the reason for modification. A Public Hearing will need to be held and abutters will need to be notified.

**Daniels Wood II Subdivision Plan Modification:**

**CERTIFICATE OF ACTION:**

A draft Certificate of Action had been emailed to board members; copies were distributed. A copy of the 1-25-10 draft decision is attached to these minutes.

The Applicant is seeking an extension for the Planning Board's deadline for a Certificate of Action on the proposed modification.

- **On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to grant the applicant's request for an extension until March 12, 2010 for the Certificate of Action for the Modification to the Daniel Wood II Definitive Subdivision Plan & Certificate of Action.**

The Board began its review of the draft decision.

The Board is comfortable with the noted history on Sections I, II, III. The top section on page two represents the old plan. There will be clarity provided on the roadway Station numbers.

**IV. MODIFICATION DESCRIPTION:**

Susy Affleck-Childs informs the Board, that the language of the modification description was taken from the original written description as presented by the applicant.

The Board had a lengthy discussion about whether to keep the word natural in connection with the drainage text included in items A. and B of the Modification Description. Member Spiller-Walsh would like to add language to clarify "the project". She would like to specify where the run off will be going. She would also like the word "natural" to be taken out since it is not a term or definition of the Town of Medway.

- **On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted to take out the word natural in Modification Description A but not B. Karyl Spiller-Walsh voted no. Vote passes.**

Member Gay would like the new lot change noted.

Member Spiller Walsh made a motion to eliminate on page 2. Section (D) to the Modification Description. There was no second to the motion. The motion fails. This will stay as written.

Susy Affleck-Childs informed the Board that they did not prepare Findings on the original Daniels Wood II decision. Affleck-Childs visually showed on the plan that the modification only pertains to one Lot and parcel.

**V. PROCEDURAL SUMMARY:**

The Board was in agreement with section V. Procedural Summary on page 3.

**VI. EXHIBITS – PLANS and DOCUMENTS:**

The Board is satisfied with the Section entitled Exhibits – Plans and Documents on page 4 as written. The only revision on page 5 will be to include the revised memo date from the Medway Fire Chief Paul Trufant.

**VII. PUBLIC HEARING SUMMARY:**

The Board was in agreement with this section.

**IX. PROJECT EVALUATION CRITERIA:**

Susy Affleck-Childs will come up with draft language to the findings within each section. These will need to be reviewed by Town Counsel. Under 5.16.7 Consistency with the purpose of the Subdivision Control Law, member Spiller-Walsh does not feel the project is consistent with the Subdivision Control Laws.

**X. WAIVERS:**

The applicant will be seeking an additional waiver relative to stormwater management.

**ACTION OF WAIVER FINDINGS:**

Action on the Waiver Findings will be done at a later date.

**ACTION OF WAIVER REQUEST:**

Action on the Waiver Request will be done at a later date.

**XI. CONDITIONS:**

The Board was in agreement with Sections noted Specific Conditions and Ownership/Maintenance, Mitigation. The Section entitled Timeable for Completion should note that the normal duration will be 3 years. The Section entitled Plan Revisions requires a second sheet to be added to the plans which will be added to show and clarify the drainage easements.

**LEGAL DOCUMENTS:**

All copies of the Deeds, Easements, and Private Roadway Agreement will need to be reviewed by Attorney Murray, Susy Affleck-Childs, and Legal Counsel.

**9. Recording of Plans and Documents:**

The Board is comfortable with the wording of this section.

**10. Maintenance Responsibility During Construction:**

The Board is comfortable with the wording of this section.

**11. Building Permits:**

The Board is comfortable with the wording of this section.

Mr. Yorkis wants to remove the requirement that the Roadway Binder Course be completed before a building permit is issued. The Board communicated that a waiver needed to be submitted and it is too late since the public hearing is closed.

**12. Performance Security:**

**B. Alternative Performance Security:**

Mr. Yorkis is concerned that the individual who purchases this will have a substantial burden to come up with the money for the performance security. Susy Affleck-Childs reminds the Board that security of some sort must be put in place to protect the Town. The language on page 13 will need to be clarified.

**13. Project Completion:**

The Board is comfortable with how this section is written.

**General Conditions:**

The Board is comfortable with how this section is written.

**Next Steps** – The Board will discuss this again at the March 9<sup>th</sup> meeting.

**Request for Informal Discussion Neelon and Cherokee Lane:**

Susy Affleck-Childs informed the Board that Paul Yorkis & David Faist would like to have an informal discussion about a possible OSRD development. This project is located between the ends of Neelon and Cherokee Lanes (site of the previously approved but expired Charles River Acres OSRD project).

Mr. Yorkis & Mr. Faist began their presentation informing the Board that this project is on a 7.7 site adjacent to the Charles River located between the ends of Neelon and Cherokee Lanes. This is a site of the previously approved but expired Charles River Acres OSRD project. Mr. Yorkis communicated that there is a different applicant who is putting together some preliminary ideas.

Mr. Faist provided a historical overview. The OSRD Special Permit was issued on October 20, 2006. The former developer (KDEE Realty) has not pursued the project due to financial difficulties and the decline of the real estate market, thus the permit expired and there has been no activity for two years. The old approval was for six single family detached homes and two duplex buildings for a total of ten residential dwelling units.

Mr. Yorkis is considering having single family condominiums and not duplexes. A draft of a series of architectural designs was provided showing the cottage style homes.

Member Spiller-Walsh communicates that Cherokee appears to be the logical access (and not Neelon Lane). She was also inquiring about if it may be possible to do 2 or 2 1/2 story units and remove the single family concept.

Vice Chairman Tucker communicated that the plan looks as though they are trying to maximize the number of units. Once all the calculations are available, the Board can address the impacts.

Member Rogers notes that both of the two concepts of access have significant issues. Consultant Pellegri explains that a traffic engineer would be able to come up with the pros and cons of the access concept ideas.

Mr. Faist presented a sheet noting the minimum width of traveled way for specified design volume per ASHTO standards. The Board discussed that this will need to be further substantiated. The plan would need to be verified by a licensed surveyor. It is premature to make the exact specifications. Mr. Yorkis has had informal discussion with several of the abutters. They are aware of what is informally taking place. The restrictions are the pavement width; improve the rounding, trees in the front, and the existing pavement. One of the ideas is to have the Town water line looped. This discussion was helpful in exploring different possibilities.

### **Birch Hill:**

Ms. Ellen Rosenfeld communicated that the Hunter Lane is 100% complete. The signs have been installed and the gate valves are done. In regards to Ivy Lane, the As-Builts have been provided, and the potholes have been filled, and the fire hydrants have been raised. There was an issue with a small parcel being deeded to the wrong neighbor. She communicated that as long as there are two separate lots, it doesn't really matter who owns it. The Board would like two letters from Ms. Rosenfeld noting that the required items have been addressed. Once the letters are received and items checked, the money will be released. Susy Affleck-Childs informed the Board that it has been difficult working with Ms. Rosenfeld.

### **Other Business/Reports**

Gino Carlucci informed that Board that there was a follow-up meeting in regards to the discussions regarding a Casino in the metro-west/swap area. Various towns will be writing a joint letter to communicate the comments and concerns. A key issue is to make sure that local zoning is not infringed upon. The letter will also make note of the economic impacts, traffic, and housing. Member Rogers noted that Milford is looking to change the Zoning to allow and potentially accept casino type resort development.

- **On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to adjourn the meeting at 10:00 pm.**

### **Future Meetings:**

The next meetings scheduled are: **February 9 & 23, 2010.**

The meeting was adjourned at 10:00 pm.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator



## MEDWAY TOWN CLERK

155 VILLAGE STREET  
MEDWAY, MASSACHUSETTS 02053  
(508) 533-3204 • FAX: (508) 533-3287  
mwhite@townofmedway.org

MARYJANE WHITE, CMMC

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

NOTARY PUBLIC

I, Maryjane White, Town Clerk of the Town of Medway certify that Neelon Lane is an accepted street in the Town of Medway. Neelon Lane was accepted by the Town at a Town Meeting held April 6, 1863

A true copy Maryjane White  
TOWN CLERK  
DATE August 19, 2010

RECEIVED  
AUG 24 2010

TOWN OF MEDWAY  
PLANNING BOARD

3years.





## MEDWAY TOWN CLERK

155 VILLAGE STREET  
MEDWAY, MASSACHUSETTS 02053  
(508) 533-3204 • FAX: (508) 533-3287  
mwhite@townofmedway.org

RECEIVED  
AUG 24 2010

MARYJANE WHITE, CMMC

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

NOTARY PUBLIC

TOWN OF MEDWAY  
PLANNING BOARD

### CERTIFICATION

I, Maryjane White, Town Clerk of the Town of Medway hereby certify the following as my transcription of the Town Meeting record dated April 6, 1863. I also certify that Neelon Lane is on the list of accepted streets furnished to me when taking office as Town Clerk in 1991.

On Petition of Luther Metcalf and others we the Subscribers Selectmen of Medway have laid out the use of Francis Neeland and others in passing from the house of said Neeland to the old Hartford road (so called) a private way, on conditions that said Neeland shall remove the fence of Charles B. Whitney and reset the same on the easterly side of the proposed way, and also that he shall build and construct said way in such a manner, that it shall be safe and convenient for carriages.

Said way to be located partly on land set apart for a way by J. W. B. Wilson deceased, partly on land of said Neeland, and partly on land of C. B. Whitney and bounded as follows;

Beginning at the easterly end of the wall in front of the house of the heirs of John Karnes at the old Hartford road, and running southerly in a straight line to the easterly front in the picket fence separating land of said heirs, from land of said Neeland, and thence running in the same direction to a fence opposite the southerly side of said Neeland house, and to be twenty five feet wide on the easterly side of said line.

And we award to C.B. Whitney as land damage the sum of twenty dollars (\$20.00) and for fencing the sum of twenty dollars (\$20.00). We also award to the heirs of John Karnes the sum of ten dollars for fencing to be paid by the town.

Dated at Medway this twenty sixth day of March in the year 1863.

Wm Daniels  
Simeon Fisher  
G. Partridge

Selectmen of Medway

DATE August 24, 2010  
A true copy  
ATTEST Maryjane White

The Petition of Luther McCall and others we the  
 Subscribers Selectmen of Medway have laid out for the  
 use of Francis McCalland and others in passing from  
 the house of said McCalland to the old Hartford  
 road (so called) a private way, on conditions that  
 said McCalland shall remove the fence of C. B.  
 Whitney and reset the same on the easterly side  
 of the proposed way, and also that he shall build  
 and construct said way in such a manner, that  
 it shall be safe and convenient for carriages.

Said way to be located partly on land set  
 apart for a way by J. B. Wilson deceased, partly on  
 land of said McCalland, and partly on land of  
 C. B. Whitney and bounded as follows,

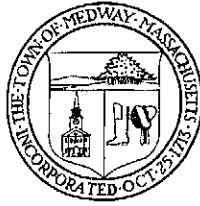
Beginning at the easterly end of the wall  
 in front of the house of the heirs of John Barnes at  
 the old Hartford road, and running southerly  
 in a straight line to the easterly front in the picket  
 fence separating land of said heirs, from land of  
 said McCalland, and thence running in the same  
 direction to a fence opposite the southerly side of  
 said McCalland's land, and to be twenty five feet  
 wide on the easterly side of said line.

and we award to C. B. Whitney as land  
 damage the sum of twenty dollars (\$20.00) and for  
 resetting the sum of twenty dollars (\$20.00.) We also award  
 to the heirs of John Barnes the sum of ten dollars  
 in passing to be paid by the town.

Attest at Medway this  
 twenty sixth day of March in the year 1863.

RECEIVED  
 AUG 12 2010  
 TOWN OF MEDWAY  
 PLANNING BOARD

Wm. Daniels }  
 Simon Fisher }  
 C. Partridge }  
 Selectmen  
 Medway



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Karyl Spiller-Walsh*  
*Cranston (Chan) Rogers, P.E.*

REVISED DRAFT – September 23, 2010

**ADAPTIVE USE SPECIAL PERMIT DECISION**  
**Steinhoff Realty Trust for 146 Main Street**  
**SPECIAL PERMIT – \_\_\_\_\_**

Name/Address of Applicant: Steinhoff Realty Trust  
133 Main Street  
Medway, MA 02053

Name/Address of Owner: Steinhoff Realty Trust  
133 Main Street  
Medway, MA 02053

Designer: The H.L. Turner Group  
27 Locke Road  
Concord, NH 03301

Plan Date: June 11, 2010, last revised \_\_\_\_\_, 2010

Project Location: 146 Main Street

Assessor's Reference: MAP 5, Parcel 5/264.

Zoning: Agricultural Residential II and Adaptive Use Overlay District

Purpose: Substantially renovate the existing 1,632 sq. ft. residential structure on the property and construct a 2-story, 7,045 sq. ft. addition to the north of the existing structure, all space to be used for professional offices.

This is a decision of the Planning and Economic Development Board of the Town of Medway, MA (hereinafter “Board”) on the July 1, 2010 petition of Steinhoff Realty Trust (hereafter “Applicant”) of 133 Main Street, Medway, MA 02053, for an Adaptive Use Special Permit for property located at 146 Main Street presently owned by Steinhoff Realty Trust of Medway, MA. (hereinafter “Property”). The Special Permit is sought pursuant to *SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District of the Town of Medway Zoning Bylaw* (last amended November 19, 2007) and other relevant provisions of the *Zoning Bylaw* in order to allow the Project as described below.

This Decision includes the following sections:

- I. *Project Description*
- II. *Decision of the Board*
- III. *Procedural History*
- IV. *Supplemental Materials*
- V. *Findings*
- VI. *Waivers*
- VII. *Conditions, Limitations*
- VIII. *Appeal*

## **I. PROJECT DESCRIPTION**

The Petitioner seeks to modify the most recent previous single family residential use of the subject property at 146 Main Street. The Applicant is the current owner of the .7 acre parcel. The Applicant proposes to develop an 8,677 sq. ft. building through renovation and new construction, all to be used for professional offices. The project includes three components:

- renovation/reconstruction of the existing building
- construction of a new 2 story, 7,045 sq. ft addition
- extensive site improvements including drainage, parking, lighting, and landscaping and connections to Town water and sewer services.

The plan for the development of this property is shown on *Steinhoff Office Building, 146 Main Street, Medway, MA* prepared by the H.L. Turner Group of Concord, NH for Steinhoff Realty Trust. The plan was originally dated June 11, 2010 and was revised June 30, 2010 and

---

The applicant intends to develop this project as a LEED compliant and energy neutral building and will incorporate both solar and geothermal heating devices.

**II. DECISION OF THE BOARD** - After reviewing the application and information gathered during the public hearing process and considering all the evidence, the Medway Planning and Economic Development Board, at a duly posted meeting on September 28, 2010, voted to grant by a \_\_\_\_\_ vote, an Adaptive Use Special Permit to Steinhoff Realty Trust for the subject property at 146 Main Street, Medway, MA. as represented in the hearing and shown on the plans, subject to the waivers, conditions, safeguards and limitations granted herein. This special permit is general and runs with the land. It is the decision of this Board, as evidenced by its vote herein, that the aforesaid Property is a proper parcel to be developed under *SECTION V. USE REGULATIONS, Sub-Section W.*

*Adaptive Use Overlay District of the Medway Zoning Bylaw (as amended June 6, 2005)* in that it meets all the requisite site development standards and special permit criteria.

Voting Planner Board Member

Grant/Not Grant

Karyl Spiller-Walsh  
Andy Rodenhiser  
Cranston Rogers  
Robert K. Tucker  
Thomas A. Gay

### **III. PROCEDURAL HISTORY**

On July 1, 2010, Steinhoff Realty Trust filed an application for an Adaptive Use Special Permit with the Board and the Medway Town Clerk. The application consisted of:

- an Adaptive Use Overlay District Special Permit application dated July 1, 2010.
- an Adaptive Use Overlay District (AUOD) Plan titled Steinhoff Office Building dated June 11, 2010, revised June 30, 2010 prepared by The H.L. Turner Group, Inc of Concord, NH.
- a project narrative
- a drainage report dated Jun 11, 2010, revised June 30, 2010 from The H.L. Turner Group; and
- a certified abutters list.

Upon the Board's receipt of the Applicant's petition, a Public Hearing was scheduled to commence July 27, 2010 in the Sanford Room of Medway Town Hall, 155 Village Street, Medway, MA. Notice of the public hearing was posted with the Town Clerk at Medway Town Hall on July 1, 2010 and on the Town of Medway web site. The required legal advertisement was published in the *Milford Daily News* on July 13 and 19, 2010. Notice was also sent by registered mail to all parties of interest and abutters and the Planning Boards of all adjacent towns on July 6, 2010.

On July 6, 2010, a memo from the Board soliciting comments on the application and plan was distributed to the Board of Selectmen/Town Administrator, Assessors, Conservation Commission, Department of Public Services, Design Review Committee, Historical Commission, Inspector of Buildings, Fire Department and Police Department. The memo indicated that the public hearing was scheduled to begin on July 27<sup>th</sup> and requested review comments by that date. Review letters were received from the Economic Development Committee and the Design Review Committee.

The plans and all associated application materials were reviewed against the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District, the Medway Site Plan Rules and Regulations, the Medway Subdivision Rules and Regulations, the Water/Sewer Department Rules and Regulations and good engineering practices. Tetra Tech Rizzo, the Town's Consulting Engineer provided review memos dated 6/24/10, 7/22/10, 8/5/10 and 8/25/10. PGC Associates, the Town's Consulting Planner, also provided review letters dated 7/22/10 and 8/26/10. As review letters were issued, the plans were modified to address the identified concerns and deficiencies which resulted in revised plans dated August 4, 2010 and \_\_\_\_\_.

The public hearing commenced on July 27<sup>th</sup> and was continued to August 24, 2010 when the hearing was closed. Present for both public hearing sessions were members Andy Rodenhiser, Karyl Spiller-Walsh, Cranston Rogers and Tom Gay. Member Bob Tucker missed the July 27<sup>th</sup> hearing but was present for the August 24<sup>th</sup> hearing. Mr. Tucker did provide a Mullen's Rule certification that he had viewed a videotape of the July 27<sup>th</sup> hearing. Also present were Dave Pellegri of Tetra Tech Rizzo, the Town's Consulting Engineer and Gino Carlucci, the Town's Consulting Planner

Richard Steinhoff, the petitioner, was present at both sessions of the public hearing. Jim Spaulding of The H.L. Turner Group, attended the 7/27/10 session. Abutters and residents of the adjacent neighborhood attended the public hearing; they asked questions and provided opinions about the proposed development:

- Tom and Judith Giovangelo, 144 Main Street
- Ted and Elizabeth Lambert, 7 Temple Street
- Robert and Diane Piacentini, 9 Temple Street
- Vallishayee Rashmi, 25 Temple Street
- Tara Werlich, 155 Main Street
- Nancy Hamm, 10 Temple Street

The Board carefully reviewed the various plan submittals and all associated materials and information. Throughout its deliberations, the Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearings. The Board carefully analyzed the general purposes of the Adaptive Use Overlay District provision of the *Zoning Bylaw* and its specific requirements and standards as well as the requirements of Section 9 of Chapter 40A, M.G.L. specifically relating to Special Permits in making its findings, conditions of approval and decision.

#### **IV. SUPPLEMENTAL MATERIALS**

##### **Documents**

- Review Memorandum dated August 26, 2010 from the Medway Design Review Committee
- Letter of support dated August 23, 2010 from the Medway Economic Development Committee
- Response letter dated July 1, 2010 from The H.L. Turner Group, Inc. in response to the Tetra Tech Rizzo review dated 6/24/10.
- Response letter dated August 10, 2010 from The H.L. Turner Group, Inc. in response to the Tetra Tech Rizzo review dated 7/22/10 and the PGC review dated 7/22/10.
- Written communication received July 27, 2010 from Richard Steinhoff regarding the status of small wind power generation on the site.
- Request for waivers received August 17, 2010.

##### **Plans**

- Revised plans Steinhoff Office Building dated August 4, 2010 by The H.L. Turner Group, Inc.
- Revised Landscape Plan dated \_\_\_\_\_ by Carolyn Cooney & Associates.
- Revised Lighting Plan dated \_\_\_\_\_

**IV. FINDINGS** - Based on the evidence and testimony presented at the public hearings as documented in the application materials and detailed record of this case, the Board makes the following findings regarding this application in accordance with *SECTION V. Sub-Section W. Adaptive Use Overlay District of the Town of Medway Zoning Bylaw (last amended November 19, 2007)*.

1. The Subject property, located at 146 Main Street, is located within the Adaptive Use Overlay District. The property has 165.95 feet of frontage on Main Street. *(This complies with the Zoning Bylaw requirement for a minimum of 50 feet of Main Street frontage for an adaptive use project.)*

2. The primary building existing on the parcel at the time of application was constructed in 1880. *(This complies with the Zoning Bylaw requirement for the site to have on it an existing building constructed before June 28, 2004.)*

3. The proposed use of the Property for offices for business and professional uses is allowed pursuant to *SECTION V, USE REGULATIONS, Sub-Section W, 3. b)* of the *Medway Zoning Bylaw (as last amended November 19, 2007)*. Overall, the subject parcel is in a portion of Main Street in which residential, professional and commercial uses historically and presently co-exist.

4. The Project preserves the overall residential character of the buildings along this stretch of Main Street/Route 109. The change in use of the existing vacant and deteriorated residential structure to an office for professional businesses will establish a new economic viability for the existing structure.

5. The Project as proposed includes improvements to the existing historic residential building which has gone into extreme disrepair over recent years and does not presently enhance Main Street as a building of its age and character should. Planned work includes replacement of the siding, gutters and woodwork to maintain and enhance the structure's original architectural integrity and installation of modern services. The Medway Design Review Committee has provided significant input to the overall building and site design, working diligently to achieve a design for the new office structure that is substantively residential in character and compatible with the existing structure's architecture. The design of the addition as it has evolved is now compatible with the existing structure and the residential character of the adjacent properties. The combination of the building improvements and landscaping plan enhances the aesthetic appeal of the primary building and the site. The impact of the project on Main Street's visual character is positive.

6. A professional landscape plan has been prepared. Extensive landscaping is planned to enhance the existing structure and its new addition. The proposed landscaping serves as a buffer zone to adjacent residential properties on the east, north and west of the subject parcel.

7. The site is adequate for the proposed use for professional offices.

8. Parking – The applicant has proposed to provide 29 off-street parking spaces. All proposed parking is shown to be at the rear and side of the building. The proposed parking layout has been adjusted to ensure that there is the required 50 feet between the first parking space and the edge of roadway pavement on Main Street. The applicant has adjusted the layout to include \_\_\_\_ “compact car” spaces along the eastern edge of the parking lot which have reduced dimensional requirements. Visitor and handicap accessible spaces are labeled on the plan. The Board finds that the provision of 29

parking spaces is adequate for the proposed uses of the site and the 8,677 sq. ft. size of the building @ one space per 300 sq. ft of gross floor space.

9. Lighting – As initially presented, the parking lot lighting plan was not residential character as it included 14' tall light posts. Subject to condition# \_\_\_\_, the light posts shall be reduced to 10' in height. A photometric analysis has been conducted and shows that \_\_\_\_\_.

10. Vehicular Access - Provisions for traffic are adequate based on the Property's proposed use. Sole vehicular access to this site shall be provided from Main Street. Although no new curb cuts are being added, the existing 12' wide curb cut is being expanded to 24". The Board finds this enlargement is necessary to ensure safe access into and egress from the property.

11. Pedestrian and Bicycle Access – The proposed provisions for pedestrian and bicycle accesses are adequate based on the building and the site. The property already has an existing sidewalk across the front of the property along Main Street. The plans show the construction of a new sidewalk from the front door of the building to that existing Main Street sidewalk. In addition, a sidewalk will be installed alongside the entrance driveway up to the main entrance of the new addition on the east façade of the building. A bicycle rack to accommodate 5 bicycles is also provided.

12. Provision of Utilities - The provisions in the Project for utilities, including sewerage disposal, water supply and stormwater management are adequate. The stormwater management design was reviewed by Tetra Tech Rizzo, the Town's consulting engineer. The Project provides for adequate on-site retention and treatment of stormwater in compliance with Massachusetts' Stormwater Management Policy and the Board's Subdivision Rules and Regulations. The sewer and water connections were reviewed by the Medway Department of Public Services and determined to be adequate.

13. The proposed Project complies with the purposes of *SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District of the Medway Zoning Bylaw (as amended June 6, 2005)*. The Project implements certain goals of the Medway Master Plan including encouragement of economic development, protecting small town character, and preserving historic sites.

**V. WAIVERS** – The applicant has requested waivers from the following sections of the *Site Plan Rules and Regulations*

The applicant has requested a waiver from the following section of the *Subdivision Rules and Regulations*



The applicant has requested a waiver from the following sections of the *Adaptive User Overlay District Rules and Regulations*

### **VIII. CONDITIONS/SAFEGUARDS/LIMITATIONS OF APPROVAL**

1. The property shall not be altered or used except for a maximum of 8,677 sq. ft. of professional office space. No other use of this building is permitted. Any other uses will require the filing of a new special permit application.
2. Plan Endorsement - The Medway Planning & Economic Development Board shall endorse its approval of the Adaptive Use Special Permit on all sheets of the Steinhoff Office Building plan for 146 Main Street. Within 30 days after the Board files this Special Permit decision with the Town Clerk, the Applicant shall submit a final AUOD plan reflecting all required revisions for the Board's endorsement.

The endorsed Adaptive Use Overlay District (AUOD) Plan is considered part of the Special Permit and shall be recorded therewith. Prior to Board endorsement, the Steinhoff Office Building plan for 146 Main Street shall be revised as follows:

- A. Title Sheet – Update index to include all sheets in the plan set.
  - B. Title Sheet – Remove list of abutters
  - C. Title Sheet – Add reference that the plan is also subject to an Adaptive Use Overlay District Special Permit to be recorded with the plan.
  - D. Sheet C2.1 Site Lighting Plan shall be revised. Light fixtures shall not be more than 10 feet tall so to achieve a more residential character.
  - E. Sheet L1 Landscape Plan shall be revised to specify the installation of evergreen plantings at the base of the free-standing building development sign..
  - F. Landscape plan along the northern boundary of the property adjacent to \_\_\_\_ Temple Street shall be revised \_\_\_\_\_.
3. This approval is conditioned on project completion in full compliance with the Steinhoff Office Building plan for 146 Main Street, as last revised \_\_\_\_\_, as may be further revised as a condition of this permit.
4. Parking – The Project shall include at least 29 parking spaces, which shall be a permanent condition of this permit.

5. Lighting must comply with the Medway Zoning Bylaw, Section V. B. 3. The exterior parking lot lights shall be turned off by 9:30 p.m.
6. The applicant shall make no further site improvements/changes that would alter the site's drainage patterns or characteristics as indicated on the plan approved by the Board.
7. Collection of garbage and domestic trash shall be the responsibility of the applicant subject to Board of Health *Rules and Regulations*.
8. The hours of operation for professional offices in this building shall be limited such that there will be no customer access to the building after 9:30 p.m.
9. This Special Permit shall lapse unless exercised within two years of its recording.
10. No expansion, addition, nor any change of use(s) of any building or portion of the property at 146 Main Street shall be permitted without an amendment to or issuance of a new Adaptive Use Special Permit by the Board.
11. Inclusion of a design for the free-standing development sign as shown on Sheet A5.2 does not constitute approval of the sign by the Town of Medway Building Department.
12. Wind Turbines - The Steinhoff Office Building plan shows possible locations of wind turbines as the applicant expects to install small wind electric generation turbines on this property in the future. The Board's approval of this permit and the plan does NOT constitute an approval of either the future use or location of such small wind system turbines on this property. After the building is constructed and location testing is completed, the applicant is required to apply to the Zoning Board of Appeals for a special permit to install small wind energy generation devices on this property and shall review such plans with the Medway Design Review Committee at that time.
13. Construction Inspection
  - A. Duly authorized agents of the Town of Medway including but not limited to members of the Planning and Economic Development Board and its agents, staff or consultants shall have the right to enter upon the property at any time to inspect the site to ensure compliance with the terms and conditions of this Special Permit.
  - B. The Department of Public Services will conduct inspections for any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit.
  - C. The applicant shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Planning Board within 5 days of inspection.
  - D. In the event the applicant seeks an occupancy permit before all site plan work is satisfactorily completed (see \_\_\_\_\_ herein), the Applicant shall establish

a construction inspection account with the Medway Planning & Economic Development Board. The Applicant shall pay a construction inspection fee to the Town of Medway in an amount to be determined by the Board. The funds may be used at the Board's discretion to retain professional outside consultants to inspect the site, identify what site plan work remains to be completed, prepare a bond estimate, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion* (see item 15 herein). Depending on the scope of professional outside consultant assistance that the Board may need, the Applicant shall be required to provide supplemental payments to the project's construction inspection account, upon invoice. Any funds remaining in the applicant's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the applicant.

#### 14. During Construction

- A. The applicant shall take all measures necessary to ensure that no excessive dust leaves the premises during construction.
- B. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Applicant shall be responsible for all clean-up of the roadway within twenty-four (24) hours of its occurrence.
- C. All erosion and siltation control measures shall be installed and observed by the Board's consulting engineer or the Conservation Commission prior to the start of construction, and maintained in good repair throughout the construction period.
- D. *Construction Time* - Construction work at the site and in the building shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. No construction shall take place on Sundays or legal holidays.
- E. *Construction Traffic/Parking* – All parking for construction vehicles and construction related traffic shall be maintained on the subject property. No parking of construction and construction related vehicles shall take place on adjacent public or private ways.

#### 15. Project Completion

- A. This permit shall lapse after two years of the grant thereof if substantial use has not commenced except for good cause. The approved work shall be completed by the applicant or its assignees within two years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration of this permit, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the special permit shall lapse and may be reestablished only after a new filing, hearing and decision.

- B. Prior to issuance of a final occupancy permit, the Applicant shall secure a ***Certificate of Completion*** from the Board and provide the ***Certificate*** to the Inspector of Buildings. The ***Certificate*** serves as the Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The ***Certificate*** also serves to release any security/performance guarantee that has been provided to the Town of Medway. To secure a ***Certificate*** of Site Plan Completion, the applicant shall:
- 1) provide the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in strict compliance with the approved and endorsed site plan, and any modifications thereto; and
  - 2) submit six (6) copies of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the original site plan and any modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.

16. Plan Compliance

- A. The Applicant shall construct all improvements in compliance with the approved and endorsed plan and any modifications thereto.
- B. No occupancy permit shall be granted until the Board has provided a written communication to the Inspector of Buildings that the project, as constructed, conforms to the approved AUOD plan and any conditions including construction of any required on and off-site improvements, have been satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of Medway, to the Board's satisfaction, to cover the costs of all remaining work.
- C. The Board or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
- D. The Conditions of Approval are enforceable under Section. V. C. 12 of the *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine. Any work that deviates from the approved plan and permit shall be a violation of the Zoning Bylaw.

**IX. APPEAL** – Appeals, if any, shall be pursuant to Section 17 of Chapter 40A, M.G.L., as amended, and shall be filed within twenty (20) days after the date of filing of this notice in the Office of the

Town Clerk. After the appeals period has expired, the Applicant must obtain certified notice from the Town Clerk that no appeals have been made. Said notice must be filed with the Norfolk County Registry of Deeds with this special permit and the endorsed plan. A copy of said recording must be returned to the Town Clerk and the Board to complete the file.

\*\*\*\*\*

The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or document received by it, and directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

**IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW, CHAPTER 40A, SECTION 11,  
NO VARIANCE, SPECIAL PERMIT OR CONSTRUCTIVE GRANT OF A VARIANCE  
TAKES EFFECT UNTIL RECORDED AT THE REGISTRY OF DEEDS.**

**MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD**

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I hereby certify that 20 days have elapsed from the date of this decision and that no appeal has been filed in this office.

Attest: \_\_\_\_\_  
Town Clerk Date

cc: Richard Steinhoff, Steinhoff Realty Trust  
Town Administrator/Board of Selectmen  
Board of Assessors  
Building Commissioner/Zoning Enforcement Officer  
Department of Public Services  
Design Review Committee  
Economic Development Committee  
Fire Department  
Historical Commission  
Police Department  
Zoning Board of Appeals

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**PGC ASSOCIATES, INC.**

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gino@pgcassociates.com

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August 26, 2010

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

**R E C E I V E D**  
**AUG 27 2010**

**TOWN OF MEDWAY  
PLANNING BOARD**

Re: Comment on 146 Main Street AUOD special permit

Dear Mr. Rodenhiser:

I have reviewed the revised proposed Adaptive Use Overlay District (AUOD) special permit submitted by Steinhoff Realty Trust of Medway, for property at 146 Main Street. The plan was prepared by The H. L. Turner Group, Inc. of Concord, NH, and is dated June 11, 2010 with revision dates of June 30, 2010 and August 4, 2010. The proposal is to renovate an existing residential building of 1632 square feet, plus add 7045 square feet of space, all to be used for business and professional offices. I have repeated the relevant comments from my July 22, 2010 letter with new comments in **bold** as follows:

**AUOD Development Standards**

5. I have the following comments about the proposal's compliance with the development standards of the bylaw:
- a. The lot has an existing building.
  - b. The bylaw requires the "restoration or enhancement of the primary existing building to maintain or restore its original architectural integrity." It also allows additions that are compatible with existing buildings on the lot and that maintain the overall residential character of the district. As stated above, the DRC has already provided significant input to the design, and it appears to meet this standard. While the addition is very large, it is mostly to the rear of the existing building. Part of the addition is to the west side of the house, but the house previously had side addition that the new addition will replace.
  - c. All parking is to the rear and side as required. However, the closest space to Main Street is only 24 feet from the front lot line and 36 feet from the edge of pavement. The applicant believes this is sufficient to allow 2 cars to stack while waiting for a car to back out of a space. The situation could be improved significantly if the applicant took advantage of the compact car provision of the Zoning Bylaw. By converting 9 of the 16 spaces along the eastern edge of the parking lot, the distance to edge of pavement could be increased by 9 feet, just 5 feet short of the so-foot standard without losing a space and still leaving 20 spaces for full-size cars. The screening appears to be adequate. The bylaw also requires provisions for linked or shared parking with abutting properties. Provision is made for a future link to the property to the east.

**The parking lot now shows compact spaces along the eastern edge of the parking lot. This allows the first space to be more than 50 feet back from Route 109.**

- d. Lighting is required to be residential in scale and compatible with the architecture of the building. The proposed lighting is by LED fixtures, which is in keeping with the proposed LEED compliant design. However, while pole locations, a photometric diagram and a detail of the base of the poles are provided, there is no detail provided for the design and height of the poles themselves so it is not possible to determine if they are of "residential scale."

**The plans include a list indicating the three types of fixtures proposed. There were also cut sheets of the pole and fixture submitted separately. I did not see a comment these in the DRC letter. Also, I still do not see an indication of the height of the poles and fixtures. The pole and fixture details should be added to the plans.**

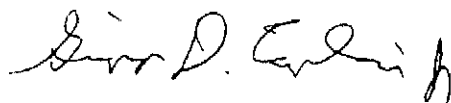
- c. New curb cuts are not allowed unless the Planning Board finds that they are necessary to ensure safe access to the property. The Main Street curb cut is being doubled from about 12 to 24 feet. The bylaw allows the PEDB to approve such an increase and the proposed widening appears to be necessary to serve the intended use.
- f. The bylaw requires that significant pedestrian and bicycle access be provided. The plan proposes a sidewalk from the front door to the existing Main Street sidewalk as well as a sidewalk alongside the entrance driveway to the main entrance on the side of the building. A bicycle rack is also provided.
- g. The proposal includes a landscape plan that appears to provide adequate screening and buffering.
- h. A parking space for each 300 square feet of gross floor space is required (unless the Planning Board finds that a lesser number is adequate). Based on the size of the proposed building, 29 spaces are required and 29 are provided.

### **General Comments**

- 6. The zero carbon footprint and LEED certification is a big plus for this building since it could serve as a model for other projects in Medway. **The applicant has noted that official LEED certification is not going to be sought, but that the project will adhere to LEED standards as closely as possible.**
- 7. **The plans indicate a signature block for the Board of Selectmen. This should be changed to Planning and Economic Development Board and it should include lines for 5 members and it should be on every sheet.**

If there are any questions about these comments please call me.

Sincerely,



Gino D. Carlucci, Jr.



TETRA TECH RIZZO

MEMORANDUM

**To:** Susan Affleck-Childs – Medway Planning and Economic Development Coordinator

**Fr:** Dave Pellegri, P.E.–Tetra Tech Rizzo

**Re:** **Steinhoff Office Building  
Existing Sidewalk  
Medway, MA**

**Dt:** 9/16/10

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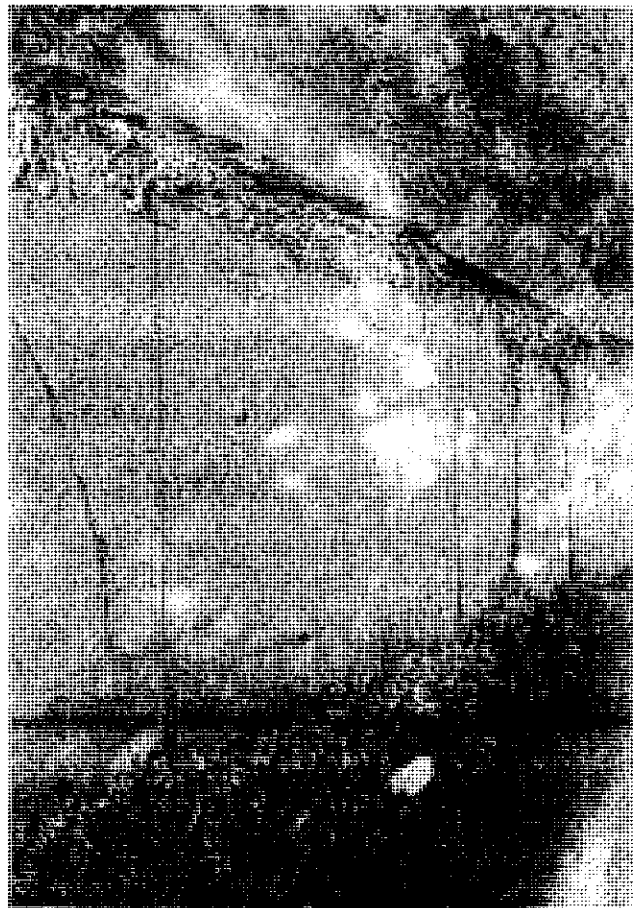
At the September 14, 2010 Planning and Economic Development Board hearing a draft permit decision for the 146 Main Street project proposed by Steinhoff Realty Trust was distributed. During Tetra Tech Rizzo's review of this draft document we felt that Item 11 under the "Findings" section of the draft permit decision, which summarizes the Pedestrian and Bicycle Access provided by the proposed project, warrants additional discussion among the board.

Section 205-3, D,4 of the Town of Medway Planning Board Rules and Regulations, Chapter 200- Submission and Review of Site Plans requires that "Where no pedestrian ways exist, the applicant shall create pedestrian ways and connections between streets, the proposed development, surrounding neighborhoods, and other surrounding uses providing safe access to the nearest existing pedestrian facility or sidewalk". Since there is an existing sidewalk at this location we did not recommend sidewalk construction in our original plan review comments.

There is however another requirement located in Section 205-3, D, 3 of the same regulations which states "Existing pedestrian ways shall be maintained and improved". During a site visit conducted on September 15, 2010 to specifically review the condition of the existing sidewalk, we found portions of the walk had experienced heaving or cracking and could require improvement. Improvement of the sidewalk in this particular case however may not be practical depending on the timeframe for the proposed reconstruction of Route 109 through this area.

We will be available to discuss this item at the next hearing during the continued review of the draft permit decision for this project. Pictures of the sidewalk in this location are attached to this memorandum. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.







**October 19, 2010  
Planning and Economic Development Board  
Medway Town Hall  
155 Village St**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Chan Rogers, Tom Gay, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:** Susy Affleck-Childs, Planning and Economic Development Coordinator

**ALSO PRESENT:** Gino Carlucci, PGC Associates Planning Consultant  
Dave Pellegri, Consulting Engineer, Tetra Tech  
Kevin Flanders, PeopleGIS  
Fran V. Hutton Lee, Administrative Secretary  
Representatives from various Town of Medway Boards and Committees

The Chairman opened the meeting at 7:05 pm.

**Presentation of new Town of Medway GIS by Kevin Flanders, People GIS**

The meeting consisted of a question and answer presentation on the new GIS being implemented in the Town of Medway. The focus was on what we have done, where do we go from here, how to make sure the GIS is a success for the Town, and numerous potential uses of the GIS by the Planning and Economic Development Board as well as other Boards represented at the presentation. Input was sought on what the Board hoped to get from the GIS, and what layers from MassGIS would be useful to incorporate into our own.

A motion to adjourn was made by Chan Rogers and seconded Bob Tucker. The motion was approved unanimously.

The meeting was adjourned at ??????????

Respectfully Submitted,

Fran V. Hutton Lee  
Administrative Secretary

**October 26, 2010  
Planning and Economic Development Board  
Medway Town Hall  
Medway Middle School  
Holliston Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Chan Rogers, Tom Gay, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:** Susy Affleck-Childs, Planning and Economic Development Coordinator

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Amy Sutherland, Meeting Recording Secretary  
Gino Carlucci, PGC Associates Planning Consultant

The Chairman opened the meeting at 7:00 pm.

**Bessie & Joyce Koshivas, 49 Pearl Street:**

The Board is in receipt of application from Bessie & Joyce Koshivas for 49 Pearl Street. The plan was prepared by Guerriere & Halnon, Inc. and is dated June 17, 2010 with revision dates of September 7, 2010 and October 12, 2010.

The Board endorsed a previous version of this plan at its September 14, 2010 meeting. The change is that the non-building lot parcel has been increased in size from 2.75 acres to 3.014 acres and the remaining land area has been reduced.

The Board is in receipt of a memo dated October 26, 2010 from Gino Carlucci recommending endorsement.

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to endorse the plan for Bessie and Joyce Koshivas.**

**Stretch Code Public Forum**

Frank Faist, the Chairman of the Energy Committee began the presentation by explaining the purpose for the why Medway should be designated as a Green Community. It was explained that the Stretch Code is among the five criteria that municipalities must meet in order to earn "Green Communities" designation from the Massachusetts Department of Energy Resources. At this point, Medway has

met the other four criteria. The State is offering up to \$10,000,000 in grants next year to municipalities that are designated Green Communities.

The second part of the presentation was provided explained by Michael Berry, Senior Associate of ICF International. Mr. Berry also manages the Massachusetts New Homes Energy Star which is a program that encourages energy- efficient construction.

The presentation explained that the Stretch Code would require the use of a “performance test” in which builders test homes or buildings to determine if it meets energy codes. A performance test requires builders to hire an independent person to verify that a home is energy efficient. A performance test is more expensive than what is called a “prescription test” which is the builder’s detail how materials in a house or building are used and assembled.

Mr. Berry communicated that the prescriptive code meets guidelines but it doesn’t show how the products were installed. By using the performance standards, it brings it to the next level.

The implementation of the Stretch Code would require all new residential construction to comply with the standards. Home additions would also be subject to the Stretch Code, but the original structure would not.

Mr. Berry informed all that the state’s next International Energy Conservation Code (IEEC) would include some form of the Stretch Code. These types of codes are issued every three years. The towns that adopt the Stretch Code now may be adopting 2012 IECC two years or three years in advance. Mr. Berry also indicated that the Stretch Code must be adopted in full.

There are noted changes in the code since 2006. The new requirements are for:

- Building envelope tightness
- Duct testing
- Lighting equipment
- Pool controls and covers
- No moisture control requirements

Only the addition/alterations and repairs must conform as relates to new construction. The mandatory requirements are air leakage control for the building envelopes.

A chart was shown comparing the 2009 IECC and the 2010 MA Energy Star Homes program. This showed what was being measured. The 2010 Energy Star Home program notes that residential homes have a 80% performance standard. All must comply with the visual verification.

The Stretch Code Appendix 120.AA was explained. There have been some updates to this appendix.

Mr. Berry next presented a series of questions with the noted responses.

**Why an optional Stretch Code?**

There is a growing desire to reduce energy costs and dependency on imported fuels. Several towns asked for the ability to adopt stronger building codes.

**What does the Stretch Code apply to?**

Residential: new construction, addition, and home renovations

Commercial: new construction and additions

**Why test performance?**

Prescriptive codes don't guarantee good installation, air.

This involves third party verifiers (HERS raters) who are bonded and secured to show code compliance.

**What is required by a certified HERS rater?**

Review building plans

Check insulation installation

Thermal bypass checklist

Blower door and duct testing

The Energy Committee thanked those for attending the presentation.

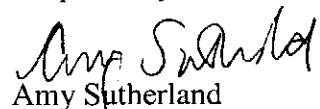
**On a motion made by Bob Tucker, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting at 9:00 PM.**

**Future Meetings:**

The next meetings scheduled are: November 9, 2010

The meeting was adjourned at 9:00 PM.

Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary

**November 16, 2010  
Medway Planning and Economic Development Board  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Chan Rogers, Tom Gay, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:**

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Amy Sutherland, Meeting Recording Secretary  
Gino Carlucci, PGC Associates Planning Consultant  
Dave Pellegri, Tetra Tech Rizzo

The Chairman opened the meeting at 7:00 pm.

**146 MAIN STREET ADAPTIVE USE OVERLAY SPECIAL PERMIT:**

The Board is in receipt of a memo dated November 12, 2010 from Susy Affleck-Childs relative to the draft Adaptive Use Special Permit Decision. **(See Attachment)**. The letter recommends that the Planning and Economic Board hold Mr. Steinhoff accountable for the condition of the sidewalk in front of the property and give him two options. The two options are included on page 9 of the revised AUOD Special Permit Decision dated November 11, 2010. **(See Attachment)**

The Board is in receipt of the most recently revised draft Adaptive Use Special Permit Decision dated November 11, 2010 for 146 Main Street. **(See Attachment)** The most recent revisions were noted in gray. The language references that the sidewalk has experienced heaving and cracking and could benefit from improvement. The language recommends that the Board hold Mr. Steinhoff accountable for the current sidewalk condition in the instance that the Route 109 Reconstruction project does not occur. Mr. Steinhoff would like to be accountable to option (b) which would require him to deposit with the Town of Medway, a check in the amount of \$6,928 as estimated by Tetra Tech Rizzo based on Mass Highway pricing. If as anticipated, the Route 109 Reconstruction Project is funded and implemented, the applicant's payment to the Medway Sidewalk Special Account shall be refunded to the applicant after the replacement sidewalk work is installed.

The Sidewalk Construction Estimate was submitted and reviewed by the Board. **(See Attachment)**.

The Board suggested that if after two years from the date of the signed decision that if the Town has not entered into a contract then the money would be returned to Mr. Steinhoff with interest.

The Board discussed page (9) of the draft Decision relative to a proposed condition regarding landscaping. Member, Karyl Spiller-Walsh believes that there is a landscape plan which the Design Review Committee has seen and provided input. Susy Affleck-Childs will follow-up on this.

**Findings (pages 5 && 6)**

**On a motion made by Karyl Spiller Walsh and seconded by Bob Tucker, the Board voted unanimously to approve the findings as amended on pages 5 & 6 of the Adaptive Use Special Permit for 146 Main Street for Steinhoff Realty Trust.**

**Waivers (pages 6, 7, & 8):**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to approve the waivers as written on pages 6, 7, & 8 of the Adaptive Use Special Permit for 146 Main Street for Steinhoff Realty Trust in relation to the Site Plan Rules and Regulations.**

**Special Permit:**

**On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the Special Permit as amended with noted changes for the Adaptive Use Special Permit for 146 Main Street for Steinhoff Realty Trust.**

**Fox Run Farm 40B development:**

Susy Affleck-Childs informed the Board that she met with the new developer/owner and was provided a check for \$13,000 to be placed into the construction inspection account for this project. The covenant and bond estimate will be ready for the meeting next Tuesday. The Board will essentially be the manager of this project.

Dave Pellegrini from Tetra Tech Rizzo visited the site and provided an update. The binder coat is down and the road is ready to be paved. The sewer pressure was done. A compaction test will be done and a report will be provided. The contractor needed to remove some unsuitable material from the roadway and this was then backfilled with good dark gray crushed stone. There was an issue with soft spot paving. This will be cut out and fixed at a later date. Tetra Tech Rizzo will also be reviewing the drainage and utilities.

The developer is having a public hearing with the ZBA on December 1, 2010 to look at modifying the initial permit to allow for 12 units on 12 lots instead of 15



units on 10 lots. The Zoning Board voted that this was a going to be a significant change so there must be a new public hearing.

### **CHARLES RIVER VILLAGE OSRD**

The Chairman reopened the public hearing for the proposed Charles River Village OSRD Development.

Town Counsel Barbara Saint Andre was present. She explained that the status of Neelon Lane is such that it is not a public way but has been laid out as a statutory private way. The burden is on the applicant to show it has rights to use this access. There is the issue with the utilities. If the applicant can prove and has made a reasonable basis that they can use Neelon Lane, then the Board will have to decide if the road is of sufficient size to install further utilities down this street. Another issue appears to be access. The Board will have to determine if there needs to be a second access to the site.

Member Spiller-Walsh wanted to know if this gives the abutters rights to change the existing way for commercial gain.

Town Counsel noted that it comes down to the deeded rights. The Town has the right to do this. No single abutter has the right to do this alone. It appears to be reasonable since the street is currently there and is serving homes with utilities and water.

Susy Affleck Childs reviewed the documents which were provided both within the Board packet along with additional information which was provided at the meeting by various parties. **These documents will be scanned and placed at the end of the minutes as Attachments.**

### **Documents Presented:**

1. Letter from O'Driscoll Land Surveying Co dated October 20, 2010.
2. Letter from Joanne Kramer dated October 12, 2010.
3. Proposed Conditions Sketch – Village and Neelon Lane intersection
4. Letter from Sydney Smithers dated November 4, 2010.
5. Letter from Susan DiIulio dated November 15, 2010.
6. An email from Kim Boultenhouse Medway Fire Department dated November 16, 2010 on behalf of Fire Chief Paul Trufant.
7. Report of September 9, 2010 Site Visit by PEDB – 6 Neelon Lane
8. Planning Board decision for Charles River Acres Open Space Residential Development dated October 11, 2006.
9. A memo from Jeff Watson, Medway Police Department dated November 16, 2010.
10. Disclosure letter dated September 29, 2010 from Paul Yorkis.

11. Letter from Charles River Neighborhood Alliance dated November 9, 2010.
12. Letter from Attorney Thomas Valkevich dated November 16, 2010.
13. Letter from Guerriere & Halnon dated November 12, 2010.
14. Letter from traffic specialist Gillon Associates dated November 15, 2010.
15. Letter from abutter Ken Bancewicz dated November 15, 2010.

**Faist Engineering:**

Faist Engineering showed a revised plan dated October 29, 2010. The new plan shows Neelon Lane expanded to 20 ft width at the intersection with Village Street. The new plan showed a widening at both sides at the intersection with Village Street. This would allow an increase for turning radius and would require removing one tree. There are no sidewalks indicated.

Mr. Yorkis states that the letters from both the Fire and Police Departments approve the width as referenced in the most recently revised plan.

**Letter Medway Police Department:**

The Medway Police Department supplied a letter dated November 16, 2010. The letter is in relation to the drawing dated October 29, 2010. The letter makes reference that the proposed change in width would make it easier for vehicles and emergency vehicles to enter and exit Neelon Lane. The Police Department would like to see the installation of “No Parking” signs placed on Neelon Lane 20 feet from the intersection with Village Street. (See Attached)

**Medway Fire Department (Email from Kim Boultenhouse):**

The email makes reference that the Medway Fire Department has reviewed plans and has given approval. (See Attached)

**Abutter, Mrs. Kaplan:**

Mrs. Kaplan does not believe the conditions are improved with the new plan. It will still be difficult to have two cars coming and going at the same times. She questions if this is the safest option? Village Street is a busy street with lots of traffic.

Member Gay communicates that he feels the proposed paved roadway width is wide enough for a full size car at 30 miles an hour. He noted that there are other streets in Medway with much less width and that he lives on one of them (Maple Street).

Ms. McDonald makes reference that the oak tree would have to come down and possibly need to have a hearing in order for the developer to take down the tree.

Member Spiller-Walsh is wondering if there is enough space for the survival of the trees.

**Letter from abutter Ken Bancewicz, 223 Village Street:**

Mr. Bancewicz wants to make sure his letter is read. He does not see the new changes as a better option. Moving the 20' wide paved roadway toward the westerly edge of Neelon Lane causes considerable loss of his existing lawn. It also makes a non-conforming building setback condition worse. He wants to make sure that the Board considers this when acting on the submittal. **(See Attached)**

**Abutter, Beth McDonald:**

Ms. McDonald wanted to know what is different from the other decision which was rendered by the Board.

The Chairman reminds all that the applicant has proposed the project and the Board must review it based on how it is submitted. The previous decision was a different submittal. There does seem to be conflicting information and the Board will have to address this.

Member Spiller-Walsh recollects that with the previous decision, Neelon Lane was only presented as an emergency access road. The main access was Cherokee Lane and not Neelon Lane.

**Letter from Mr. Yorkis:**

The Board is in receipt of a letter from Paul Yorkis dated September 29, 2010 in relation to his disclosure. **(See Attached)**

**Letter from abutter, Joanne Kramer 231 Village Street:**

The Board is in receipt of a letter from Joanne Kramer dated October 12, 2010. Her concern is in relation to the 5 units which would abut her property along with privacy and trespassing through her yard. Mrs. Kramer makes note that her house is positioned wrong on the plan. She would like to see this corrected. **(See Attached)**

Chairman Rodenhiser indicated he would like to see a buffer provided for Ms. Kramer.

Member Spiller-Walsh sees the density as being far in excess than it should be. She further references the land use section and the open space section of the bylaw. This should not increase density. Based on the density formula, this site should only be 6 units and not 13 as referenced as usable acres based on the master plan.

Engineer Faist makes a point that the bylaw allows an OSRD on smaller pieces of land near the Charles River, and affordable housing bylaw requires them to have two affordable units and then get two bonus units.

**Letter from Attorney Thomas Valkevich:**

The Board is in receipt of a letter from Attorney Valkevich dated November 16, 2010. **(See Attached)**

Attorney Valkevich notes that the OSRD Bylaw text says that an OSRD cannot be on a site less than 3 acres and it should be 8 acres. There is a typographical error.

Susan Affleck-Childs acknowledged the typo, confirmed that it should be 8 acres and apologized for the error.

Member Spiller-Walsh noted that the OSRD is already protected under secondary conservation area. The applicant made a mistake. It is already protected by the reference to steep slope.

Abutter Beth McDonald wanted to know what is considered habitat? Mrs. McDonald also noted that her home is not referenced on the plan exactly as it is. This needs to be corrected.

The Board would like a reference point added to include the McDonald and Kramer property.

**Letter from abutters Richard & Susan DiIulio, 7 Massasoit Street:**

The Board is in receipt of a letter dated November 15, 2010 from Richard and Susan DiIulio. The letter identifies several issues in relation to the proposed Charles River Village development. The big concern is having public parking that might block access to the double gates on the property owned by the Charles River Tennis Club. Having parking spots there for the walking paths would block access to the gates owned by Charles River Tennis Club. DiIulio's are also concerned about the pine trees being taken down. **(See Attached)**

The Chairman noted that the gravel could be an improvement to the current parking on site.

Mr. Yorkis communicates that there has not been any discussion or proposal about the taking down of trees. There was a discussion about making a path way to the proposed path within the property and this would meander between trees.

**Report of September 9, 2010 Site Visit – 6 Neelon Lane:**

The site visit notes from September 9, 2010 were officially submitted into the record. **(See Attached)**

**O'Driscoll Land Surveying, Co:**

The Board is in receipt of a letter from O'Driscoll Land Surveying dated October 20, 2010. The letter provides explanation of the location of Neelon Lane.

**(See Attached)**

Paul Yorkis indicated he had a preliminary discussion about parking with Medway DPS Director Tom Holder. There are no specifics to report on.

Dave Faist, from Faist Engineering indicated that the exact location of the parking would need to be drawn more exact during the Definitive Plan phase.

**Gillon Associates Letter:**

A letter from Gillon Associates Traffic Parking Specialist, dated November 15, 2010 was presented to the Board. This letter references that the minimum width provided does not appear adequate for a roadway open to the public. It also notes that the American Disabilities Act requires that all sidewalks must be widened to five-foot minimum every two hundred feet. The letter also notes that the National Center for Safe Routes to school has indicated that the ADA 36 inch minimum sidewalk width was not a sidewalk recommendation. **(See Attached)**

**Letter from Guerriere & Halnon:**

A letter came from Guerriere & Halnon dated November 12, 2010. The letter is written on behalf of their client Beth McDonald. The letter provides information pertaining to the location, width and status of Neelon Lane. **(See Attached)**

**Letter from Charles River Neighborhood Alliance:**

The Board is in receipt of a letter from the Charles River Neighborhood Alliance. This letter is a series of questions addressed to the Board. The Neighborhood alliance also would like to know how the development complies with the OSRD provisions of the Town of Medway Zoning Bylaw. **(See Attached)**

Member Rogers notes that there were no signatures for the letter from the Charles River Neighborhood Alliance.

Beth McDonald provided a sheet of signators.

**Cain Hibbard & Myers, PC:**

A letter was received from F. Sydney Smithers dated November 4, 2010 who represents John Claffey. This particular letter addresses issues related to the letter submitted by Attorney Thomas Valkevich dates September 28, 2010. **(See Attached)**

Spiller-Walsh communicates that she would like to see the reduction of the density. She would also like to see the developer use the mature woodland since it is aesthetically pleasing. This could be used as a buffer in the car path location from Mrs. Kramer's property.

Member Gay communicates that there are issues with private versus public way along with having access through the properties. These issues need to be resolved.

The Board is in agreement that they would like to Tetra Tech Rizzo review the information presented relative to the width of the streets and report back with their findings. Both the applicant and the abutters need to provide all the necessary paperwork to Susy Affleck-Childs by Tuesday, November 23<sup>rd</sup>.

The public hearing for Charles River will be continued to Tuesday, December 14, 2010 at 7:30 pm.

**DANIELS WOOD II Subdivision Modification – Endorse plans & Sign Covenant:**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to sign the new Covenant and endorse the Daniel Wood II Subdivision Plan Modification.**

**REQUEST FOR BOND REDUCTION - Williamsburg Condominium OSRD:**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to reduce the bond for Williamsburg Condominium to \$133,169 based on the estimate provided by Tetra Tech Rizzo.**

**MEETING MINUTES**

**September 28, 2010:**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to sign the minutes from September 28, 2010 with the noted revisions.**

**October 12, 2010:**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to sign the minutes from October 12, 2010 with the noted revisions.**

**October 19, 2010:**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to sign the minutes from October 19, 2010 with noted revisions.**

**October 26, 2010:**

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to sign the minutes from October 26, 2010 with the noted revisions.**

**ADJOURN:**

**On a motion made by Bob Tucker, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting at 10:00 PM.**

**Future Meetings:**

The next meetings scheduled are: Tuesday, November 23, and December 14 & 28, 2010

The meeting was adjourned at 10:00 PM.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Reviewed and edited,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator



11-16-10

**TOWN OF MEDWAY**  
**Planning & Economic Development**  
155 Village Street  
Medway, Massachusetts 02053

**MEMORANDUM**

November 12, 2010

TO: Planning and Economic Development Board members  
FROM: Susy Affleck-Childs  
RE: 146 Main Street - Adaptive Use Special Permit Decision

Attached is a revised Adaptive Use Special Permit Decision dated 11-11-10 for 146 Main Street.

At your 9/28/10 meeting, you reviewed the first draft of the AUOD special permit decision (dated 9/23/10) for this project. As I was preparing the special permit decision for you before I left for Australia, I realized we had not discussed the sidewalk in front of the property. As you know, we have language in the *Site Plan Rules and Regulations* (which apply to AUOD projects) regarding the owner's responsibility to supply or improve sidewalks. Consequently, I asked TTR to evaluate the sidewalk in front of 146 Main Street. You were previously provided a memo dated 9/16/10 from Dave Pellegrini regarding the condition of the sidewalks. TTR also provided that memo to Mr. Steinhoff. Another copy of that memo is attached.

I understand from reading the notes of the 10/12/10 PEDB meeting that Mr. Steinhoff attended the meeting and objected to the Board's discussion about him replacing the sidewalk in front of 146 Main Street. Apparently Mr. Steinhoff indicated that last spring when he met with Tom Holder and me about this project, he was told that he wouldn't have to replace the sidewalk in front of the property because of the Route 109 reconstruction project. Mr. Steinhoff provided an email note dated 9/29/10 from James Spaulding, PE with The Turner Group to confirm that conversation. The Board decided to hold off on approving the AUOD special permit until I could give you a recommendation on the sidewalk matter.

I certainly recall meeting with Mr. Steinhoff, his engineer and Tom Holder last spring about Mr. Steinhoff's project and briefing them about the strong prospects for the Route 109 reconstruction project. I believe we probably told him that if the Route 109 project was carried out, it wouldn't make any sense for Mr. Steinhoff to have to do any work on the sidewalk. I checked this week with Tom Holder and he believes he did NOT and would NOT have given him a completely free pass on the sidewalk. Although we were all enthused about the prospects of



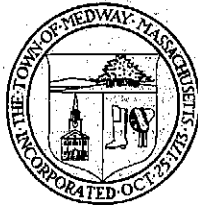
the federal and state funding of the project, we knew the funding was not a sure bet by any stretch!!

I would recommend that the PEDB hold Mr. Steinhoff accountable for the sidewalk and give him two options. I have included these two options on page 9 of the revised draft AUOD Special Permit decision dated 11/11/2010.

- A. Replace as part of this development project, the existing sidewalk along the entire frontage of the property with a 5' wide, fully ADA/AAB compliant concrete sidewalk. If this option is selected, before the Board endorses the plans, the project plans need to be revised to include this sidewalk construction.

or/

- B. Deposit with the Town of Medway, before an occupancy permit is issued, an amount equal to what the Town's cost would be to replace the entire length of sidewalk in front of 146 Main Street (\$6,938) as estimated by Tetra Tech Rizzo, the Town's Consulting Engineer based on Mass Highway pricing. If as anticipated, the Route 109 Reconstruction project is funded and implemented, the applicant's payment to the Medway Sidewalk Special Account shall be refunded to the applicant after the replacement sidewalk work is installed.



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Karyl Spiller-Walsh*  
*Cranston (Chan) Rogers, P.E.*

REVISED DRAFT – November 11, 2010

***ADAPTIVE USE SPECIAL PERMIT DECISION***  
***Steinhoff Realty Trust for 146 Main Street***  
***SPECIAL PERMIT – \_\_\_\_\_***

Name/Address of OwnerApplicant: Steinhoff Realty Trust  
133 Main Street  
Medway, MA 02053

Designer: The H.L. Turner Group  
27 Locke Road  
Concord, NH 03301

Plan Date: June 11, 2010, last revised September 8, 2010

Project Location: 146 Main Street

Assessor's Reference: MAP 5, Parcel 5/264.

Zoning: Agricultural Residential II and Adaptive Use Overlay District

Purpose: Substantially renovate the existing 1,632 sq. ft. residential structure on the property and construct a 2-story, 7,045 sq. ft. addition to the north of the existing structure, all space to be used for professional offices.

This is a decision of the Medway Planning and Economic Development Board (hereinafter "Board") on the July 1, 2010 petition of Steinhoff Realty Trust (hereafter "Applicant") of 133 Main Street, Medway, MA 02053, for an Adaptive Use Special Permit for property located at 146 Main Street presently owned by Steinhoff Realty Trust of Medway, MA. (hereinafter "Property"). The Special Permit is sought pursuant to *SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District of the Town of Medway Zoning Bylaw (last amended November 19, 2007)* and other relevant provisions of the *Zoning Bylaw* in order to allow the Project as described below.

This Decision includes the following sections:

- I. Project Description
- II. Decision of the Board
- III. Procedural History
- IV. Supplemental Materials
- V. Findings
- VI. Waivers
- VII. Conditions, Limitations
- VIII. Appeal

## **I. PROJECT DESCRIPTION**

The Petitioner seeks to modify the most recent previous single family residential use of the subject property at 146 Main Street. The Applicant is the current owner of the .7 acre parcel. The Applicant proposes to develop an 8,677 sq. ft. building through renovation and new construction, all to be used for professional offices. The project includes three components:

- renovation/reconstruction of the existing building
- construction of a new 2 story, 7,045 sq. ft addition
- extensive site improvements including drainage, parking, lighting, and landscaping and connections to Town water and sewer services.

The plan for the development of this property is shown on *Steinhoff Office Building, 146 Main Street, Medway, MA* prepared by the H.L. Turner Group of Concord, NH for Steinhoff Realty Trust. The plan was originally dated June 11, 2010 and was revised June 30, 2010. August 4, 2010 and September 8, 2010.

The applicant intends to develop this project as an energy neutral building (in general compliance with LEED standards) and will incorporate both solar and geothermal heating devices.

**II. DECISION OF THE BOARD** - After reviewing the application and information gathered during the public hearing process and considering all the evidence, the Medway Planning and Economic Development Board, at a duly posted meeting on September 28, 2010, voted to grant by a \_\_\_\_\_ vote, an Adaptive Use Special Permit to Steinhoff Realty Trust for the subject property at 146 Main Street, Medway, MA. as represented in the hearing and shown on the plans, subject to the waivers, conditions, safeguards and limitations granted herein. This special permit is general and runs with the land. It is the decision of this Board, as evidenced by its vote herein, that the aforesaid Property is a proper parcel to be developed under *SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District of the Medway Zoning Bylaw (as amended June 6, 2005)* in that it meets all the requisite site development standards and special permit criteria.

Voting Planning & Economic Development Board Member

Grant/Not Grant

Karyl Spiller-Walsh  
Andy Rodenhiser  
Cranston Rogers  
Robert K. Tucker  
Thomas A. Gay

**III. PROCEDURAL HISTORY**

On July 1, 2010, Steinhoff Realty Trust filed an application for an Adaptive Use Special Permit with the Board and the Medway Town Clerk. The application consisted of:

- an Adaptive Use Overlay District Special Permit application dated July 1, 2010.
- an Adaptive Use Overlay District (AUOD) Plan titled Steinhoff Office Building dated June 11, 2010, revised June 30, 2010 prepared by The H.L. Turner Group, Inc of Concord, NH.
- a project narrative
- a drainage report dated Jun 11, 2010, revised June 30, 2010 from The H.L. Turner Group; and
- a certified abutters list.

Upon the Board's receipt of the Applicant's petition, a Public Hearing was scheduled to commence July 27, 2010 in the Sanford Room of Medway Town Hall, 155 Village Street, Medway, MA. Notice of the public hearing was posted with the Town Clerk at Medway Town Hall on July 1, 2010 and on the Town of Medway web site. The required legal advertisement was published in the *Milford Daily News* on July 13 and 19, 2010. Notice was also sent by registered mail to all parties of interest and abutters and the Planning Boards of all adjacent towns on July 6, 2010.

On July 6, 2010, a memo from the Board soliciting comments on the application and plan was distributed to the Board of Selectmen/Town Administrator, Assessors, Conservation Commission, Department of Public Services, Design Review Committee, Historical Commission, Inspector of Buildings, Fire Department and Police Department. The memo indicated that the public hearing was scheduled to begin on July 27<sup>th</sup> and requested review comments by that date. Review letters were received from the Economic Development Committee and the Design Review Committee.

The plans and all associated application materials were reviewed against the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District, the Medway Site Plan Rules and Regulations, the Medway Subdivision Rules and Regulations, the Water/Sewer Department Rules and Regulations and good engineering practices. Tetra Tech Rizzo, the Town's Consulting Engineer provided review memos dated 6/24/10, 7/22/10, 8/5/10 and 8/25/10. PGC Associates, the Town's Consulting Planner, also provided review letters dated 7/22/10 and 8/26/10. As review letters were issued, the plans were modified to address the identified concerns and deficiencies which resulted in revised plans dated August 4, 2010 and September 8, 2010.

The public hearing commenced on July 27<sup>th</sup> and was continued to August 24, 2010 when the hearing was closed. Present for both public hearing sessions were members Andy Rodenhiser, Karyl Spiller-Walsh, Cranston Rogers and Tom Gay. Member Bob Tucker missed the July 27<sup>th</sup> hearing but was present for the August 24<sup>th</sup> hearing. Mr. Tucker did provide a Mullin's Rule certification that he had viewed a videotape of the July 27<sup>th</sup> hearing. Also present were Dave Pellegri of Tetra Tech Rizzo, the Town's Consulting Engineer and Gino Carlucci, the Town's Consulting Planner

Richard Steinhoff, the petitioner, was present at both sessions of the public hearing. Jim Spaulding of The H.L. Turner Group, attended the 7/27/10 session. Abutters and residents of the adjacent neighborhood attended the public hearing; they asked questions and provided opinions about the proposed development:

- Tom and Judith Giovangelo, 144 Main Street
- Ted and Elizabeth Lambert, 7 Temple Street
- Robert and Diane Piacentini, 9 Temple Street
- Vallishayee Rashmi, 25 Temple Street
- Tara Werlich, 155 Main Street
- Nancy Hamm, 10 Temple Street

The Board carefully reviewed the various plan submittals and all associated materials and information. Throughout its deliberations, the Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearings. The Board carefully analyzed the general purposes of the Adaptive Use Overlay District provision of the *Zoning Bylaw* and its specific requirements and standards as well as the requirements of Section 9 of Chapter 40A, M.G.L. specifically relating to Special Permits in making its findings, conditions of approval and decision.

#### **IV. SUPPLEMENTAL MATERIALS**

##### **Documents**

- Review Memorandum dated August 26, 2010 from the Medway Design Review Committee
- Letter of support dated August 23, 2010 from the Medway Economic Development Committee
- Response letter dated July 1, 2010 from The H.L. Turner Group, Inc. in response to the Tetra Tech Rizzo review dated 6/24/10.
- Response letter dated August 10, 2010 from The H.L. Turner Group, Inc. in response to the Tetra Tech Rizzo review dated 7/22/10 and the PGC review dated 7/22/10.
- Written communication received July 27, 2010 from Richard Steinhoff regarding the status of small wind power generation on the site.
- Request for waivers from Richard Steinhoff received August 17, 2010.

##### **Plans**

- Revised plans Steinhoff Office Building dated August 4, 2010 by The H.L. Turner Group, Inc.
- Revised Landscape Plan by Carolyn Cooney & Associates.
- Revised Lighting Plan dated September 8, 2010

**V. FINDINGS** - Based on the evidence and testimony presented at the public hearings as documented in the application materials and detailed record of this case, the Board makes the following findings regarding this application in accordance with *SECTION V. Sub-Section W. Adaptive Use Overlay District of the Town of Medway Zoning Bylaw (last amended November 19, 2007)*.

1. The Subject property, located at 146 Main Street, is located within the Adaptive Use Overlay District. The property has 165.95 feet of frontage on Main Street. *(This complies with the Zoning Bylaw requirement for a minimum of 50 feet of Main Street frontage for an adaptive use project.)*

2. The primary building existing on the parcel at the time of application was constructed in 1880. *(This complies with the Zoning Bylaw requirement for the site to have on it an existing building constructed before June 28, 2004.)*

3. The proposed use of the Property for offices for business and professional uses is allowed pursuant to *SECTION V, USE REGULATIONS, Sub-Section W, 3. b)* of the *Medway Zoning Bylaw (as last amended November 19, 2007)*. Overall, the subject parcel is in a portion of Main Street in which residential, professional and commercial uses historically and presently co-exist.

4. The Project preserves the overall residential character of the buildings along this stretch of Main Street/Route 109 as the original building is being maintained/renovated and the addition is designed in a highly complementary fashion. The change in use of the existing vacant and deteriorated residential structure to an office for professional businesses will establish a new economic viability for the existing structure.

5. The Project as proposed includes improvements to the existing historic residential building which has gone into extreme disrepair over recent years and does not presently enhance Main Street as a building of its age and character should. Planned work includes replacement of the siding, gutters and woodwork to maintain and enhance the structure's original architectural integrity and installation of modern services. The Medway Design Review Committee has provided significant input to the overall building and site design, working diligently to achieve a design for the new office structure that is substantively residential in character and compatible with the existing structure's architecture. The design of the addition as it has evolved is now compatible with the existing structure and the residential character of the adjacent properties. The combination of the building improvements and landscaping plan enhances the aesthetic appeal of the primary building and the site. The impact of the project on Main Street's visual character is positive.

6. A professional landscape plan has been prepared. Extensive landscaping is planned to enhance the existing structure and its new addition. The proposed landscaping serves as a buffer zone to adjacent residential properties on the east, north and west of the subject parcel.

7. The site is adequate for the proposed use for professional offices.

8. *Parking* – The applicant has proposed to provide 29 off-street parking spaces. All proposed parking is shown to be at the rear and side of the building. The proposed parking layout has been adjusted to ensure that there is the required 50 feet between the first parking space and the edge of roadway pavement on Main Street. The applicant has adjusted the layout to include 14 "compact car"

spaces along the eastern edge of the parking lot which have reduced dimensional requirements. Visitor and handicap accessible spaces are labeled on the plan. The Board finds that the provision of 29 parking spaces is adequate for the proposed uses of the site and the 8,677 sq. ft. size of the building @ one space per 300 sq. ft of gross floor space.

9. *Lighting* – As initially presented, the parking lot lighting plan was not residential character as it included 14' tall light posts. As shown on revised plan dated September 8, 2010, the light posts were reduced to 10' in height. A photometric analysis has been conducted and shows that lighting is adequate for the parking areas but results in 0 foot-candles at the property lines.

10. *Vehicular Access* - Provisions for traffic are adequate based on the Property's proposed use. Sole vehicular access to this site shall be provided from Main Street. Although no new curb cuts are being added, the existing 12' wide curb cut is being expanded to 24". The Board finds this enlargement is necessary to ensure safe access into and egress from the property.

11. *Pedestrian and Bicycle Access* – The proposed provisions for pedestrian and bicycle accesses are adequate based on the building and the site. The property already has an existing sidewalk across the Main Street frontage. However, the sidewalk has experienced heaving and cracking and could benefit from improvement. It is anticipated but cannot be guaranteed that new Main Street sidewalk and curbing will be installed by fiscal year 2014 as part of the Route 102 Reconstruction project.

The applicant's plans for 146 Main Street also show the construction of a new sidewalk from the front door of the building to the existing Main Street sidewalk. In addition, a sidewalk will be installed alongside the entrance driveway up to the main entrance of the new addition on the east façade of the building. A bicycle rack to accommodate 5 bicycles is also provided.

12. *Provision of Utilities* - The provisions in the Project for utilities, including sewerage disposal, water supply and stormwater management are adequate. The stormwater management design was reviewed by Tetra Tech Rizzo, the Town's consulting engineer. The Project provides for adequate on-site retention and treatment of stormwater in compliance with Massachusetts' Stormwater Management Policy and the Board's Subdivision Rules and Regulations. The sewer and water connections were reviewed by the Medway Department of Public Services and determined to be adequate.

13. The proposed Project complies with the purposes of *SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District of the Medway Zoning Bylaw (as amended June 6, 2005)*. The Project implements certain goals of the Medway Master Plan including encouragement of economic development, protecting small town character, and preserving historic sites.

## **V. WAIVERS**

**The applicant has requested waivers from the following sections of the *Site Plan Rules and Regulations*:**

1. Section 204-4 B requires a scale 1 inch = 40 feet. The applicant requests a scale of 1" = 20' to improve site drawing clarity and a finer resolution.

*The Board grants(?) the waiver because 1"=20' provides greater detail and a finer resolution.*

2. Section 204-4 D requires use of the North American Vertical Datum (NGVD) of 1988. The applicant requests the use of NGVD 1929 in order to match the recent survey of Main Street completed by the Norfolk County Engineers.

*The Board grants(?) the waiver because matching the survey done by Norfolk County Engineers makes sense and will eliminate confusion in the future.*

3. Section 204-5.B.4 requires existing topography to be shown at 2-foot intervals. The applicant requests that topography at 1-foot intervals be allowed to improve site drawing clarity and a finer resolution.

*The Board grants(?) the waiver because 1-foot contours provide greater detail and a finer resolution.*

4. Section 204-5.C.1 requires that existing conditions be shown within 100 feet of the subject property. The applicant requests that this be waived, at least as it pertains to manmade features because providing this information would require an extensive survey effort and would not add to the project or to any greater understanding of the project.

*The Board grants(?) the waiver because it has a clear understanding of the context of the project and its impact on its surroundings. In this instance, the additional surveying effort required to comply will not add materially to the Board's understanding of the project*

5. Section 204-5.D.4 requires site grading to be shown at 2-foot intervals. The applicant requests that site grading at 1-foot intervals be allowed to improve site drawing clarity and a finer resolution.

*The Board grants(?) the waiver because site grading at 1-foot intervals provides greater detail and a finer resolution.*

6. Section 204-5.D.6 requires that site utilities be shown on the plan. The applicant requests that the electric, cable, fire alarm and telephone service at the entrance to the building not be shown because the utility companies will connect to the building.

*The Board grants(?) the waiver because the utility companies will have some discretion as to the location of these utilities. However, the location of these utilities shall be shown on the as-built plan (See Condition 15 B (2)).*

7. Section 205-6.G.3.a requires parking spaces to be 10' x 20'. The applicant requests spaces to be 9' x 18' for regular spaces and 8' x 18' for compact spaces. This will allow for a safer parking lot by providing a full 50-feet between the street pavement and the first parking space.

*The Board grants the waiver because the proposed 9' x 18' size of the regular spaces is a standard size that reduces impervious surface, the compact spaces conform to those allowed by the Zoning Bylaw, and the smaller spaces reduce impervious surface while maintaining the required number of spaces and allowing a 50-foot distance between the street pavement and the first space resulting in a safer lot.*



8. Section 205-6H requires vertical granite curb along the perimeter of parking lots. The applicant requests that the vertical granite curbing be required only on the building side of the parking lot and no curbing on the remainder in order to facilitate site drainage and provide a softer, more aesthetically beneficial design.

*The Board grants(?) the waiver in order to allow the low impact design drainage system and to soften the aesthetic look of the parking lot in a residential district.*

**The Board finds that a waiver is needed from the following section of the Site Plan Rules and Regulations:**

9. Section 205-3, D. 3 requires that existing pedestrian ways shall be maintained and improved.

*The Board finds that the existing sidewalk at 146 Main Street is deteriorated showing evidence of cracking and heaving. However, the Board grants a waiver since its provisions for repair, removal or the sidewalk are included in its maintenance.*

**The applicant has requested a waiver from the following section of the Subdivision Rules and Regulations**

10. Standard Detail CD-12 requires a 7" curb reveal. The applicant requests a 6" curb reveal to facilitate compliance with ADA and Architectural Access Board regulations pertaining to slopes due to the distance between the building and parking areas.

*The Board grants(?) the waiver since a 6" reveal is the Massachusetts Department of Transportation standard and using it will allow compliance with the AAB slope requirements.*

**The applicant has requested a waiver from the following sections of the Adaptive Use Overlay District Rules and Regulations**

11. Section V. W. 5. e of the Zoning Bylaw requires that no curb cut be added and no existing curb cut be expanded unless the Planning Board finds that such changes are necessary to ensure safe access to the property.

*The Board finds that due to the significantly expanded use of the property and its use as an office building necessitates that the curb cut be expanded in order to ensure safe access to the property.*

**VII. CONDITIONS/SAFEGUARDS/LIMITATIONS OF APPROVAL**

1. The property shall not be altered or used except for a maximum of 8,677 sq. ft. of professional office space. No other use of this building is permitted. Any other uses will require the filing of a new special permit application.
2. *Plan Endorsement* - The Medway Planning & Economic Development Board shall endorse its approval of the Adaptive Use Special Permit on all sheets of the Steinhoff Office Building plan for 146 Main Street. Within 30 days after the Board files this Special Permit decision with the

Town Clerk, the Applicant shall submit a final AUOD plan reflecting all required revisions for the Board's endorsement.

The endorsed Adaptive Use Overlay District (AUOD) Plan is considered part of the Special Permit and shall be recorded therewith. Prior to Board endorsement, the Steinhoff Office Building plan for 146 Main Street shall be revised as follows:

- A. Title Sheet – Update index to include all sheets in the plan set.
  - B. Title Sheet – Remove list of abutters
  - C. Title Sheet – Add reference that the plan is also subject to an Adaptive Use Overlay District Special Permit to be recorded with the plan.
  - D. Sheet C2.1 Site Lighting Plan shall be revised. Light fixtures shall not be more than 10 feet tall so to achieve a more residential character. Also, details of the lighting fixtures shall be added to the plans.
  - E. Sheet L1 Landscape Plan shall be revised to specify the installation of evergreen plantings at the base of the free-standing building development sign.
  - F. Landscape plan along the northern boundary of the property adjacent to Temple Street shall be revised to include a more dense and varied landscape materials.
  - G. The signature block for Selectmen shall be removed and a signature with 5 lines for each member of the Planning and Economic Development Board shall be added to all sheets in the plan set.
3. This approval is conditioned on project completion in full compliance with the Steinhoff Office Building plan for 146 Main Street, as last revised September 8, 2010, as may be further revised as a condition of this permit.
  4. *Parking* – The Project shall include at least 29 parking spaces, which shall be a permanent condition of this permit.
  5. *Lighting* must comply with the Medway Zoning Bylaw, SECTION V. B. 7 Exterior Lighting Regulations. The exterior parking lot lights shall be turned off by 9:30 p.m.
  6. *Main Street Sidewalk* – Dependent on federal and state funds, the Town plans to undertake a Route 109 Reconstruction Project that will include improvements in the right-of-way at 146 Main Street (approximately 166 linear feet). However, as federal and state construction funding has not yet been specifically authorized, there is no guarantee that the Route 109 Reconstruction Project will take place. The Board must hold the applicant responsible for the current sidewalk condition in the instance that the Route 109 Reconstruction Project does not occur. The applicant can meet this obligation in one of two ways:

C/K  
DR  
L T R

Kelley

Kathy believes  
this has  
been  
done.

A. By replacing as part of this development project the existing sidewalk along the entire frontage of the property with a 5' wide, fully ADA AAB compliant concrete sidewalk. If this option is selected, before the Board endorses the plans, the project plans need to be revised to include this sidewalk construction.

or

B. By agreeing with the Town of Medway, before an occupancy permit is issued, an amount equal to what the Town's cost would be to replace the entire length of sidewalk in front of 146 Main Street (\$8,976) as estimated by Terra Tech Paving, the Town's Consulting Engineer based on Mass Highway pricing. It is understood, the Route 109 Reconstruction project is funded and implemented, the applicant's payment to the Medway Sidewalk Special Account shall be refunded to the applicant after the replacement sidewalk work is installed.

7. Fees - Prior to plan endorsement by the Board, the Applicant shall pay:

★ additional expenses

A. the balance of any outstanding plan review fees owed to the Town for review of the plans by the Town's engineering, planning or other consultants; and

B. any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses.

The Applicant's failure to pay these fees in their entirety shall be reason for the Planning Board to withhold plan endorsement.

8. The applicant shall make no further site improvements/changes that would alter the site's drainage patterns or characteristics as indicated on the plan approved by the Board.
9. Collection of garbage and domestic trash shall be the responsibility of the applicant subject to Board of Health *Rules and Regulations*.
10. The hours of operation for professional offices in this building shall be limited such that there will be no customer access to the building after 9:30 p.m.
11. This Special Permit shall lapse unless exercised within two years of its recording.
12. No expansion, addition, or any change of use(s) of any building or portion of the property at 146 Main Street shall be permitted without an amendment to or issuance of a new Adaptive Use Special Permit by the Board.
13. Inclusion of a design for the free-standing development sign as shown on Sheet A5.2 does not constitute approval of the sign by the Town of Medway Building Department.
14. *Wind Turbines* - The Steinhoff Office Building plan shows possible locations of wind turbines as the applicant expects to install small wind electric generation turbines on this property in the future. The Board's approval of this permit and the plan does NOT constitute an approval of either the future use or location of such small wind system turbines on this property. After the building is constructed and location testing is completed, the applicant is required to apply to

the Zoning Board of Appeals for a special permit to install small wind energy generation devices on this property and shall review such plans with the Medway Design Review Committee at that time.

15. *Construction Inspection*

- A. Duly authorized agents of the Town of Medway including but not limited to members of the Planning and Economic Development Board and its agents, staff or consultants shall have the right to enter upon the property at any time to inspect the site to ensure compliance with the terms and conditions of this Special Permit.
- B. The Department of Public Services will conduct inspections for any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit.
- C. The applicant shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Planning Board within 5 days of inspection.
- D. In the event the applicant seeks an occupancy permit before all site work is satisfactorily completed (see Condition 18 B. herein), the Applicant shall establish a construction inspection account with the Medway Planning & Economic Development Board. The Applicant shall pay a construction inspection fee to the Town of Medway in an amount to be determined by the Board based on an estimate prepared by the Town's Consulting Engineer. The funds may be used at the Board's discretion to retain professional outside consultants to inspect the site, identify what site plan work remains to be completed, prepare a bond estimate, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a *Certificate of Completion* (see Condition 17 herein). Depending on the scope of professional outside consultant assistance that the Board may need, the Applicant shall be required to provide supplemental payments to the project's construction inspection account, upon invoice. Any funds remaining in the applicant's construction inspection account after the *Certificate of Completion* is issued shall be returned to the applicant.

16. *During Construction*

- A. The applicant shall take all measures necessary to ensure that no excessive dust leaves the premises during construction.
- B. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the

event construction debris is carried onto a public way, the Applicant shall be responsible for all clean-up of the roadway within twenty-four (24) hours of its occurrence.

- C. All erosion and siltation control measures shall be installed and observed by the Board's consulting engineer or the Conservation Commission prior to the start of construction, and maintained in good repair throughout the construction period.
- D. *Construction Time* - Construction work at the site and in the building shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. No construction shall take place on Sundays or legal holidays.
- E. *Construction Traffic/Parking* – All parking for construction vehicles and construction related traffic shall be maintained on the subject property. No parking of construction and construction related vehicles shall take place on nearby public or private ways.

17. *Project Completion*

- A. This permit shall lapse after two years of the grant thereof if substantial use has not commenced except for good cause. The approved work shall be completed by the applicant or its assignees within two years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration of this permit, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the special permit shall lapse and may be reestablished only after a new filing, hearing and decision.
- B. Prior to issuance of a final occupancy permit, the Applicant must secure a ***Certificate of Completion*** from the Board and provide the ***Certificate*** to the Inspector of Buildings. The ***Certificate*** serves as the Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The ***Certificate*** also serves to release any security/performance guarantee that has been provided to the Town of Medway. To secure the ***Certificate*** of Completion, the applicant shall:
  - 1) provide the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in strict compliance with the approved and endorsed plan, and any modifications thereto; and
  - 2) Submit six (6) copies of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the original plan and any modifications thereto, as well as the location of all underground utilities. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.

18. *Plan Compliance*

- A. The Applicant shall construct all improvements in compliance with the approved and endorsed plan and any modifications thereto.
- B. No occupancy permit shall be granted until the Board has provided a written communication to the Inspector of Buildings that the project, as constructed, conforms to the approved AUOD plan and that any conditions including construction of any required on and off-site improvements, have been completed to the Board's satisfaction OR unless suitable security/performance guarantee has been provided to the Town of Medway, in a form and amount to the Board's satisfaction, to cover the cost of all remaining work.
- C. The Board or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
- D. The Conditions of Approval are enforceable under Section. V. C. 12 of the *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine. Any work that deviates from the approved plan and permit shall be a violation of the Zoning Bylaw.

**VIII. APPEAL** – Appeals, if any, shall be pursuant to Section 17 of Chapter 40A, M.G.L., as amended, and shall be filed within twenty (20) days after the date of filing of this notice in the Office of the Town Clerk. After the appeals period has expired, the Applicant must obtain certified notice from the Town Clerk that no appeals have been made. Said notice must be filed with the Norfolk County Registry of Deeds with this special permit and the endorsed plan. A copy of said recording must be returned to the Town Clerk and the Board to complete the file.

\*\*\*\*\*

The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or document received by it, and directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

**IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW, CHAPTER 40A, SECTION 11,  
NO VARIANCE, SPECIAL PERMIT OR CONSTRUCTIVE GRANT OF A VARIANCE  
TAKES EFFECT UNTIL RECORDED AT THE REGISTRY OF DEEDS.**

ADAPTIVE USE SPECIAL PERMIT  
146 Main Street – Medway, MA  
Steinhoff Realty Trust  
November 16, 2010

**MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD**

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I hereby certify that 20 days have elapsed from the date of this decision and that no appeal has been filed in this office.

Attest: \_\_\_\_\_  
Town Clerk Date

cc: Richard Steinhoff, Steinhoff Realty Trust  
Town Administrator/Board of Selectmen  
Board of Assessors  
Building Commissioner/Zoning Enforcement Officer  
Department of Public Services  
Design Review Committee  
Economic Development Committee  
Fire Department  
Historical Commission  
Police Department  
Zoning Board of Appeals

**Tetra Tech Rizzo****EXTRA SERVICE PROPOSAL**

1 Grant Street  
Framingham, MA 01702

Tel: 508-903-2000  
Fax: 508-903-2001

Date: November 16, 2010  
Project No.: 127-21583-10005  
Extra Service Proposal No. 002

Project: 146 Main Street  
Name: Mr. Andy Rodenhiser c/o Susan Affleck-Childs  
Company: Town of Medway-Planning and Economic Development Board

Extra Service Description: Sidewalk Estimate

**NEED FOR EXTRA SERVICE:**

Tetra Tech Rizzo was requested to complete a cost estimate to replace the existing sidewalk in front of the project site. We will prepare and present to the board.

**DESCRIPTION OF TASKS:**

- Prepare a cost estimate of a proposed concrete sidewalk at the project site and distribute.

**CHANGES TO THE FEE SCHEDULE (CONTRACT PRICE):**

Cost of the work described above is \$250, and will be added to the contract budget.

**CHANGES TO THE COMPLETION DATES:**

None

As confirmation of your authorization to provide these services and as approval of the budget, please execute and return one copy of this agreement for our records.

TETRA TECH RIZZO

By: 

David R. Pellegrini, P.E.  
Project Manager

AGREED AND ACCEPTED FOR  
TOWN OF MEDWAY

By: \_\_\_\_\_

Andy Rodenhiser

Title: Planning and Economic Development Board  
Chairman

Date: \_\_\_\_\_

Certified by: \_\_\_\_\_  
Susan Affleck-Childs

Title: Planning and Economic Development Coord.

Date: \_\_\_\_\_





**Bond Value Estimate  
146 Main Street-Sidewalk  
Medway, Massachusetts  
November 12, 2010**

One Grant Street  
Framingham, MA 01701  
Tel 508/963-7000 Fax 508/963-7001

ITEM NO.	WORK ACTIVITY	QUANTITY	UNIT	UNIT PRICE	TOTAL	COMMENTS
<b>EARTHWORK</b>						
127	Concrete Excavation	9	CY	150.00	\$/CY	1,350
	Subtotal					1,350
<b>AGGREGATE</b>						
151	Gravel Borrow <sup>1</sup>	5	CY	30.00	\$/CY	150
	Subtotal					150
<b>CONCRETE</b>						
701	Cement Concrete Sidewalk	77	SY	45.00	\$/SY	3,465
	Subtotal					3,465
<b>LANDSCAPING</b>						
751	Loam Borrow <sup>2</sup>	12	CY	40.00	\$/CY	480
765	Seeding <sup>2</sup>	70	SY	1.50	\$/SY	105
	Subtotal					585
	Project Summation					5,550
	Contingency	25%				1,388
	Site Total					6,938
	Project Total					6,938

**Notes:**

1. Assume 2 inches of new gravel for the length of the sidewalk to fine grade the sidewalk base.
2. Assume two feet of Loam and Seed installed on the side of sidewalk to transition the disturbed areas.
3. Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 11/2009 - 11/2010.

**RECEIVED**  
NOV 12 2010  
TOWN OF MEDWAY  
PLANNING BOARD

**O'DRISCOLL LAND SURVEYING Co.**  
46 COTTAGE STREET  
MEDWAY, MASSACHUSETTS 02053  
Phone (508) 533-3314

RECEIVED  
NOV 03 2010

TOWN OF MEDWAY  
PLANNING BOARD

Mr. Andy Rodenhiser, Chairman  
Planning and Economic Development Board  
Town of Medway  
155 Village Street  
Medway, MA 02053

October 20, 2010

**RE: Neelon Lane**

Dear Mr. Rodenhiser,

I am writing this letter to confirm my explanation of the location of Neelon Lane, sometimes called Wilson's Lane, on the south side of Village Street in Medway.

The layout and description of Neelon Lane is from the Town meeting of April 6, 1863. According to the 1863 description of Neelon Lane, the way was to be located partly on land of J. W. B. Wilson, partly on land of C.B. Whitney and partly on land of Neeland.

The description of the way is as follows:

"beginning at the easterly end of the wall in front of the house of the heirs of John Karnes at the old Hartford Road (now Village Street), and running southerly in a straight line to the easterly front in the pickit fence separating land of said heirs from land of said Neeland, and thence running in the same direction to a fence opposite the southerly side of Neeland's barn and to be twenty five feet wide on the easterly side of said line."

Based on the description, the intent of the way is to be from the end of a wall, to a picket fence, extending to a fence opposite the southerly side of the Neeland's barn. Since the wall and the picket fence no longer exist, and their position can not be determined, I relied on deeds, plans of record, and monuments that still exist to form my opinion as to the location of Neelon Lane.

In 1950 the land formerly owned by the heirs of John Karnes (book 250 page 26) was divided into two lots. The lots are shown as Lot A and Lot B on a plan recorded in the Norfolk County Registry of Deeds as plan number 335 of 1950 in book 2903 page 45. This plan calls the way "Wilsons Lane". Lot A is now owned by Bancewicz, and Lot B is now owned by Newell. This appears to be the first recorded plan to show "Wilsons Lane" / Neelon Lane since it was layed out in 1863.

The perimeter of this plan does not mathematically close by 3.68 feet, nor does it show the end of the wall or picket fence mentioned in the 1863 description of Neeland Lane.

The deeds from Karnes forward to 1950 do not call for distances along Village Street to give evidence as to the location of Neelon Lane.

The 1950 plan also calls for iron pipes on the corners of Lot A and Lot B, which were not found.

Based upon my field survey, if the westerly side of "Wilsons Lane" is in the location of the 1950 plan, the lot corners of Lot B would fall into the existing pavement.

In 1863, at the time of the town meeting laying out the lane, the east side of Neelon Lane was owned by Charles B. Whitney.

In January of 1868 Charles B. Whitney sold his land to Milton Fisher. The deed is recorded in book 363 page 210. The description of that deed is as follows:

On Village Street nearly opposite the dwelling house of Alfred Brown and bounded easterly by land of Patty Lericohn (?) southerly upon Charles River, Westerly upon land of Francis Neeland in part and upon a town road in part and northerly upon Village Street. Containing 12 (?)  $\frac{3}{4}$  acres more or less. Being the same (with the exception of the town road) conveyed to the grantor.

In April 1878 Milton Fisher sold his land to Jedidiah P. Plummer. The deed is recorded in book 579 page 559. The description of that deed is as follows:

Beginning at the northwest corner at Wilson's Lane and running easterly 9 rods more or less upon said Village Street to land of James L. Adams, thence southerly and bounded easterly upon land of Adams 60 rods more or less to Charles River thence southerly by river to the heirs of Francis Neeland, thence northerly, bounded westerly by land of heirs and Wilsons Lane to the point of beginning on Village Street.

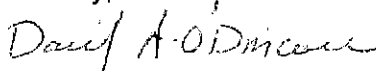
The deed from Fisher to Plummer in book 579 page 559 not only mentions the existence of Wilsons Lane, but calls for a distance of 9 rods, which equates to 148.50 feet, along Village Street from the corner of Wilsons Lane to the property corner. This appears to be the first deed distance call along Village Street from a lot corner to Wilsons / Neelon Lane.

The land formerly owned by Plummer was divided into two lots. The lots are shown as Lot 1 and Lot 2 on a plan recorded in the Norfolk County Registry of Deeds as plan number 1253 of 1959 in book 3776 page 530. The plan also shows a twenty five foot way called "Neelon's Lane. Lot 1 is now owned by Kaplan. Lot 2 is now owned by McDonald. The distance along Village Street for Lot 1 as shown on the 1959 plan is 148.50 feet, or 9 rods, which is in agreement with the distance cited in the deed from Fisher to Plummer in 1878.

It is my opinion that after analyzing all the abutting deed and plan information, that the northeast corner of Neelon Lane is located 148.50 feet from the northeast corner of Lot 1 as depicted on plan number 1253 of 1959. Further, it is my opinion that Neelon Lane extends twenty-five (25') feet to the west from the northeast corner of Lot 1.

Please feel free to contact me if you have questions concerning this matter.

Sincerely,



Daniel A. O'Driscoll  
Professional Land Surveyor



Joanne M. Kramer  
231 Village Street  
Medway, MA 02053

RECEIVED  
OCT 21 2010

TOWN OF MEDWAY  
PLANNING BOARD

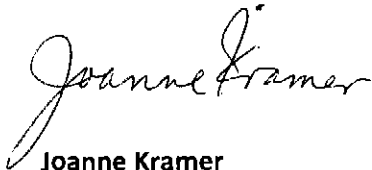
October 12, 2010

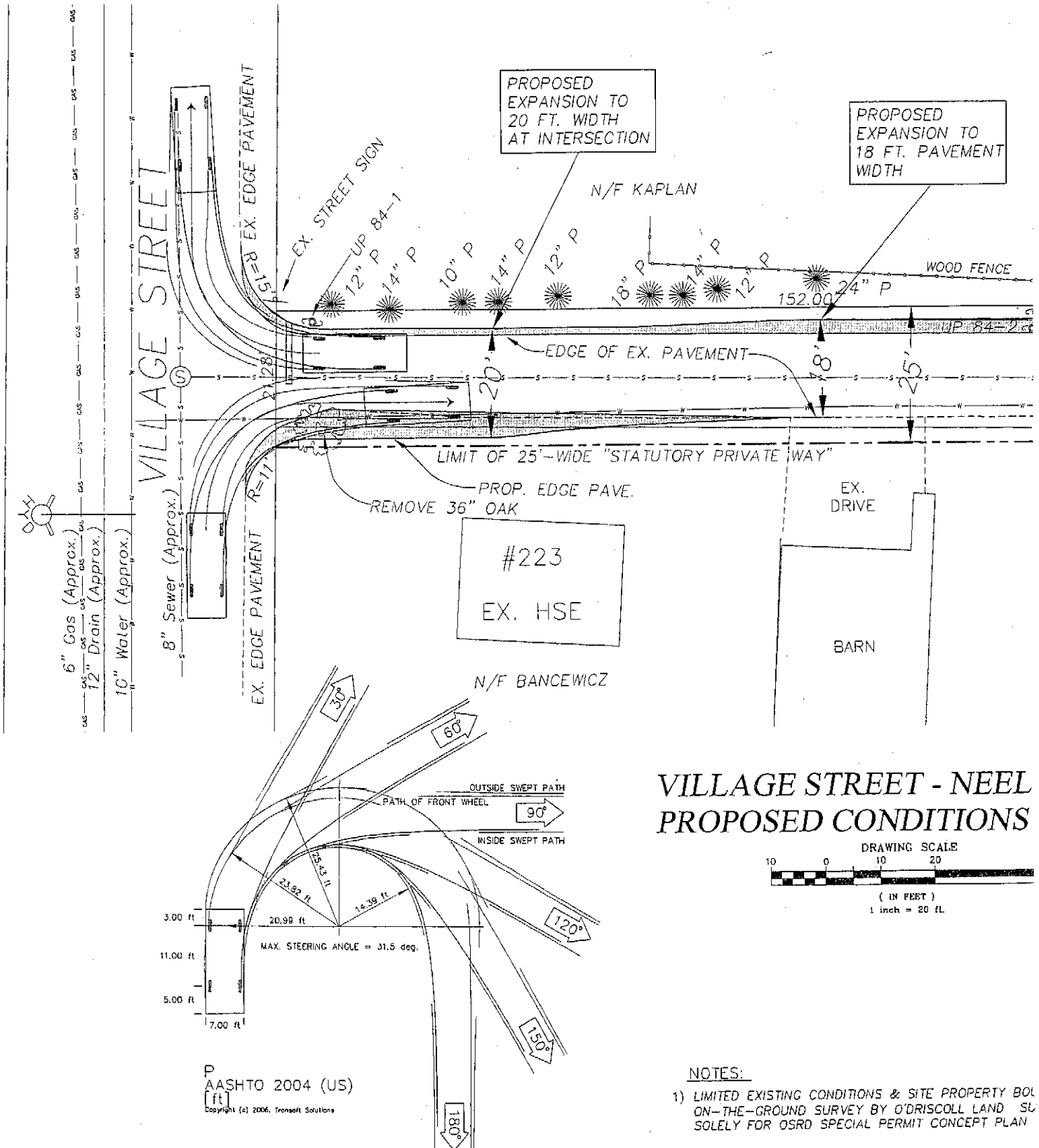
Dear Planning Board:

I am concerned about the number of units to be built in the Charles River Village development project. Thirteen units are too many. My property abuts the northwest side of the proposed development and five units out of the thirteen units are going to abut my property within 25 to 30 feet and two will be within 50 feet of my house.

I am concerned about privacy and trespassing through my yard. There is a direct line between these units and the Burke school that is directly across the street from the end of my driveway. I would like the committee to consider approving less than thirteen units and to require the applicant to erect a 10 foot fence (to be maintained by the condo association) along the northern and western border of the development that abuts my property.

Thank you for your consideration,

  
Joanne Kramer



**Cain Hibbard & Myers PC**  
Counselors at Law

66 West Street, Pittsfield, Massachusetts 01201-5764, 413-443-4771 Fax 413-443-7694  
Direct Extension: 413-629-1304 email: fssmithers@cainhibbard.com

**F. Sydney Smithers**

November 4, 2010

Mr. Andy Rodenhiser, Chairman  
Planning and Economic Development Board  
Town of Medway  
155 Village Street  
Medway, MA 02053

Re: Charles River Village – Neelon Lane  
Proposal by John Claffey for Open Space Residential Development

Dear Mr. Rodenhiser:

This office represents the project proponent, John Claffey, with respect to a proposed open space residential development at Neelon Lane, Medway. We have previously provided you our opinion dated September 21, 2010 with respect to the status of Neelon Lane.

In particular, I have been requested to respond to portions of correspondence to your Board dated September 28, 2010 by Attorney Thomas J. Valkevich.

Mr. Valkevich is correct in asserting that the *Casagrande v. Town Clerk of Harvard* case holds that frontage on a statutory private way does not qualify for the endorsement “subdivision approval not required”, but no such endorsement is being sought from the Planning Board in this OSRD proposal.

Neelon Lane’s status as a statutory private way, explained in my letter of September 21, is not a cause for “utmost concern” as suggested by Mr. Valkevich. The public at large has the right and easement to use Neelon Lane, a statutory private way, as fully and effectively as any other town way in the Town of Medway. The portion of the Supreme Judicial Court’s holding in *Flagg v. Flagg* cited in my letter of September 21 clearly stands for the proposition that a statutory private way is distinguished from a town way or a county way only “because in its origin it was laid out for the accommodation and benefit of individuals. But when laid out and established, it becomes a way or easement in its nature public, which anyone having occasion may use and enjoy until it is lawfully discontinued.” *Flagg v. Flagg*, 82 Mass. 175, at 180 (1860).

November 5, 2010

Page 2

F. Sydney Smithers

It is thus not at all “of importance...that such ways have different legal status than a public way.” (Valkevich letter, third paragraph).

The fifth paragraph of the Valkevich letter says:

As a Land Division under Part T., 2., c it would appear that the access does not qualify. Further, the proposal considered as a condominium project the access over Neelon Lane is questionable for a number of reasons beyond subdivision control.

The Claffey OSRD proposal before the Board is for a condominium form of land ownership. The cited section of the Medway Zoning Bylaw reads as follows:

c) *Land Division* – to be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to M.G.L. c. 41, §81P, provided, however that an OSRD may be permitted where intended as a condominium on land not so divided or subdivided (emphasis added).

The tract of land proposed for development as a condominium comprised of thirteen units and common areas and facilities is in fact “a condominium on land not so divided or subdivided,” and access to the development site by way of Neelon Lane is permitted, legal, appropriate and hardly “questionable.”

Neelon Lane is in fact 25 feet in width and the entire length and width of Neelon Lane as laid out may be used for accommodation of public passage including a paved street and sidewalk. The 1863 layout can be accurately reproduced on the ground (see correspondence dated October 20, 2010 addressing this issue from O’Driscoll Land Surveying Co.). The suggestion in the sixth paragraph of the Valkevich letter to the contrary is just not accurate.

Furthermore, as a statutory private way, open to public use as described in Flagg v. Flagg, no abutting party can obtain prescriptive rights in the location of Neelon Lane unless those prescriptive rights were obtained against the underlying land prior to the layout of Neelon Lane in 1863. In other words, since Neelon Lane has been laid out as a statutory private way and accepted, it has been open to the public use, and no party can get a prescriptive easement in Neelon Lane after 1863, any more than the public can obtain a prescriptive easement in Village Street. There has been no suggestion that the MacDonald family obtained a prescriptive easement by 20 years of open, notorious, hostile and continuous use prior to 1863.

November 5, 2010

Page 3

F. Sydney Smithers

We think the assertions made in the seventh paragraph of Mr. Valkevich's letter, respecting traffic, are more than adequately answered by the traffic consultant's report dated September 2, 2010 issued by Connelly Associates.

The last sentence of that paragraph in Valkevich's letter states:

Given the limitations of the statutory private way [a traffic study should be required].

In answering, we respectfully suggest that the Connelly Associates report of September 2, 2010 constitutes a traffic study and secondly, there are no "limitations of the statutory private way" because, as previously explained, for purposes of access, installation of utilities, and improvement of the 25 foot width of the way to improve its access, there are no "limitations" arising by virtue of the fact that this is a statutory private way.

It is, of course, true that Neelon Lane was required to be constructed by Francis Neeland and that statutory private ways are maintained by the party(ies) for whom they are laid out, or his successors (in this case, John Claffey). We have been advised that the Town of Medway has maintained Neelon Lane. The town certainly may require that Claffey improve Neelon Lane for the purposes of his project, and, thereafter maintain it.

Because a statutory private way is open to the unfettered use and enjoyment by members of the public at large, be they abutters or persons not living in the neighborhood, we are confident that the town has it within its power to manage traffic, parking, signage and the like on Neelon Lane. To do so certainly does not require any additional takings by the town of the "rights" of abutting owners.

We have had referred to us excerpts of Article XII of the town bylaws and in particular, Section 12.9 (c)(3). Section 12.9 relates to access to public ways or a way which is certified by the town clerk as maintained and used as a public way. It is clear that a statutory private way is a "public way" for purposes of Section 12.9. As has been pointed out earlier, a statutory private way is "private" only in that it was laid out at the request of a private individual, was constructed at the expense of that private individual; and maintained by that private individual, it is public for all other purposes. We conclude that the town bylaws, including Section 12.9, apply to Neelon Lane and are perfectly within the authority of the town to regulate Neelon Lane.



November 5, 2010

Page 4

F. Sydney Smithers

Because Neelon Lane is for all purposes a public way, except the manner of its layout and maintenance, no additional permissions or approval is required to install within Neelon Lane utilities and sidewalks (except, of course, the necessary permissions from the Town of Medway). Mr. Valkevich's reference to G.L. c. 187, §5 is a red herring. For the reasons stated in Mr. Valkevich's letter, G.L. c. 187, §5 does not apply to statutory private ways because they are, as he acknowledges, laid out by public authority. Chapter 187, §5 provides authority to owners of real estate abutting on private ways [not statutory private ways] who have an easement in that private way, to install certain enumerated public utilities within that private way. Mr. Valkevich's suggestion that c. 187, §5 is pertinent in the context of Neelon Lane is wholly misplaced.

The MacDonalds have no rights in Neelon Lane to any particular form of access or point of access other than as set forth in the town bylaw.

The Valkevich letter suggests in its fifteenth paragraph that the applicant's OSRD proposal "fails to comply with the existing rights of parties on Neelon Lane" but doesn't identify what those rights are. We respectfully suggest that Neelon Lane abutters have the same rights as the public at large – to pass and repass over the street. Mr. Valkevich asserts that the proposal doesn't comply with the Planning Board's own standards for issuance of a special permit as stated in §§10 and 11 of Article T of the Medway Zoning Bylaw, but he points to no specific instance where the applicant's proposal fails to comply with any of those criteria nor does he identify how the proposal fails to meet the purposes section of site plan review. The mere assertion of noncompliance is not evidence of noncompliance.

Finally, we have been asked to reply to the following inquiry from Susan E. Affleck-Childs, the Medway Planning and Economic Development Coordinator, in her e-mail of Tuesday, November 2, 2010 addressed to Paul Yorkis, as follows:

Please supply the Medway Planning and Economic Development Board with information/documentation to indicate what rights the current owner of the 7.6 acre subject property at 6 Neelon Lane (Parcel Id. 33) has to improve Neelon Lane, to install utilities and infrastructure in Neelon Lane, and otherwise use Neelon Lane to provide access to the site of the proposed Charles River Village OSRD Development.

As repeatedly stated above and in our earlier letter, Neelon Lane is a public way in the Town of Medway for all usual purposes of travel and installation of utilities in public

November 5, 2010

Page 5

F. Sydney Smithers

ways. It was laid out in 1863 at the behest of a private individual and probably originally constructed on the ground by that private individual.

John Claffey, as the successor in interest to Francis Neeland, who was charged with the original cost of construction of Neelon Lane absolutely may be charged by the town with the costs of necessary improvements to Neelon Lane to make it suitable for his OSRD project. Moreover, as has long been recognized by Massachusetts Courts, a town can contract with a private party to make improvements to town ways. See, Perry v. Planning Board of Nantucket, 15 Mass. App. Ct. 144 at 157 (1983) where a developer sought an "approval not required" endorsement from the Nantucket Planning Board for lots shown as bounding on a duly laid out and accepted county way, which county way had never been constructed on the ground.

Perry expresses concern that he may be left without the realistic prospect of access to the proposed lots sufficient to permit development. He may, of course, petition to have the paper or otherwise inadequate public ways constructed or upgraded. Responsibility for construction [of county ways] rests with the town... The town, however, is free to contract with others, including Perry, to do the work. (emphasis added).

It is usual for town permit granting authorities to condition their approval of development plans upon the installation or upgrading of adequate public access, utilities, lighting, and other features necessary to provide for the health and safety not only of the occupants of the development but occupants of ways impacted by such development. The OSRD bylaw requires a special permit (Article T. 3), sets forth design standards (Section 10), requires certain findings be made by the permit granting authority (11), and permits the imposition of conditions, limitations and safeguards to promote the health, safety, convenience and general welfare of the community (Section 13). Among the conditions which may be properly imposed by the permit granting authority are "controls on the location and type of access to the site" which surely may be read to include requirements for paving, sidewalks, installation of utilities, signage, lighting and the like.

If the Board has any questions we will be happy to try to address them.

November 5, 2010  
Page 6

F. Sydney Smithers

Very truly yours,

CAIN HIBBARD & MYERS PC



F. Sydney Smithers

FSS/klm

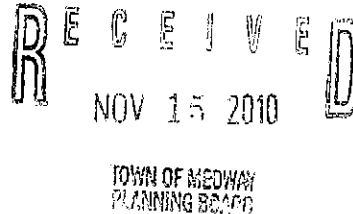
cc: Paul G. Yorkis, President  
John Claffey  
Thomas J. Valkevich, Esquire  
Barbara J. Saint André, Esquire

November 15, 2010

7 Massasoit Street  
Medway, MA 02053

(508) 533-8043

Mr. Andy Rodenhiser, Chairman  
Planning & Economic Development Board  
Town Hall  
155 Village Street  
Medway, MA 02053



Dear Mr. Rodenhiser,

Rich and I are presenting this to you to outline and reiterate some of our questions and concerns regarding the Proposed Charles River Village OSRD Development. Please share our concerns and questions with the members of the Planning & Economic Development Board. This letter contains thoughts and concerns from our perspective from Massasoit Street and the Charles River Road neighborhood. Since I, Susan A. Di Iulio, am also on the Board of Directors of the Charles River Tennis Club, Inc., I will also address a couple of issues that pertain to the same.

We have some issues that we would like to have taken into consideration in the decisions being made as the process proceeds. We were waiting for the best time to present this, and felt as time is going by that some of these issues need to be brought up sooner than later, to make sure they are taken into consideration as the development is currently moving through the process and decisions are being made.

As a follow up to the first part of this hearing on September 28<sup>th</sup>, we would like to address the comment that Tom Gay made, regarding access to the Open Space. He said that it was **not necessary to have Public Access**. For several reasons, we would like to request this to be considered.

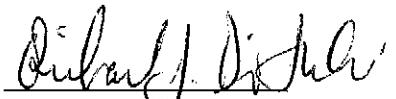
- 1) **The loss of the four pine trees that would have to be cut down** for that to happen would greatly change the natural landscape that we have. It has taken many years for these trees to grow to the size they are now and we have lost so many pine trees over recent years due to a disease that went thru not only our neighborhood, but other parts of town. You can't replace the natural landscape that they provide as opposed to the man made open space that is being proposed.
  - a. We are enclosing a few pictures of the four pine trees that would have to be cut down to make room for these parking spaces.
    - i. We have also included a CD with these pictures in case you need to make copies for other members of the board.
  - b. There are two winter pictures and the rest are in the summer and fall.

We also feel that even if the "cottage style" houses conform to the style of other houses in the area, which we do not agree, that to put a development of that number of houses in between two reasonably populated existing neighborhoods does not necessarily conform to the rest of the area.

Cottage Style houses do not necessarily fit in with the designs of the original "cottages" that made up this neighborhood initially.

Thank you for considering our request.

  
*Susan A. Di Iulio*

  
*Richard J. Di Iulio*

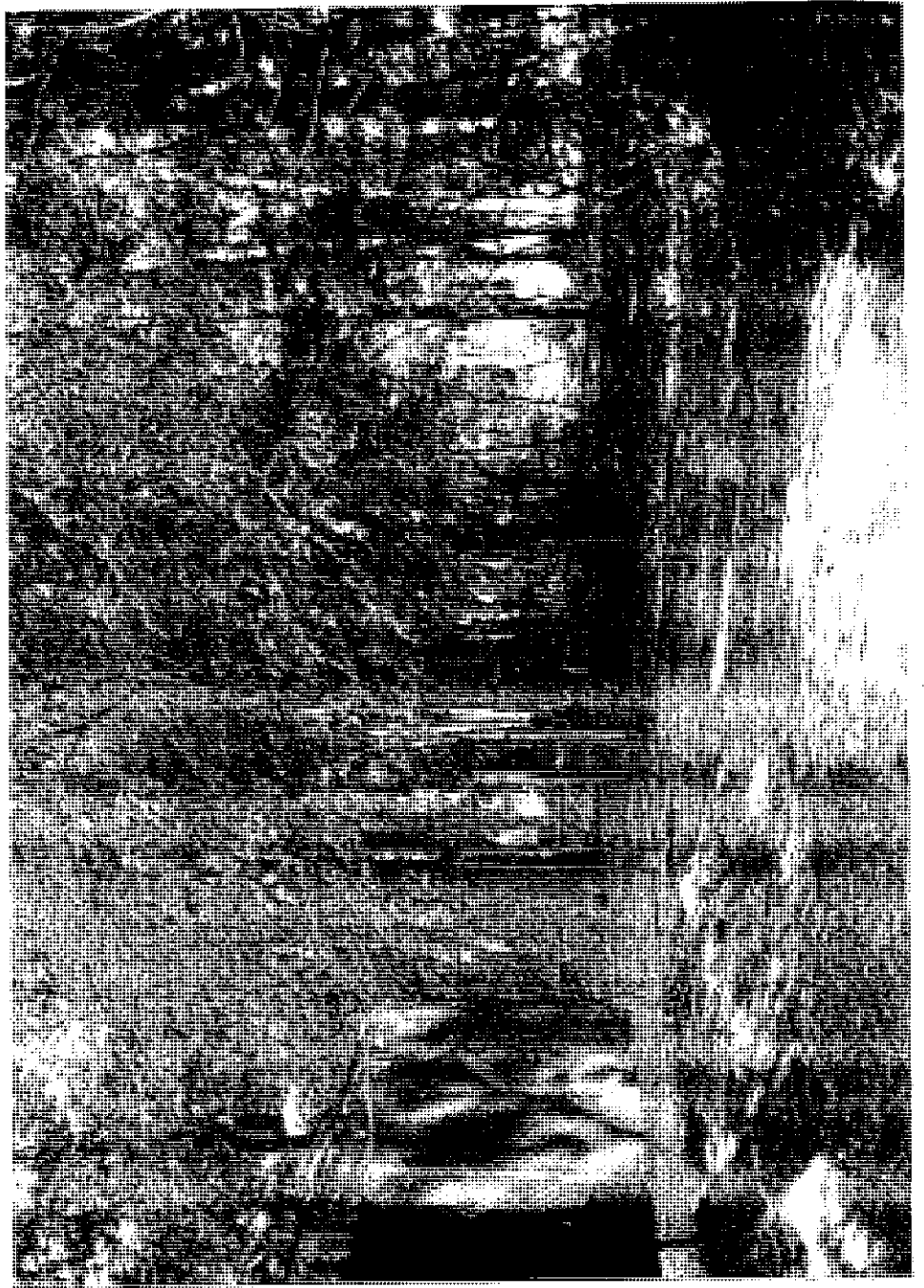
- c. They show the picturesque view that these trees give that cannot be replaced with man made attractions. These are visible to anyone traveling on Massasoit Street.
  - d. They are a small part of the original landscape that was left when this part of the neighborhood was developed. They were left there and preserved for all these years, and have been a reminder of the natural beauty that has existed in this part of our neighborhood. When I drive up to my house, I see them ahead, and they remind me why I like to call this home.
- 2) **Having parking spots there for the walking paths would also block the access to the double gates owned by the Charles River Tennis Club, Inc. They use that entrance to their property for deliveries of surfacing and other materials, as well as utility equipment needed to maintain the courts, lights, and do other necessary work to maintain the tennis court area.** Pick up trucks and other equipment needs to come in off of that “stub end” of Massasoit Street to get into those gates.
- 3) The Tennis Club, does not want to have to call the police to track down the owners of those cars to be moved whenever there is a need to access their gate. You don’t normally park in places that block access to gates on the property of a residence or business.
- 4) This would also invite less than desirable visitors into our neighborhood, which has a population of young children, and people who walk dogs throughout the neighborhood. This has always been a great neighborhood for children to grow up and for people who want to own pets. Having unknown people in this area is too close to the Tennis Club property and neighboring houses.
- 5) Both neighborhoods have issues with parking. On Neelon Lane and the Charles River Road neighborhood, no one has space for cars to park if they have company. There are always cars parked along Charles River Road and the side streets. So, to bring traffic thru Cherokee Street, or to use Massasoit Street as an access to the “open space” would add more to the congestion
- 6) Over 40 years ago, there were variances provided for the tennis courts to build close to that part of Massasoit Street. Also, #1 Massapoag Street has a variance that was granted to the Realtor who built up Massapoag Street in the mid 60’s so that house could be built near the Street. At least the developer did leave those 4 trees there and they have provided some privacy to the house beyond them, as well as adding to the landscape of this neighborhood.
- 7) Assuming that the town has records of this, I think we need to go back and find the minutes of any meetings pertinent any variances that were granted at that time.
- 8) **If you plan to proceed with that plan, we see the need to have several people with different interests come by to meet with us and physically show us where that is proposed.** What you see on the map is not detailed enough with measurements to know exactly where you are talking about. We wish that to be a combination of 1 or 2 members of the Planning Board, and the developer. We will not meet with just the developer without someone from the town present.



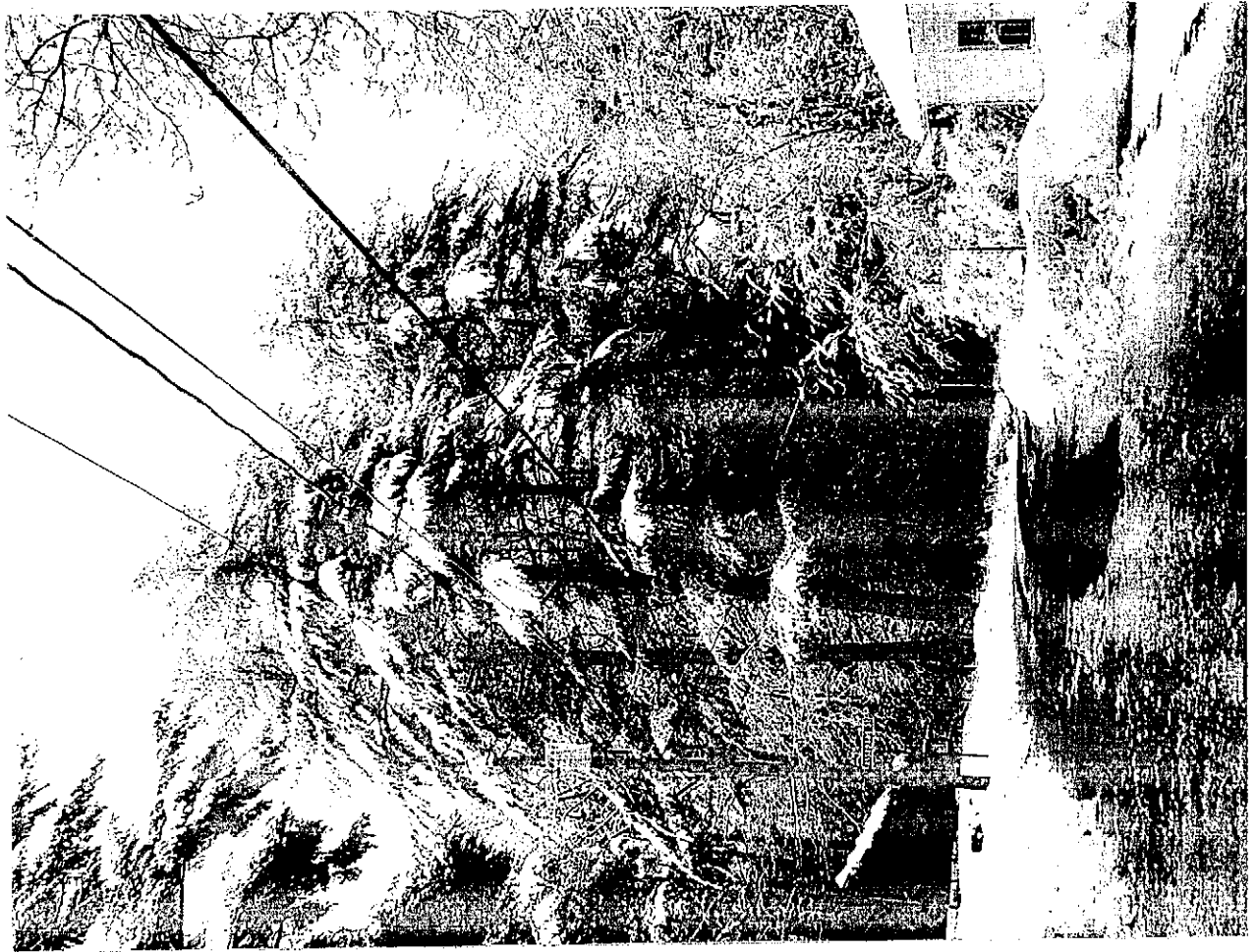


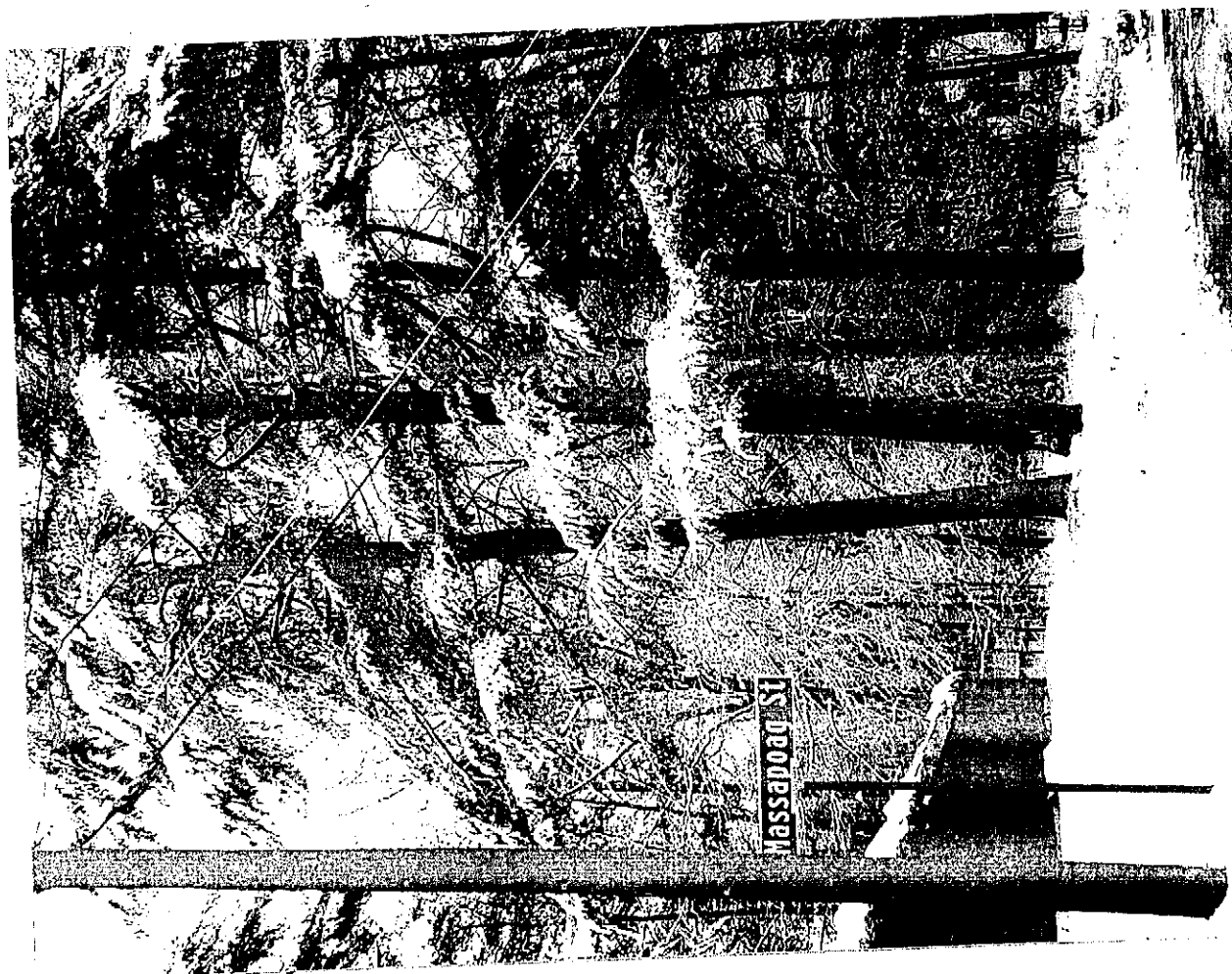












## Susan Affleck-Childs

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**From:** Kim Boultenhouse  
**Sent:** Tuesday, November 16, 2010 12:08 PM  
**To:** Susan Affleck-Childs  
**Cc:** pgyorkis@aol.com  
**Subject:** Neelon Lane Preliminary Review

Suzy, The Chief has reviewed the latest preliminary layout plan for Neelon Lane (dated 10/29/10) and has approved them as shown.

He has reviewed these plans with Paul Yorkis and given his approval.

Should you need any further information, please let me know.

Thank you,

*Kim Boultenhouse  
Medway Fire Department  
508.533.3211 phone  
508.533.3254 fax*

## ***Report of September 9, 2010 Site Visit – 6 Neelon Lane***

The Medway Planning and Economic Development office scheduled a site walk of the property for the proposed Charles River Village residential development at 6 Neelon Lane to take place at 5:30 pm on Thursday, September 9, 2010. The gathering location was the end of Neelon Lane. The purpose of the site walk was to acquaint the members of the Medway Open Space Committee with the proposed open space parcels. The Planning and Economic Development Board had requested the Open Space Committee's input regarding the proposed open space for this development proposal. The site walk was NOT a continuation of the Planning and Economic Development Board's public hearing which had started 8-31-10.

The site visit was properly posted with the Medway Town Clerk as a meeting of the Open Space Committee. The notice of the site walk was also circulated to the allied Medway land use boards/committees which were invited to attend. The Medway Planning and Economic Development Coordinator contacted several adjacent abutters about the site walk as had been promised during the the first night of the public hearing on 8-31-10.

Present were:

- Open Space Committee members Jim Wickis, John Schroeder & Pat McHallam
- Planning and Economic Development Board members Andy Rodenhiser, Chan Rogers and Karyl Spiller-Walsh
- Charles River Village development team members John Claffey (applicant), Paul Yorkis (official representative), David Faist (engineer), Dan O'Driscoll (land surveyor) and Lowell Robinson (landscape architect).
- 12-15 abutters/neighbors including Beth McDonald, Richard and Susan Diulio, Elaina Kaplan
- Medway DPS Director Tom Holder
- Medway Engineering Consultant Dave Pellegri from Tetra Tech Rizzo
- Medway Conservation Agent Karon Skinner-Catrone

As the group was gathering, applicant John Claffey became concerned about the size of the group. Paul Yorkis asked who had the authority to invite non Town officials to the site walk. He asked Mr. Claffey if he would allow those not formally associated with the Town of Medway to walk the site. They were concerned about their liability due to the number of people and the heavily wooded nature of the site. Mr. Claffey determined that he would not permit non-Town personnel to enter the property to participate in the site walk.

The neighbors were upset and angry at not being allowed access to walk the property with Town officials. The abutters had many questions they wanted answered about Neelon Lane and associated access issues.

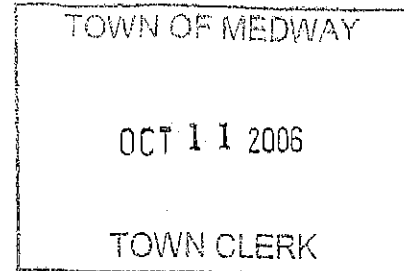
The Town officials and the development team walked south from the end of Neelon Lane toward the established cart path, turning right and traversing the property from east to west toward Massasoit Street. Where the property meets Massasoit, members of the Open Space Committee proceeded southerly along Massapoag to Riverview. Other walkers proceeded off site to Cherokee Lane where they were met by several abutters who owned property there including Barbara Ryan.

Topics discussed included parking options for public access to the open space, roadway connections, and other possible property improvements including the nature of the emergency access through Cherokee Lane. .

At the conclusion of the site walk, members of the Open Space Committee reconvened at the Medway Senior Center on Oakland Street to discuss the project further and to develop their recommendations to the Planning and Economic Development Board.



**TOWN OF MEDWAY**  
**Planning Board**  
155 Village Street  
Medway, Massachusetts 02053



*Andy Rodenhiser, Chairman*  
*Cranston (Chan) Rogers, P.E., Vice-Chairman*  
*Karyl Spiller-Walsh*  
*John Schroeder*  
*Robert K. Tucker*  
*Eric Alexander, Associate Member*

October 10, 2006

**PLANNING BOARD DECISION**  
**Charles River Acres Open Space Residential Development (OSRD)**  
**OSRD Special Permit - GRANTED**  
**OSRD Concept Plan - APPROVED**

Name/Address of Applicant: KDEE Realty Trust, Inc.  
54 Blackstone Street  
Mendon, MA 01756

Name/Address of Property Owner: Michael Acquafresca  
282 Purchase Street  
Milford, MA 01757

Designer: Dunn McKenzie, Inc.  
206 Dedham Street  
Norfolk, MA 02056

Plan Dated: May 16, 2006, last revised August 1, 2006

Location: 6 Neelon Lane/accessed from Cherokee Lane  
(off of Charles River Road)

Assessors' Reference: Map 1-7, Parcel 10/33

Zoning District: AR-II

Purpose: To construct an Open Space Residential Development (OSRD) with ten (10) dwelling units on a 7.727 acre site and permanently preserve 4.5 acres as open space, pursuant to SECTION V, Subsection T. of the Medway Zoning Bylaw.

**PROJECT DESCRIPTION**

The site under review totals 7.727 acres. The proposed development consists of six (6) single family detached homes and two (2) duplex buildings for a total of ten (10) residential dwelling units, construction of an approximately 553 foot long extension of Cherokee Lane, widening by approximately 3 feet the existing paved portion of Cherokee Lane (approximately 240 linear feet) easterly from Charles River Road, connection to Town sewer and water services, associated stormwater drainage facilities on a separate parcel to be conveyed to the Town of Medway, and 4.5 acres of permanently preserved open space, including trails, abutting the Charles River. The proposal also includes the construction of an



approximately 360 foot long emergency access/egress between the end of Neelon Lane and the cul de sac at the end of the extension to Cherokee Lane. It is the expectation that the extension of Cherokee Lane will become a public road, to be accepted by the Town of Medway.

## **PROCEDURAL BACKGROUND**

In accordance with the provisions of Section V., Sub-Section T. of the Medway Zoning Bylaw and Section 9 of Chapter 40A of the Massachusetts General Laws, an application dated May 17, 2006 for an Open Space Residential Development (OSRD) special permit was filed by KDEE Realty Trust, Inc. with the Planning Board and the Town Clerk on May 17, 2006. The application package consisted of:

- an application and related materials for an OSRD special permit;
- a plan entitled "Charles River Acres Open Space Residential Development (OSRD) Concept Plan" dated May 16, 2006 prepared by Dunn McKenzie, Inc. of Norfolk, MA;
- OSRD Project Narratives dated May 16, 2006 prepared by David Berarducci Landscape Architecture and May 17, 2006 by John Parmentier of Dunn McKenzie;
- Development Impact Report dated May 17, 2006 prepared by John Parmentier of Dunn McKenzie;
- Soil Survey information dated May 15, 2006 from the USDA Natural Resources Conservation Service;
- Certified list of abutters within 300 feet of the site.

All matters of record were available for public review in the office of the Planning Board and the Town Clerk for all times relevant thereto. The public hearing was scheduled to begin on June 22, 2006, at which time comments would be received from the general public, municipal boards and/or departments and the Planning Board's consultants.

On June 1, 2006, a transmittal memo from the Planning Board soliciting comments on the application was circulated with the application and plan to the Board of Selectmen, Board of Assessors, Board of Health, Building Inspector/Zoning Enforcement Officer, Conservation Commission, Department of Public Services, Design Review Committee, Disability Commission, Fire Department, Police Department, Tree Warden and Water/Sewer Department, and the Town's consulting engineer and consulting planner. The memo noted that a public hearing was scheduled to begin on June 22, 2006 and requested comments by that date.

Notices of the public hearing were published in the *Milford Daily News* on June 7 and June 13, 2006. Notices were sent by certified mail to abutters and the Planning Boards of all adjacent towns on June 6, 2006. The Planning Board convened the hearing in the Sanford Room of Town Hall on June 22, 2006, and continued it to July 25 and August 22, 2006 at which time the public hearing was closed. All members voting on this Special Permit were present at all sessions. All persons in attendance were provided the opportunity to comment and present evidence.

## **PUBLIC HEARING TESTIMONY**

### *Professional Commentary*

John Parmentier, P.E., Dunn McKenzie Engineering, Norfolk, MA  
Robert Babcock, Dunn McKenzie, Engineering, Norfolk, MA  
David Bararducci, Landscape Architect, Boston, MA  
Gino Carlucci, PGC Associates, Franklin, MA  
Paul Carter, VHB, Inc., Watertown, MA

### *Applicant Comments*

Karop (KIP) Dirazonian, Milford, MA

**Review Letters**

Paul Carter, P.E., VHB, Inc. – June 16, 2006 & August 18, 2006 (*for the Medway Planning Board*)

Gino Carlucci, PGC Associates – June 19, 2006 (*for the Medway Planning Board*)

David D'Amico, Medway DPS Director – July 13, 2006

Sgt. Jeffrey Watson, Medway Police Department – July 15, 2006

Mark Flaherty, Medway Water/Sewer Department – July 25, 2006

Ali M. Parand, P.E., AP Associates, Inc. – August 11, 2006 (*on behalf of the Medway Water/Sewer Board*)

Pallavi Kalie Mande, Charles River Watershed Association – August 14, 2006 letter

**Citizen Comments**

Richard and Susan DiIullo, 7 Massasoit Street, Medway, MA.

Judy Lefebvre, 10 King Philip Street, Medway, MA

Teresa Proctor, 8 Charles River Road, Medway, MA

Barbara & Frank Ryan, 5 Charles River Road, Medway, MA

Mary McDonald, 9 Neelon Lane, Medway, MA

Christine Kersananon, 2 Charles River Road, Medway, MA

**Other Documents**

8/21/06 letter from John Parmentier of Dunn McKenzie

8/22/06 letter from John Parmentier of Dunn McKenzie

8/29/06 Revised Open Space Calculations prepared by Dunn McKenzie

**FINDINGS**

To make its findings, conditions of approval and decision, the Board carefully reviewed the plan, as revised from time to time and last revised August 1, 2006, and all the materials, studies and documentation presented by the applicant, the Board's consultants, letters from Town officials and boards, together with the comments and correspondence of abutters and members of the public, and carefully analyzed the general purpose of the OSRD provision of the Zoning Bylaw and its specific requirements and standards, as well as the requirements of Section 9 of Chapter 40A of the Massachusetts General Laws specifically relating to Special Permits

As indicated above, based on the evidence and testimony presented at the public hearing sessions as documented in the Detailed Record of this Case, the Board, on September 26, 2006, made the following FINDINGS regarding this application in accordance with Section V. Sub-Section T. of the Zoning Bylaw:

1. Purpose and Intent – The Board finds that the proposed Charles River Acres OSRD meets the purpose and intent of Subsection T.1 of the Zoning Bylaw in that the development:
  - a) provides greater flexibility and creativity in design as the land plan protects the Charles River and the community's water supply by keeping development out of areas subject to erosion and preserving vegetated areas beyond the already protected wetlands.
  - b) minimizes the total disturbance on the site by utilizing smaller lot sizes and reduced road widths thus allowing more vegetated open space for preservation
  - c) results in the permanent preservation of 4.5 acres of open space including approximately 520 linear feet along the Charles River
  - d) discourages sprawl and encourages a more efficient form of development by using smaller lot sizes, thus reducing the extent of roadway and utility construction. Further, this form of development makes use of the gently sloped topographic parts of the site for housing and protects the steeply sloped part of the site through open space conservation.
  - e) furthers the goals of the community's open space plan by providing public access to open space bordering the Charles River.

- f) provides for a more economic and efficient manner of constructing the houses, streets, and utilities by accessing the site from Cherokee Lane and by using smaller lot sizes and reduced road widths, thus reducing development and future maintenance costs.
  - g) enhances community character by protecting the riverfront land from future private development and through the construction of a trail system in the open space area thus allowing residents to more readily enjoy the Charles River ecosystem for recreation and education. Subject to Condition # 5 below, the proposed housing to be developed will be designed in a fashion to be compatible with the character of the surrounding residential neighborhood.
  - h) does not impact agriculturally significant land.
  - i) enhances the real property values of the surrounding residential neighborhood because the neighborhood becomes strategically located adjacent to preserved and accessible open space on the Charles River.
2. Site Eligibility – The Board finds that the site meets the eligibility requirements of Subsection T. 2 as the property is comprised of a single parcel located within the AR-II district and proposes a mix of one and two-family homes as provided for in the bylaw.
  3. Permit Required – The Board finds that the requirement for a special permit is met since the applicant has submitted an application for an OSRD Special Permit.
  4. Pre-Application – The Board finds that the requirements of Subsection T. 4 are met. An informal, pre-application meeting occurred at the January 24, 2006 Planning Board meeting. Subsequently, two site visits occurred with the applicant, development team and abutting neighbors.
  5. Four-Step Design Process – The Board finds that the applicant has fulfilled the requirement of Subsection T. 5 for a Registered Landscape Architect to follow the specified four-step design process to design the site. Landscape Architect David Berarducci of Boston, MA was retained to function as part of the applicant's development team. Mr. Berarducci is a registered landscape architect in the Commonwealth of Massachusetts. The four-step design process is documented in his memorandum dated May 16, 2006.
  6. Procedures – The Board finds that, subject to the Conditions noted below, the required application procedures in subsection T. 6 have been followed and the application documents required to be submitted have been provided including a Site Context and Analysis Plan, a Concept Plan and a Yield Plan. Also submitted was a Narrative Statement describing how the proposed OSRD meets the general purposes and evaluation criteria of the bylaw and why it is in the best interests of the Town to allow an OSRD rather than a conventional subdivision on this site. The plan was distributed to town boards/departments for review and comment. Additionally, the application was reviewed by the Town's engineering and planning consultants.
  7. Maximum Number of Dwelling Units - Applying the Yield Plan formula as specified in Subsection T.7 to determine the maximum possible number of OSRD dwelling units for this site results in a maximum of eleven (11) units. The applicant proposes to construct six (6) detached single-family homes and two (2) duplex buildings for a total of ten (10) dwelling units in eight (8) structures on eight (8) lots. The Board finds that ten (10) dwelling units complies with this requirement and is an appropriate number for the site.
  8. Reduction of Dimensional Requirements – The Board finds that the eight (8) lots will meet the dimensional requirements as specified in Subsection T. 8 of the bylaw.
    - a) All eight (8) lots have frontage on a street that will be created through the Charles River Acres OSRD Definitive Subdivision Plan, those streets being the extension of Cherokee Lane and Neelon Lane (as required by Condition # 3g below).

- b) Each of the eight (8) lots has at least fifty feet (50') of frontage
- c) Building footprints are shown on the plan. Each lot has a front setback of at least 25 feet.
- d) All eight (8) lots have at least 11,225 sq. ft of area *(50% of the minimum required for the ARII zone.)*
- e) The building footprints are shown on the plan. No structure is closer than 30 feet from any other structure. Subject to Condition # 3b specified below, adequate landscaped buffers between structures will be provided.
- f) Subject to Condition # 3c specified below, no more than 50% of the garage doors will face the street from which the garage is accessed and those that do will be set back a minimum of five feet (5') from the front wall of the principle building.

9. Open Space Requirements – The Board finds that the open space requirements as specified in Subsection T. 9 are met. The minimum total open space required for this site is 166,114 sq. ft (3.81 acres), which is 50% of the total site area of 332,228 sq. ft. (7.627 acres). According to the 8/22/06 communication from Dunn McKenzie, the applicant proposes to designate 177,003 sq. ft (4.06 acres) as open space. The planned open space area constitutes 53.3% of the tract's total area. Of the entire site, 17,970 sq. ft is wetlands; this constitutes 5.41% of the site.

- a) The percentage of the minimum required open space that is wetlands shall not exceed the percentage of the total site that is wetlands.

$166,114 \times 0.0541 = 8,987$  sq. ft. *(maximum amount of wetlands allowed in the minimum required open space)*. Since the entire 17,970 square feet of wetlands is proposed to be located within the open space, the total open space provided must exceed the minimum by at least 8,983 square feet  $(17,970 - 8,987)$  for a total of 175,101 sq. ft. As a total of 177,003 sq. ft. is proposed, the requirement is met.

- b) The open space as proposed is contiguous.
- c) The open space will include a walking trail accessible to the public from Neelon Lane, Cherokee Lane and Riverview Street. Subject to Condition # 3d noted below, the applicant will extend the trail/pathway through the unconstructed portion of the Massasoit Street public right of way *(south of the Charles River Tennis Club)* to connect with the paved portion of Massasoit Street. A small parking area shall be provided to facilitate public access to the walking trail/path system.
- d) The open space will include walking paths that will be accessible to the residents of the proposed development, the adjacent Charles River Road neighborhood, the community at large and the general public.
- e) Wastewater/sewer lines will be constructed under the extension to Cherokee Lane. The underground stormwater detention and treatment system shall be located on its own separate parcel that is adjacent to but not included in the designated open space area. However, a small portion of the open space area adjacent to parts of Lots 6, 7 and 8 will be used to install water main lines and to carry stormwater runoff to the underground detention area.
- f) Subject to Conditions #3d and #3i below, the open space parcel shall be permanently restricted for conservation purposes and shall be conveyed to a suitable entity in accordance with Subsection T. 9 f) to ensure its preservation.

10. General Design Standards – The Board finds that the general design standards of Subsection T. 10 are met.

- a) The development area is confined to 3.56 acres with the remaining 4.06 acres to be left in its natural state *(with the exception of development of a trail/pathway system)*. Tree and soil removal is minimized by reducing the extent of cut and fill, reducing the road length, and
- b) The proposed street follows, as closely as is possible, the site's existing natural topography;
- c) A portion of the designated open space is situated as a buffer along the majority of the development's perimeter. Subject to Condition #3b below, suitable landscaping shall be provided where needed to screen and visually separate the new structures from the existing houses in the vicinity;
- d) The open space protects the primary visual amenity of the area, the Charles River, for public enjoyment.
- e) No historical, traditional or significant uses, structures or architectural elements will be removed during construction;
- f) Ten (10) dwelling units are proposed with six (6) detached single-family homes and two (2) duplex buildings for four (4) dwelling units. This provides for a variety of housing styles and types.
- g) The OSRD Definitive Subdivision Plan will show which dwelling units, if any, will have common/shared driveways.

## ***DECISION/VOTE***

After reviewing the application and all information gathered during the public hearing process, the Medway Planning Board, at a duly posted meeting on September 26, 2006, voted 4 to 0 to conditionally grant an Open Space Residential Development Special Permit to KDEE Realty Trust, Inc. for a 10-unit OSRD *(6 detached single family houses and 2 duplex buildings)* and to approve the Charles River Acres OSRD Concept Plan prepared by Dunn McKenzie, Inc. as last revised August 1, 2006 attached hereto as Exhibit A, subject to the CONDITIONS included herein. This approval is transferable to successors in title of the subject property, or assignees.

This decision is based on the following factors:

- (a) The OSRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan;
- (b) The OSRD as proposed results in the permanent preservation of 177,003 sq. ft (4.06 acres) as open space including forestry land, water bodies and wetlands.
- (c) The OSRD results in less sprawl and a more efficient form of development that consumes less open land and better conforms to existing topography and natural features than a conventional subdivision.
- (d) The OSRD disturbs 3.6 acres (47%) of a 7.627acre site.
- (e) The OSRD furthers the goals and policies of the Medway Open Space and Master Plan by preserving open space along the Charles River and providing for more compact development.
- (f) The OSRD facilitates the construction and maintenance of streets, utilities and public services in a more economical and efficient manner by minimizing the length of the street.
- (g) The OSRD Concept Plan and its supporting documentation comply with the Medway Zoning Bylaw.

**Voting Planning Board Member**

**Grant/Not Grant**

Andy Rodenhiser  
Cranston (Chan) Rogers  
John Schroeder  
Robert K. Tucker

Grant  
Grant  
Grant  
Grant

**CONDITIONS OF APPROVAL**

1. This special permit and the approved Charles River Acres OSRD Concept Plan are subject to the submission and approval of a Charles River Acres OSRD Definitive Subdivision Plan and compliance with all conditions of a Certificate of Planning Board Action approving the Charles River Acres OSRD Definitive Subdivision Plan under the Subdivision Control Law and the Medway Planning Board's *Rules and Regulations for the Review and Approval of Land Subdivisions* in effect at the time of subdivision application.
2. The Charles River Acres OSRD Definitive Subdivision Plan shall substantially comply with the approved Charles River Acres OSRD Concept Plan *(as specified in SECTION V., Subsection T. 6. (2) of the Zoning Bylaw)*.
3. The Charles River Acres OSRD Definitive Subdivision Plan shall include the following items:
  - a. Construction details for a fourteen (14') wide emergency access/egress road between the ends of Cherokee Lane extension and Neelon Lane prepared to the satisfaction and subject to the approval of the Planning Board and Fire Chief Wayne Vinton. Pervious paving materials will be used.
  - b. A landscape plan prepared to the satisfaction of the Planning Board and subject to its approval. The landscaping plan shall include, but not be limited to:
    - (1) details for the required landscape buffers between houses;
    - (2) privacy landscaping on lots 6, 7, 8, 2, 3 and 4 adjacent to the open space trails;
    - (3) where needed, landscaping on the perimeter of lots 1, 2 and 8 to provide a privacy buffer with abutting properties;
    - (4) the cul de sac island which shall incorporate rain gardens and vegetated bio-retention areas
  - c. Architectural elevations prepared to the satisfaction of the Planning Board and subject to its approval. The elevations shall show the required building offsets. At least 50% of the dwelling units shall have garage doors that do NOT face the street.
  - d. Details for the proposed trail construction to the satisfaction of the Planning Board and subject to its approval. The applicant shall consult with Medway's Ad-Hoc Trail Committee/Jim Wieler on trail design ideas. The trail shall be laid out so as to connect with Massasoit and Riverview Streets and provide direct access to the Charles River. Trail design shall comply with standards of the Massachusetts Architectural Access Board and the Americans with Disabilities Act. A small parking area shall be provided toward the eastern end of Massasoit Street to provide public access to the trail.
  - e. The layout of the Cherokee Lane extension right of way shall be modified to connect to the McDonald property at 9 Neelon Lane (Map 1-7, Lot 1C/20) so as to permit future connections for roads and utilities. A parcel at least 40-feet wide shall be created between the end of the proposed Cherokee Lane right of way and the McDonald property. The parcel should be designated as future right-of-way and will be conveyed to the Town of Medway as part of the street conveyance. The area of this shall be deducted from the open space area.

- f. Off site improvements including:
- (1) repaving the existing Neelon Lane approximately 280 linear feet southerly from Village Street.
  - (2) widening to eighteen (18) feet (*from back of curb to back of curb*) the paved width of approximately 200 linear feet of existing Cherokee Lane easterly starting from Charles River Road. To the greatest extent possible, the road widening shall be to the south of the existing paved road within the 30 foot right of way so as to minimize any reduction in the lawn area on the Cherokee Lane side of the property owned by Francis and Barbara Ryan at 5 Charles River Road.
  - (3) constructing an 18' foot wide (*from back of curb to back of curb*) paved extension of Cherokee Lane, approximately 234 linear feet starting at the southeast corner of the property owned by Francis and Barbara Ryan at 5 Charles River Road to the project boundary and running easterly within the existing Cherokee Lane right of way between property owned on the south by the Charles River Tennis Club and Richard and Susan DiIulio and on the north by Karen Nyquist of 3 Cherokee Lane.
  - (4) paving approximately 434 linear feet of Cherokee Lane easterly from Charles River Road to the project boundary.
  - (5) removal of certain trees and existing fencing and installation of new landscaping and fencing along the north side of the property owned by Richard and Susan DiIulio at 7 Massasoit Street to the satisfaction of the DiIulios which shall be documented in writing and provided to the Planning Board. This area shall be subject to a snow storage easement from the DiIulios to the Town of Medway.
  - (6) Installing an 8-inch water main loop line along Cherokee Lane connecting the project area to Charles River Road and returning back through Massasoit.
- g. The 16-foot Neelon Lane right of way shall be extended southerly approximately 160 linear feet onto the OSRD parcel to provide sufficient frontage for Lot #4. A 14 foot wide paved extension of Neelon Lane shall be constructed to provide suitable access to and frontage for Lot #4. This area, presently shown as part of the OSRD open space, shall be removed from the open space area to be shown on the OSRD definitive subdivision plan.
- h. Lot # 4 shall be reconfigured (squared off) so that access and frontage shall only be from Neelon Lane. Lot #4 will not have any frontage on or access from Cherokee Lane.
- i. The designated open space area shall not include the emergency access/egress road. Instead, the emergency access/egress road shall become part of the Cherokee Lane right of way area.
- j. The plan shall be redrawn to reflect the above noted changes (3 g, h and i.) yet still meet the required minimum amount of designated open space.
- k. The two (2) duplex structures shall be located on Lots 1 & 8.
- l. Snow storage easement area shall be shown along the south side of Cherokee Lane (*north side of DiIulio property at 7 Massasoit Street*)
4. The landscape plan, architectural elevations, and any designs for the retaining wall, drainage ditch and emergency gate access on Neelon Lane shall be submitted to the Design Review Committee for its review and recommendation to the Planning Board as part of the OSRD Definitive Subdivision Plan process and shall be to the satisfaction of the Planning Board and subject to its approval.

5. This special permit is limited to a maximum of ten residential dwelling units, 100% of the units shall have no more than 3 bedrooms; 40% of the units shall have no more than 2 bedrooms.
6. The open space shall be offered to the Town of Medway through its Conservation Commission or to a not-for-profit land preservation organization. If not accepted by either, the open space shall be conveyed to the Charles River Acres Homeowners Association. Any conveyance will include a deed restriction, to the satisfaction of the Planning Board, to ensure that the land remains as open space and accessible to the public in perpetuity. If conveyed to the Charles River Acres Homeowner's Association, the Association shall be responsible for the ongoing maintenance and upkeep of the open space and trail system.
7. Stormwater Drainage System - The planned stormwater management system for the new development shall be designed to also pick up surface runoff for about 140 feet of the 180 feet of the presently unimproved section of Cherokee Lane. The stormwater drainage system shall be designed to include appropriate Low Impact Development (LID) best management practice techniques including the use of permeable pavement/pavers; rain gardens; roof runoff collectors and other suitable techniques to minimize the project's impact on the Charles River, reduce stormwater discharge to the street, and maximize the recharge of stormwater into the ground. In preparing the OSRD Definitive Subdivision Plan application, the applicant shall address the review comments dated July 13, 2006 provided by David D'Amico, DPS Director.
8. The applicant shall prepare an easement document for Richard and Susan DiIulio of 7 Massasoit Street to grant an easement to the Town of Medway for snow storage along the north side of their property facing Cherokee Lane and secure said easement prior to the Planning Board approval of the definitive OSRD plan.
9. Affordable Housing – The applicant/developer shall offer for sale two (2) of the duplex residences, one in each building, on a right of first refusal basis to an entity involved in expanding the supply of affordable housing in Medway.
10. Water Conservation – As part of the OSRD Definitive Subdivision Plan application, the applicant shall propose specific water conservation measures that will be employed in the design of the residential dwellings, appliance selection, site landscaping, etc. in an effort to keep residential water use below 65 gallons per capita per day in accordance with DEP policy and the Town of Medway's water withdrawal permit.
11. Sewer Connections – In preparing the OSRD Definitive Subdivision Plan application, the applicant shall address the review comments dated August 11, 2006 provided by AP Associates, Inc., Environmental & Civil Engineering Services.
12. Scenic Road – In conjunction with the application for the Charles River Acres OSRD Definitive Subdivision Plan, the applicant shall make application to the Planning Board for a Scenic Road Work Permit regarding the roadway construction work in the Town's right-of-way on Charles River Road. Any mitigation requirements specified in a Scenic Road Work Permit will be incorporated into the Charles River ACRES OSRD Definitive Subdivision Plan Certificate of Action.
13. A Charles River Acres Homeowners Association shall be established and be responsible for the upkeep and maintenance of the landscaped island in the cul-de sac at the end of Cherokee Lane.
14. This special permit shall lapse in two years from the date hereof if substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction has not begun except for good cause.

**WAIVERS TO SUBDIVISION RULES AND REGULATIONS** – During the course of the public hearing on the OSRD Special Permit, the applicant made known his intent to request waivers from the following sections of the *Subdivision Rules and Regulations* during the subsequent Charles River Acres OSRD Definitive Subdivision Plan phase of approval. These waivers include the following:

1. Section 5.7.6 – Applicant proposes to not locate freestanding trees with a diameter of 1 foot or greater, 24 inches above grade on the Existing Conditions Sheet.



2. Section 7.13.2 – Applicant proposes to NOT construct sidewalks on Cherokee Lane extension.
3. Section 7.6.2 g) – Applicant proposes to use overhead wires instead of underground utilities.
4. Section 7.9.4 a) - Applicant proposes a 40-foot ROW instead of 50-foot ROW for the extension of Cherokee Lane
5. Section 7.9.7 g) - Applicant proposes a pavement width of 22 feet instead 26 feet for the extension of Cherokee Lane. (*This is possible if the sidewalk is eliminated.*)
6. Section 7.9.6 b) - Applicant proposes a dead end street length of 1295 linear feet (*Charles River Road at Village Street southerly to Cherokee Lane and then easterly along Cherokee Lane to its end of the extension*) which exceeds the 600 foot maximum allowed.

Formal action on requests for waivers from the *Subdivision Rules and Regulations* cannot occur until the applicant applies for and the Planning Board acts on the Charles River Acres OSRD Definitive Subdivision Plan. During the course of that review, other waivers may be identified. In acting on any waiver request, the Board may impose conditions, safeguards and limitations in the best interest of the Town of Medway.

**APPEAL** - Appeals, if any, shall be pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws, as amended, and shall be filed within twenty (20) days after the date of filing of this notice in the Office of the Town Clerk. A copy of this decision has been filed with the Town Clerk.

After the appeals period has expired, the applicant must obtain certified notice from the Town Clerk that no appeals have been made. Said notice must be filed at the Registry of Deeds with this special permit and the accompanying Charles River Acres OSRD Conceptual Plan. A copy of said recording must be returned to the Town Clerk and the Planning Board to complete the file.

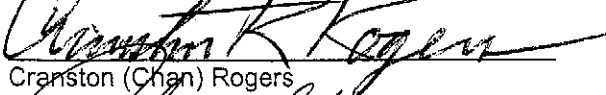
## MEDWAY PLANNING BOARD

Date Signed: \_\_\_\_\_

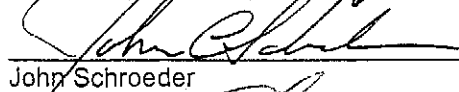
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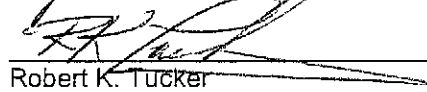
Andy Rddenhiser



Cranston (Chan) Rogers



John Schroeder



Robert K. Tucker

I hereby certify that 20 days have elapsed from the date of this decision and that no appeal has been filed in this office.

A True Copy Attest: \_\_\_\_\_

Maryjane White, Town Clerk

\_\_\_\_\_  
Date

cc: Karop Dirazonian, KDEE Realty Trust, Inc.  
John Parmentier, Dunn McKenzie, Inc.  
Planning Boards of Bellingham, Franklin, Holliston, Millis, Milford, and Norfolk  
Board of Assessors  
Building Commissioner/Zoning Officer  
Board of Health  
Board of Water/Sewer Commissioners  
Department of Public Services  
Design Review Committee  
Fire Chief  
Police Safety Officer  
Town Administrator/Board of Selectmen  
Town Counsel  
Zoning Board of Appeals



Allen M. Tingley  
Chief of Police

# Medway Police Department

315 Village Street  
Medway, MA 02053

Phone: 508-533-3212  
Fax: 508-533-3216  
Emergency: 911

November 16, 2010

To: Medway Planning and Economic Development Board

From: Jeffrey W. Watson  
Sergeant/Safety Officer  
Medway Police Department

Ref: "Charles River Village" Neelon Lane  
Proposed Conditions Sketch

RECEIVED  
NOV 16 2010

TOWN OF MEDWAY  
PLANNING BOARD

I have looked at the Village Street – Neelon Lane proposed conditions sketch for the "Charles River Village" located off of Neelon lane. The drawing is dated 10-29-2010 and was prepared by Faist Engineering and O'Driscoll Lane Surveying. The sketch shows a change in the design to the entrance of Neelon Lane off of Village Street. The change would also eliminate the option for a sidewalk along Neelon Lane.

The proposed change would make it easier for vehicles and emergency vehicles to enter and exit Neelon Lane. If the Board accepts this plan the Medway Police Department would request the installation of a Stop sign along with a stop line painted on the pavement of Neelon Lane. We would also request the installation of "No Parking" signs to be placed on Neelon Lane 20 feet from the intersection with Village Street. All signs should adhere to the rules and regulations of the Medway Department of Public Services.

If the Board does not consider this plan and accepts the previous version of the plan that included the installation of a sidewalk on Neelon Lane, we would still request the installation of a Stop sign along with a stop line painted on the pavement of Neelon Lane. We would also request the installation of "No Parking" signs to be placed on Neelon Lane 20 feet from the intersection with Village Street.

The dimensions of the roadway in the Charles River Village Concept Plan dated 07/28/2010 would be the minimum needed for the access of vehicles and Emergency vehicles. The new roadway dimensions as shown on the 10-29-10 sketch would unfortunately remove the sidewalk. However, it would increase the safety of motorists entering and exiting Neelon Lane.

7 Independence Lane  
Medway, MA 02053

September 29, 2010

Mary Jane White  
Town Clerk  
Town of Medway  
155 Village Street  
Medway, MA 02053

RECEIVED  
OCT 28 2010

TOWN OF MEDWAY  
PLANNING BOARD

RECEIVED

SEP 29 2010  
TOWN CLERK

Dear Mary Jane:

I request that you place this letter in your public disclosure file.

Last night I appeared before the Town of Medway Planning and Economic Development Board on behalf of my client, John Claffey.

I have represented Mr. Claffey on many occasions before the Planning and Economic Development Board regarding different subdivisions.

At last evenings meeting a question was raised by an attorney representing an opponent of the project whether or not it was appropriate for me to be representing Mr. Claffey before the Planning and Economic Development Board since the Planning and Economic Development Board had appointed me to the Economic Development Committee which is an advisory committee to the Planning and Economic Development Board.

The members of the Planning and Economic Development Board indicated that they saw no conflict with me coming before them. They indicated that they and I did not always agree. They indicated that I have made substantial contributions to the community by providing advice on a variety of issues.

A video recording of this meeting exists.

The Economic Development Committee is an advisory group to the Planning and Economic Development Board. The Economic Development Committee has no approval authority.

For the record, at no time have I as a member of the Economic Development Committee represented a client before the Economic Development Committee. At no time as a member of the Economic Development Committee have I represented a client who had commercial or industrial interests before the Planning and Economic Development Board.

November 9, 2010

Planning & Economic Development Board  
Town of Medway  
155 Village Street  
Medway, MA 02053

RE: Charles River Village OSRD proposal

Dear Planning Board:

We the Charles River Neighborhood Alliance respectfully submit the following list of questions to the Planning Board as to whether and how the proposed Charles River Village OSRD complies with several provisions of the Town of Medway Zoning By-Laws. In some cases, the By-law requires the Board make justifiable findings. We would like to know if, and if so, specifically how those findings can be made in favor of the proposal as submitted and modified at the last Planning Board meeting.

On the enclosed addendum to this letter, we have cut and pasted excerpts straight from the Town of Medway Zoning By-Law Section V, Subsection T, as well as excerpts from the Town of Medway Wetlands Protection By-Law and Conservation Commission Rules & Regulations, all found on the Town's website. In each case, the excerpts are shown in underline. They are listed in proper sequence. Our specific questions immediately follow the copied by-law text.

Also enclosed please find two conceptual conventional subdivision plans of the subject property labeled Exhibit A and Exhibit B. Exhibit A shows the simple geometry of a conventional subdivision under strict interpretation of the Zoning By-law and Subdivision Rules & Regulations. Exhibit B shows a conventional subdivision with certain waivers from the Subdivision Rules & Regulations having been granted by the Board. A hypothetical edge of clearing is shown on both plans. Our questions and comments occasionally refer to these conceptual plans. These exhibits are respectfully submitted only as a visual aid to assist the Planning Board in assessing the differences between filing conventional plans verses the current OSRD proposal.

We believe the applicant has chosen an OSRD filing simply to skirt the requirements of a conventional subdivision because, clearly, far fewer units could be permitted under conventional zoning. This is a bold statement on our part but it is a fact that the economic conditions we are under at this time appear to dictate smaller, more "affordable" condensed housing venues, but that alone does not justify the current proposal in question. We see just one public benefit to an OSRD filing, namely some deeded public access to the Charles River. However, such access could also be gained in return for certain necessary waivers under conventional zoning (See Exhibit B). Other than this benefit, nothing else appears of value to the Town of Medway.

It is our belief that the proposed OSRD is in direct violation of Section 'T' Subsection 9 – Open Space Requirements - and is therefore not permissible at all. Furthermore, we believe any similar proposal which includes the same density serviced by Neelon Lane will have a tremendously negative impact on the surrounding properties and will create an unsafe traffic condition at the intersection of Neelon Lane and Village Street.

In our opinion, the detriments to this proposal certainly outweigh its benefits. It is our belief that far too many aspects of the proposed plan are in conflict with the intent of the OSRD By-law. We respectfully ask that the Planning Board take these observations into consideration as they assess the Charles River Village OSRD proposal.

It is not our intent to stop development of this property. Indeed, a well thought out, balanced development plan will truly enhance the parcel and surrounding neighborhood.

Sincerely,

***Charles River Neighborhood Alliance***

## **T. OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)**

### **1. Purpose and Intent - The primary purposes for OSRD are:**

**c) To minimize the total amount of disturbance on the site;**

**QUESTION 1: HOW CAN IT BE DETERMINED THAT DISTURBANCE HAS BEEN MINIMIZED? HAS THE APPLICANT CLEARLY SHOWN THAT THE PROPOSED PLAN MINIMIZES THE TOTAL AMOUNT OF DISTURBANCE?** The applicant's proposal will disturb almost every square inch of the useable land contained in the parcel. Worse off, the proposal disturbs all of the area closest to the neighboring residences. It disturbs more area than even the conventional subdivision requiring waivers (See Exhibit B) would since the spacing of buildings in the proposal is so much tighter; all vegetation and trees between the buildings will have to be removed. Any conventional subdivision plan would require minimum lot frontages/widths and would therefore result in far fewer buildings thus allowing for greater vegetation retention within the same development area.

**e) To discourage sprawl and encourage a more efficient form of development that consumes less open land and conforms more closely to existing topography and natural features than a conventional subdivision;**

**QUESTION 2: HOW DOES THE APPLICANT'S PROPOSAL DISCOURAGE SPRAWL, ENCOURAGE A MORE EFFICIENT FORM OF DEVELOPMENT AND CONSUME LESS OPEN LAND THAN A CONVENTIONAL SUBDIVISION?** A conventional subdivision plan, based on the most liberal interpretation of the Zoning By-Law and Subdivision Regulations, would likely have to include a road that connects Cherokee Lane to Neelon Lane since both ways are less than adequate for access. (See Exhibit B) The applicant's proposal does not differ in any way from this; it proposes the same amount of road and consumes even more open land than that conventional subdivision would.

**h) To preserve and enhance the community character;**

**QUESTION 3: IN WHAT WAYS DOES THE APPLICANT'S PROPOSAL PRESERVE AND ENHANCE THE COMMUNITY CHARACTER?** The applicant proposes to radically alter the character of the private Neelon Lane by removing existing vegetation, widening the paved area and reducing the useable front yards of at least two of the residences thereon. The proposal calls for the demolition of a building of character. The proposal calls for density within the useable portions of the parcel substantially greater than that of the immediate area. The spacing of the proposed buildings is so close that no site line can be drawn straight through the proposed development area to actually see any open space. This is all a substantial departure from the character of the existing neighborhood.

**7. Maximum Number of Dwelling Units/Yield Plan**

b) The maximum number of OSRD dwelling units may not necessarily be the number of units the Planning Board approves in the OSRD Special Permit.

**QUESTION 4: SPECIFICALLY HOW CAN IT BE JUSTIFIED TO PERMIT MAXIMUM OSRD DENSITY?** When conventional zoning density yields less than half? When access roads are clearly less than up to minimum prescribed standards? When views will be essentially eradicated as a direct result of density? When proposed density is so much greater than that of existing neighborhood? The Planning Board is well within its right to permit a lesser density than what is proposed.

**9. Open Space Requirements** - A minimum of fifty percent (50%) of the tract shown on the development plan shall be open space. For purposes of this section, open space shall be considered to be land left in its natural state and/or land used for any of the purposes described in item (c) below. Open space is to be owned and managed as outlined in item (e) below. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

a) In the minimum required open space area (equal to 50% of the total area of the proposed OSRD parcel), the percentage of land that is a resource area (as defined and regulated by the Medway General Wetlands Protection Bylaw (ARTICLE XXII) shall not exceed the percentage of the total tract that is a resource area; provided, however, that in any proposed open space beyond the minimum required, the applicant may include a greater percentage of resource area.

Below are two excerpts from the Town of Medway Wetlands By-laws (referred to in 9.a above) and Conservation Commission Rules, which define "resource area" as including buffer zones.

**Section 21.2 Jurisdiction**

(a) Except as permitted by the Conservation Commission, or as provided in this By-Law, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds of any size, rivers, streams, creeks, land under waterbodies, lands subject to flooding or inundation by ground water or surface water, and lands within 100 feet of any of the above resource areas. Said resource areas shall be protected whether or not they border surface waters. To be afforded protection, Isolated Vegetated Wetlands (not including vernal pools) must encompass minimum surface areas of 5,000 square feet.



### **1.03. Jurisdiction**

The Resource Areas protected by the By-Law are set forth in Section 2 of the By-Law and differ from those protected by the Massachusetts Wetlands Protection Act in that additional areas are protected by the By-Law. These include vernal pools (including those that have not been certified by any Massachusetts regulatory agency) and certain freshwater wetlands that may not meet the definition of bordering vegetated wetlands under the Massachusetts Wetlands Protection Act. The buffer zone surrounding a Resource area is itself deemed to be a Resource Area protected by the By-Law.

### **QUESTION 5: DOES THE APPLICANT'S PROPOSAL**

**COMPLY WITH OSRD OPEN SPACE REQUIREMENTS?** It appears the applicant's calculation of the "resource area" does not include buffer zones. However buffer zones are clearly required by the definitions above. Assuming the resource area includes both the 100' buffer zone to wetlands and the 200' riparian zone, our calculations show the total "resource area" of the OSRD parcel to be approximately 2.25 acres, which is 29.6% of the total OSRD parcel area. The total upland area of the proposed open space parcel as shown on the plan dated July 28, 2010 would then be reduced by this 2.25 acres to 1.19 acres.

That said, the minimum amount of UPLAND open space required to comply with subsection 9.a. above should be calculated as follows:

Total Parcel Area:	7.61 ac
50% of Total Area:	3.81 ac

Min. Upland Area Required:  $3.81 - 29.6\% = 2.68$  ac

We respectfully request the Board and its pier review consultants review the matter of required upland area in more depth using the applicant's latest revised and submitted plans and calculations.

g) The Planning Board shall make the final determination regarding the open space parcels. This shall include the location, size, shape and use of all proposed open space. If the land set aside for open space is excessively steep or wet, is not safely accessible, or is not dry for at least nine (9) months out of the year, the Board may consider this to be an inappropriate contribution of open space and may require additional land to satisfy this requirement. (Item 9. g) added May 14, 2007)

### **QUESTION #6: HOW CAN IT BE JUSTIFIED TO CONSIDER LAND WHERE THE MAJORITY OF IT CONTAINS SLOPE GRADIENTS BETWEEN 20% AND 30% TO BE AN APPROPRIATE CONTRIBUTION OF OPEN SPACE?**

Obviously, the vast majority of the area proposed as open space is unbuildable due to excessive steepness, let alone environmental restrictions. And obviously, this is why the applicant proposes to "give it away." However, is the steep land at all useful as open space?

10. **General Design Standards** – The following General Design Standards shall apply to all OSRDs and shall govern the development and design process:

d) All open space (*landscaped and usable*) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

**QUESTION #7: HOW HAS THE APPLICANT MAXIMIZED THE VISIBILITY OF THE OPEN SPACE FOR PERSONS OVERLOOKING IT FROM NEARBY PROPERTIES?** It appears the proposed dwellings will in fact completely block the proposed open space from most of the neighboring properties.

11. **Decision of the Planning Board** - The Planning Board may grant an OSRD Special Permit if it determines that a proposed OSRD has less detrimental impact on the tract than a conventional subdivision development proposed for the tract, after considering the following factors:

a) Whether the OSRD achieves greater flexibility and creativity in the design of residential development than a conventional plan;

**QUESTION #8: HOW DOES THE APPLICANT'S PROPOSAL ACHIEVE GREATER FLEXIBILITY AND CREATIVITY SO AS TO HAVE A LESS DETRIMENTAL IMPACT ON THE TRACT THAN A CONVENTIONAL SUBDIVISION PLAN?** The applicant's plan disturbs all the useable land within the tract. It proposes significantly more units on the tract and therefore creates significantly more impervious area than a conventional subdivision would. This, in turn required even more disturbed area to accommodate storm water management. Many more trees will be cut and many more yards of earth will be moved to create the proposed development as compared to a conventional subdivision.

c) Whether the OSRD promotes less sprawl and a more efficient form of development that consumes less open land and better conforms to existing topography and natural features than a conventional subdivision;

**QUESTION #9: HOW DOES THE APPLICANT'S PLAN PROMOTE LESS SPRAWL, A MORE EFFICIENT FORM OF DEVELOPMENT, CONSUME LESS OPEN LAND AND BETTER CONFORM TO EXISTING TOPOGRAPHY AND NATURAL FEATURES OF THE TRACT THAN A CONVENTIONAL SUBDIVISION?** It appears to consume the same amount of open land, if not more, and conform to the existing topography and natural features no differently from that of a conventional subdivision.

d) Whether the OSRD reduces the total amount of disturbance on the site;

**QUESTION #10: DOES THE APPLICANT'S PLAN REDUCE THE TOTAL AMOUNT OF DISTURBANCE ON THE SITE FROM THAT OF A CONVENTIONAL SUBDIVISION?** Clearly, the only useable development area of the tract is the area upgradient of the existing cart path. The applicant's plan simply stuffs more units into the same overall development area. The grading necessary to accomplish this will substantially eliminate a fair number of trees along the tract's borders with neighboring parcels and completely eliminate any potential for saving of trees between the dwelling units. A conventional subdivision would afford greater distance between dwellings within the development and would set the dwellings farther from several of the tract's borders, particularly those of Kramer and Lemmlers.

g) Whether the *Concept Plan* and its supporting narrative documentation complies with all sections of this Zoning By-Law.

**QUESTION #11: DOES THE CONCEPT PLAN AND ITS SUPPORTING DOCUMENTATION COMPLY WITH ALL SECTIONS OF THE ZONING BY-LAW?** Numerous points above indicate contradiction with the by-law. Additionally, the applicant has requested some **20+ waivers**.

i) Whether the OSRD is compatible or in harmony with the character of adjacent residential neighborhoods.

**QUESTION #12: HOW IS THE OSRD PROPOSED COMPATIBLE OR IN HARMONY WITH THE CHARACTER OF THE ADJACENT RESIDENTIAL NEIGHBORHOOD?** The density of the proposed OSRD is 1.7 units per acre, which includes its open space and the roadways within the OSRD. The density of the existing neighborhood within 200' of the boundaries of the proposed OSRD is 1.33 units per acre, not including public right of ways. The proposed OSRD is roughly 28.5% more dense than the surrounding neighborhood. Using the density of the existing neighborhood, just 10 units proposed would match. The OSRD's proposed density is clearly more detrimental to the tract and the existing neighborhood than that of a conventional subdivision.

j) Whether the OSRD will have a detrimental impact on abutting properties and residential neighborhoods.

**QUESTION #13: HOW WILL THE PROPOSED OSRD NOT HAVE A DETRIMENTAL IMPACT ON ABUTTING PROPERTIES?**  
The proposed OSRD takes a small private lane servicing just 4 single

family residences and converts it to the main access road to a multi-unit condominium project. The proposed OSRD widens the same lane and cuts numerous desirable trees along it. By widening the same lane, at least two residences lose some front yard and driveway space. The proposed OSRD will increase the traffic count on that same private lane by 4 or 5 times, this is in increasing traffic by orders of magnitude, not by a small percentage. The proposed OSRD situates a high density layout in the areas closest to the abutting residences. The proposed OSRD is so dense that it completely removes views to existing open space and woods from those same residences. A conventional subdivision would have a far lesser impact in all aspects.

k) Whether the impact of the OSRD on abutting properties and residential neighborhoods has been adequately mitigated.

**QUESTION #14: SPECIFICALLY WHAT MITIGATING MEASURES ON ABUTTING PROPERTIES ARE PROPOSED AND IF ANY ARE PROPOSED HOW CAN THEY BE DEEMED ADEQUATE?** Numerous adverse affects and impacts have been raised above. It seems in order to adequately mitigate these impacts, the applicant should consider measures such as reducing the density, opening up site lines, spacing the buildings farther from each other and farther from abutting properties, retain some existing vegetation within the body of the development area, and altering any access road as little as is possible. In fact, the OSRD as proposed, takes the greatest leeway interpretable by the Zoning By-law and uses it to maximize its density, with no regard to the abutting properties.

**Thomas J. Valkevich**  
**Attorney at Law**  
**99 Walnut Street, Suite G**  
**Saugus, Massachusetts 01906**  
**781-233-6812**  
**Facsimile 781-231-5124**  
**Email: tjvesq@netzero.com**

November 16, 2010

✓ Town of Medway  
Planning & Economic Development Board  
155 Village Street  
Medway, Massachusetts 02053

RE: Charles River Village Open Space Residential Development (OSRD)  
Application for OSRD and Affordable Housing Special Permits  
Hearing date November 16, 2010

Dear Board Members:

Please be advised that I again represent Mary E. McDonald of 9 Neelon Lane, Medway in the matter of the Application for OSRD and Affordable Housing Special Permits as to some issues raised by the plan as submitted. Ms. McDonald will also express some additional matters as to which she possesses personal knowledge as to site conditions, access issues, neighborhood matters and subsurface concerns at the meeting.

As a procedural matter, we still have concerns that the representative for the applicant is Mr. Paul Yorkis who, according to available records, is a member of the Economic Development Committee, and that the Planning and Economic Development Board is the appointing authority for members of that Committee. We have asked whether or not the Board has a public disclosure on file as to this relationship as to this matter, and the board responded that it did not. The board then proceeded to detail how much they have relied on and respected Mr. Yorkis' opinion. There was nothing to address the appearance of conflict by the appointing authority having a petitioner represented by the appointee on this matter.

Without reiterating all that has been presented before, I must address the material presented by Attorney F. Sydney Smithers who now has forwarded written a letter on applicant's behalf specifically discussing the Neelon Lane access issues. My questions/assertions are as follows:

1. The establishment of the statutory private way in 1863 for reasons stated previously is not the same as a private way. I pointed out numerous circumstances that demonstrate those differences, circumstances that, by analogy, limit a statutory private way from being considered the same as a public way for zoning purposes...and supporting the proposition that it's use in the within case clearly represents, given the "on

the ground" facts, a departure from standards applied in development projects in Medway.

2. No suggestion was made that prescriptive rights were acquired in the statutory private way. The original plan submitted which was referred to in my letter did not extend past or to the end of the barn on the Nealand property, and did not reflect the usage by the McDonalds for generations of the multiple access points used to access their parcel. It is also unclear on the revised plan if that is the case, since the revised plan it is unclear.

3. The width of Neelon Lane is described as 25 feet. The location of that 25 foot wide space on the ground is unclear. Even the applicant's surveyor had stated in a public meeting that where the additional footage over the approximate 18 to 21 feet could be that could be shown on the ground was uncertain, and that where it may be depended upon from which direction one started. See the letter from Guerriere and Halnon submitted describing the surveying and title issues raised by this discrepancy. This matter was brought to the board's attention at prior meetings (on two occasions). The letter submitted reiterating these matters bears signature and stamp of the engineer, addressing the Mr. Yorkis' concern that previous submissions were sketches. I note especially that Land Court determination would be needed to ascertain the exact location of such 25 foot space. To proceed without such determination risks inclusion of parcels owned by others in the proposed development, without any authority

4. Given the limitations of THIS statutory private way namely it's narrow "on the ground" dimension, its lack of sufficient radius for turning and lack of line of sight easements or other safety concern, even if twenty five feet wide, and the lack of actual experience data as to the impact of traffic trying to enter and exit onto and off Village Street, the safety issues have not been adequately addressed. Police and fire department letters do not address the day to day issues, and merely contain statements without factual back up. The Connelly Associates Report likewise focuses on the travel up and down the Lane, but does discuss turning radius issues with any engineering data.

Attorney Smithers and the petitioners are "confident" that the Town can manage traffic on the way. They do not demonstrate legal certainty, only confidence. Clearly, the traffic impact of 13 three-bedroom homes, with one or two cars, and multiple daily trips, with heavy usage during morning and evening commuting hours, and potentially hundreds of trips per week, together with delivery and service vehicles, including commercial trucks, create safety issues that warrant denial of any proposal that envisions Neelon Lane as its primary access. This is especially true given the fact that the parcel to be developed abuts Cherokee Lane on its westerly boundary, a thirty foot wide public way, which was obviously intended as future development access to the subject parcel, as was envisioned by prior boards. A traffic study should be required given the fact that the volume of traffic likely to be generated by the units, and the limited width of Neelon Lane, on their face, clearly demonstrate the inadequacy of Neelon Lane as safe and convenient access.

The answer that they are "confident" about regulation of parking, sidewalks etc does not address the fact that the usage of the way historically has permitted unlimited access by abutting owners over the entire length of their frontage on the way, and parking and

standing on the way as long as passage was not prevented. The proposal requires changes to the usage in a manner that is not just up to the developer, and beyond any of the Board to change. For the Town to impose such restrictions such as "no standing", "no parking" or curb cuts on a parcel, that is not part of the ownership parcel of the developer is beyond the Board's authority, and would require additional takings by the town, by statutorily prescribed means, of the rights of abutting owners, or their mutual consent.

The following matters are reiterated since the Board has not specifically addressed them in the past meetings:

The Town has considered development of parcels in this location in the past, but not approved development using Neelon Lane as access. The issues raised by using Neelon Lane as access militate against approval of the plans as submitted. At most, Neelon Lane's public use should be consistent with its limited access as historically and legally existing. For all the foregoing reasons, the proposed plan does not comply with the OSRD by-law in numerous respects, namely by not complying with all sections of the Zoning By-law, the access over Neelon Lane is not compatible or in harmony with the character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, and safe, convenient access over such a narrow, substandard route, cannot be demonstrated.

The proposal, as submitted fails to comply with the existing rights of parties on Neelon Lane, with accepted safety and traffic standards affecting the community at large and not just the abutters, the board's own standards for issuance of a special permit as stated in section 10 and sections 11 (g), (i), (j), and (k). The proposal clearly does not meet the standards set out in the purposes section of site plan review, sections C.1. (c) (3), (8), (9), (10) and (11).

The Board rules, at section 12 (d) of article T reference site plan review standards that shall be applied to the project which include protections of neighbors from noise fumes etc and safe access for emergency vehicles. The approval of this plan will destroy the character of the existing neighborhood

Finally, the revised plan STILL lays out a way and cul de sac which does about the McDonald parcel. There exists a gap between the layout on the developer's parcel and the McDonald parcel. Leaving such a strip is certainly contrary to sound planning practices. I believe previous cases in other towns have given the nickname "spite strips" to this feature. Ms McDonald is concerned that, as drawn, this plan would adversely affect her property and possible development or changes.

To date the applicants have still failed to demonstrate that the current owner has the rights to make the improvements in the way, especially since ownership boundaries along the way have not and arguably cannot be determined without land Court involvement.

Any approval would have to be based upon proof of ownership of the adjoining parcels,  
and establishment by a court of competent authority the boundaries of Neelon Lane.

A handwritten signature in black ink, consisting of a stylized first name followed by several loops for the last name.

Thomas J. Valkevich  
Attorney for Mary E. McDonald





November 12, 2010

Medway Planning Board  
155 Village Street  
Medway, MA 02053

On behalf of our client, Elizabeth McDonald of #9 Neelon Lane, Guerriere & Halnon, Inc. submits, for Planning Board review, the following information pertaining to the location, width and status of Neelon Lane:

**Timeline**

- 1851.Dec.10     **C.B. Whitney** acquires land east in reference to now Neelon Lane --- Deed Book 222 Page 44.
- 1856.Aug.05     **Neelan** (aka Neeland, Neelon) acquires land west and south in reference to now Neelon Lane --- Deed Book 289 Page 154.
- 1856.Oct.21     **Kearns** acquires one acre west in reference to now Neelon Lane --- Deed Book 250 Page 26.
- 1863.Apr.06     Town accepts 25 feet wide private way partly on  
                         1. Land set apart for a way by J.W.B. Wilson (Deed Book 250 Page 26)  
                             (at the time owned by Kearns)  
                         2. Land of Neeland  
                         3. Land of C.B. Whitney
- 1921.Dec        Village Street laid out (Neelon Lane scales 16.5'+/- wide)
- 1950.Mar.25     Plan of Land by H.W. Whittier depicting Lots A & B (land of Kearns) on "Wilson's Lane" (Neelon Lane) recorded as Plan No. 335 of 1950 --- Deed Book 2903 Page 45.
- 1959.Oct.21     Plan of Land by Schofield depicting McDonald (C.B. Whitney) Lot recorded as Plan No. 1253 of 1959 --- Deed Book 3776 Page 530.

**Summary of this timeline and all other information collected by this surveyor:**

Since there are a number of ambiguous pieces to this puzzle and a lack of physical monuments on site, two or more competent surveyors could arrive at different solutions. The location of the properties and the location of Neelon Lane (a.k.a. Wilson Lane) as interpreted by Guerriere & Halnon, Inc are arrived at using the following rationale:

*On April 5, 1863*, the three properties owned by Kearns, Neelan and Whitney all abutted one another.

*On April 6, 1863*, the town accepted the 25' Wide Private Way partially over the land of all three extending southerly from what is now Village Street to a fence opposite the southerly side of the Neeland house (#6 Neelon Lane). It was not taken in fee.

Question for Title Attorney: What is the current status of the title in the 25' Wide Way? While it was referred to as a Private Way in 1863, subsequent deeds refer to "excepting the town road" (Deed Book 363 Page 210) and plans were created showing the land removed (Plan 335 of 1950). Guerriere & Halnon has not found written evidence that the Town of Medway has acquired the fee interest in Neelon Lane. If title is to the original lot lines lie within the 25' Wide Way, all parties with interest in The Way would need to agree on improvements.

*In 1950*, a plan of the land formerly owned by Kearns is recorded depicting H.W. Whittier's interpretation of what remained of the "one acre lot" (Deed Book 250 Page 26) after taking out the "land set apart by Wilson." Unfortunately, this plan does not close mathematically. Therefore, it must be closed using available evidence. G&H started at the corner of the original stone wall first described in 1856 as the border. Working away from there, a combination of angles from the 1950 plan and original deed distances was used to retrace the intent of Mr. Whittier. G&H believes that the resulting easterly line best sets up the westerly sideline of the 25' Wide Private Way, Neelon Lane.

*In 1959*, a plan of the land formerly owned by Whitney is recorded (Plan No. 1253 of 1959) depicting Schofield's interpretation of the westerly sideline of Whitney's land described in deed Book 222 Page 44 after the 25' Wide Private Way was accepted.

Regardless of the title status in the Way, and in conjunction with the possibility that the westerly line shown on the 1959 plan is questionable and may follow the existing wall more closely and the original deed calls in Deed Book 222 Page 44, G&H believes that the original boundary line between land formerly of Whitney (McDonald) and that of land formerly of Neeland and Wilson (Aquafresca and Lots A & B) would be somewhere inside the 25' Wide Way and would enter at the southerly end of the way somewhere in the middle, not along the easterly sideline as shown on the Plan of Land by Schofield done in 1959.

If our interpretation is correct, then the Way would be further east than that shown by the applicant's surveyor and the property line would enter the southerly end of the way leaving less than 25' on the Applicant's land.

Simply holding the plan done in 1959 on the Whitney (McDonald) lot and G&H's interpretation of the 1950 plan would result in remaining land for the way of 21.5' more or less at Village Street and 18.0' more or less at the southerly end of the Kearns lot (#2 Neelon Lane).

Guerriere & Halnon, Inc. believes that the uncertainties of the location, width and status of Neelon Lane should be resolved in the Land Court after submission by a land surveyor of all necessary plans, deeds, interpretations, survey, etc.

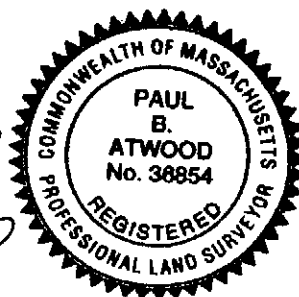
Furthermore, based on the issues raised above, it would be imprudent for The Town of Medway and the applicant before the Planning Board to propose improvements to Neelon Lane without first settling these issues. The risk of encroaching onto private land and infringing property rights of abutters should signal caution in this matter.

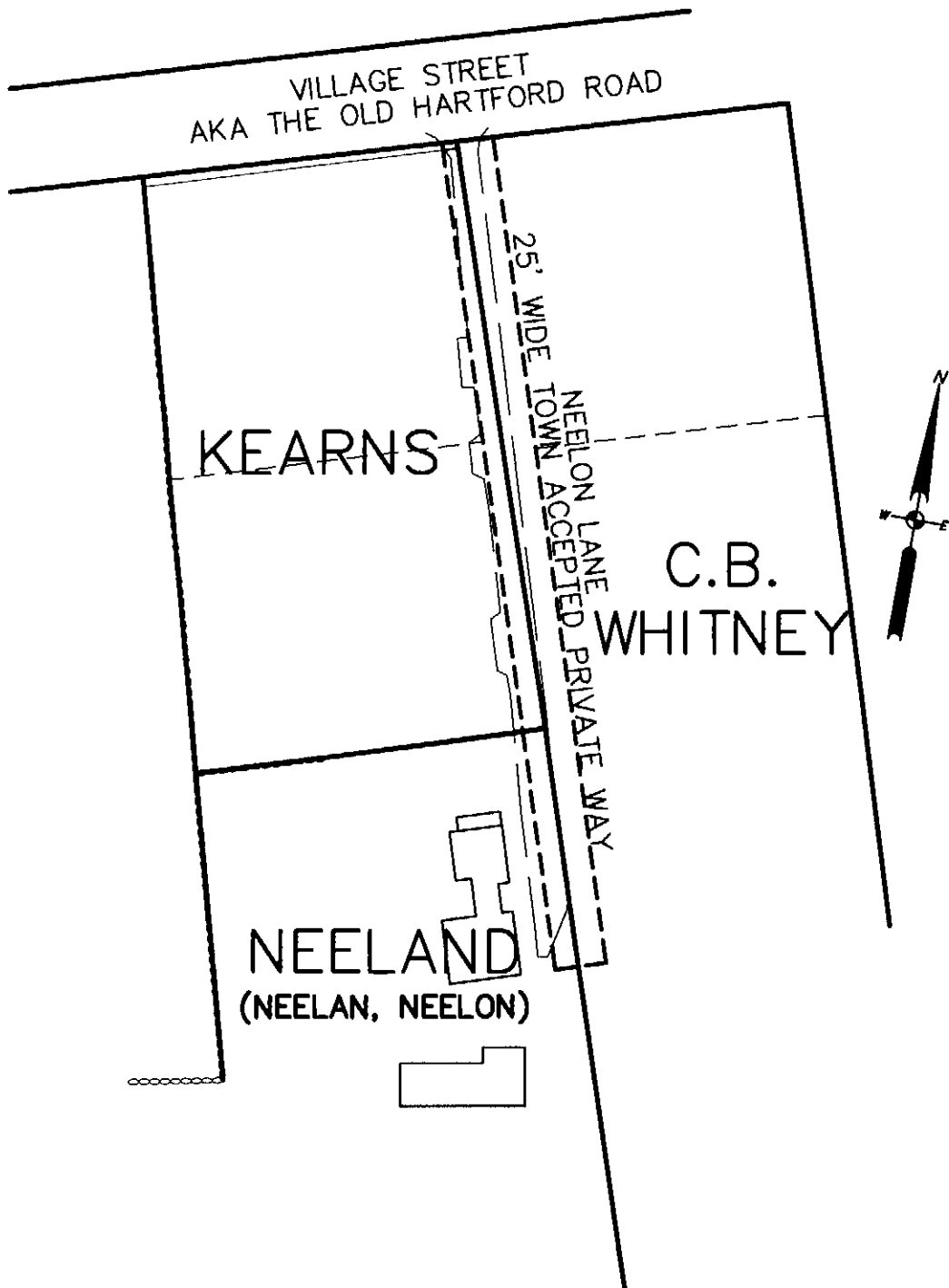
Sincerely,

*Paul B. Atwood*

Paul B. Atwood, PLS

*11/16/10*





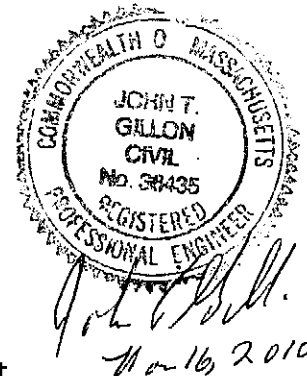


3 Old Farm Road  
Norwood, MA 02062-5513  
Tel./ Fax: (781) 762-8856  
e-mail: jt.gillon@norwoodlight.com

November 15, 2010

Medway Planning Board  
155 Village Street  
Medway, MA 02053

Reference: Traffic Issues  
Neelon Lane Roadway Layout



Dear Board Members:

On behalf of our client, Elizabeth McDonald, of #9 Neelon Lane, I have prepared this review for the Planning Board's consideration. I have reviewed the proposal plans, the Conley Associates Memorandum dated September 2, 2010, and I have visited the site. In addition, I have researched reference manuals regarding minimum paved travel way and sidewalk widths. The minimum widths provided do not appear adequate for a roadway open to the public.

The proposal before the Board involves providing a total paved two-way travel way of eighteen (18) feet on Neelon Lane, along with a paved four-foot wide sidewalk. Although the Conley Memorandum does show a copy of Exhibit 5-5 from the "Geometric Design of Highways and Street" (Green Book) published by the American Association of State Highway and Transportation Officials, the table shows 18 feet of travel way is the minimum "along" with a two-foot wide shoulder on each side of the road (middle of table) bringing the usable surface to **22-foot minimum**. Obviously the eighteen-foot wide paved roadway abutting the sidewalk does not afford a two-foot wide shoulder on that side. The Institute of Transportation Engineer's "Traffic Engineering Handbook" 6<sup>th</sup> Edition also shows this 22-foot minimum layout on Table 7-17, page 236. The MassDOT 2006 Edition of their "Project Development and Design Guideline" Manual suggests the clear width for a sidewalk is five feet excluding the width of the curb. (p. 5-14). Although this manual does not specify a minimum paved surface width for local roads, it does state "Local roads should Meet Municipal Standards". Although I presume this was adopted to retain the scenic quality of some local communities, the statement does not offer any leeway for reducing minimum Town-wide standards through waivers and variances.

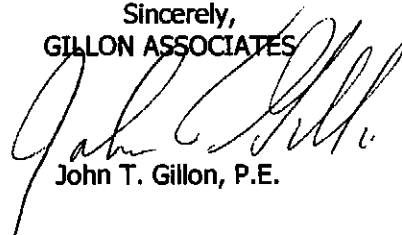
The Americans with Disabilities Act (ADA) does allow for narrow sidewalks to serve wheelchairs at 36-inches. However, since two wheelchairs have to pass each other within a two hundred-foot section, all sidewalks **MUST** be widened to five-foot minimum every two hundred feet to allow for passage.

The narrow roadway pavement width coupled with a short turning radius at the Village Street Intersection will require the turning of large vehicles to travel over the center line of the roadway into the path of opposing traffic. Thus, the pavement width should be widened and a larger radii provided.

On another note, the National Center for Safe Routes to School has indicated the ADA 36-inch minimum sidewalk width was not a sidewalk recommendation. They recognize that 3-foot width does not allow for two-way travel and they recommend a five to six-foot sidewalk width to allow for children being socially active and to walk side by side comfortably.

The Board should also consider the ramifications and implications of granting these proposed physical features. Once minimum widths are waived on one project, there will be other developments that cannot be built without waivers coming forward claiming similar hardships. Thank you for the opportunity to present these thoughts.

Sincerely,  
GILLON ASSOCIATES

A handwritten signature in black ink, appearing to read "John T. Gillon", is written over the printed name. The signature is fluid and cursive, with a large initial "J" and a stylized "G".

John T. Gillon, P.E.

Ken & Terri Bancewicz  
223 Village Street  
Medway, MA 02053

November 15, 2010

Mr. Andy Rodenhiser, Chairman  
Planning and Economic Development Board  
Town of Medway  
155 Village Street  
Medway, MA 02053

Re: Charles River Village – Neelon Lane  
Proposal by John Claffey for Open Space Residential Development

Dear Mr. Rodenhiser,

I have concerns about the property boundary representation for 223 Village Street as shown on the proposed conditions sketch by O'Driscoll Land Surveying Co. issued on 10-19-2010. The boundary is in conflict with the description in my property deed and also the associated plot plan by H.W. Whittier C.E. dated May 15, 1952. The O'Driscoll sketch appears to show the east/west Village Street property border several feet short of the location described in my property deed.

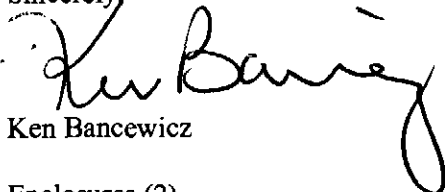
I have retained the services of GLM Engineering in Holliston, MA for a determination of my property borders and a review and opinion on the location of Neelon Lane as it relates to my property. I believe there is reasonable evidence to suggest that the Neelon Lane Statutory Private Way is actually located several feet east of where it is drawn on the O'Driscoll plan.

Regardless of the actual legal location of Neelon Lane, I ask the board to note that the proposed 20' widening to the beginning of the road favors the westerly edge of Neelon Lane. This was done as an attempt to avoid damage to trees located on the Kaplan property. In doing so, the shift and increased width causes considerable loss of my existing lawn and worsens an existing non-conforming building setback condition. I believe this is unfair hardship which could be mitigated by shifting the pavement to east in favor of the opposite extent of the Neelon Lane Statutory Right of way.

Please bear in mind that I have been forced into a defensive position regarding the location of my property line and that my opposition is not necessarily with the proposed development itself. It is imperative that no matter the outcome regarding the use of Neelon Lane, safety must be given the utmost consideration, and I am willing to work with all parties in that regard.

I appreciate the board's due consideration of the above mentioned matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Bancewicz", with a stylized flourish at the end.

Ken Bancewicz

Enclosures (2)

Return to:

Kenneth and Terri Bancewicz  
223 Village Street  
Medway, MA 02053

Property Address:

223 Village Street  
Medway, MA 02053

Do not write in this area

**FIDUCIARY DEED**

**David J. Ryan, Executor of the Estate of John J. Ryan, Norfolk Probate Docket No.**

**08P1207AD**, of Medway, Massachusetts, under license to sell dated December 5, 2008, granted by said court and every other power, for consideration paid, and in full consideration of ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000.00) grants to

**Kennth G. Bancewicz and Terri Bancewicz,**

Husband and wife, as tenants by the entirety

having an address of:

223 Village Street, Medway, Massachusetts 02053

the land, at **223 Village Street, Medway**, Norfolk County, Massachusetts, together with any improvements thereon, described as follows:

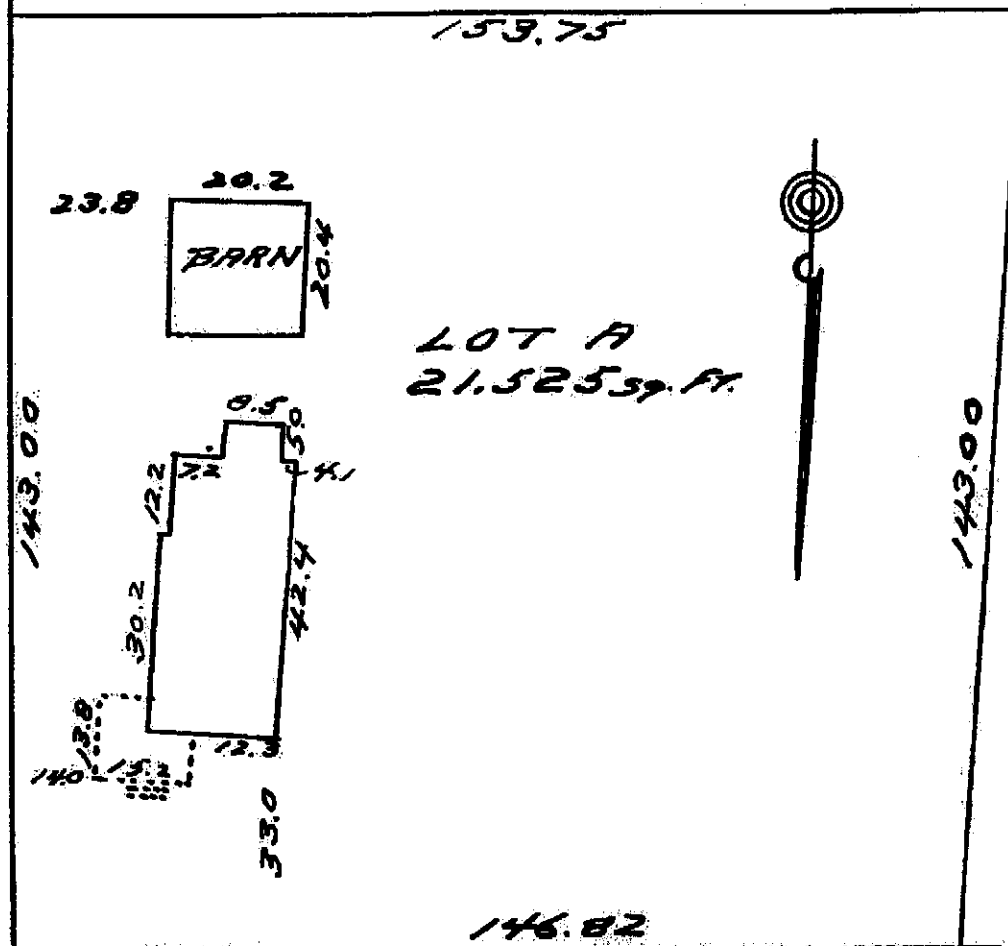
That certain parcel of land in Medway, together with the buildings thereon, situated on the Southerly side of Village Street and shown as Lot A on the plan entitled "Plan of Land in Medway, Mass., March 25, 1950, H.W. Whittier, C.E.", recorded with Norfolk County Registry of Deeds, Book 2903, Page 45, bounded and described as follows:

Beginning at a pipe on the Southerly side of Village Street at a private way formerly known as Neelon's Lane, but shown on said plan as Wilson's Lane; thence running Westerly, bounded Northerly by said Village Street, one hundred forty-six and 82/100 (146.82) feet to a pipe and wall at land now or formerly of Theresa Rogers: thence turning and running Southerly along said wall, bounded Westerly by said Rogers land, one hundred forty-three (143) feet to a spike in a tree; thence turning and running Easterly, bounded Southerly by Lot B as shown on said plan, one hundred fifty-three and 75/100 (153.75) feet to a pipe at said Wilson's Lane; and thence turning and running Northerly, bounded Easterly by said Wilson's Lane, one hundred forty-three (143) feet to the pipe and point of beginning.

The premises are conveyed subject to and with the benefit of all easements, restrictions, rights of way, takings, reservations, exceptions and covenants contained in the deed to the grantor herein and in all other instruments of record, to the extent said restrictions, reservations, exceptions and covenants have not terminated or expired.

Meaning and intending to convey the same premises conveyed to John J. Ryan and Isabel L. Ryan, a/k/a Isabelle L. Ryan by deed of Henry Rosen and Helen H. Rosen, dated June 12, 1952, recorded with the Norfolk County Registry of Deeds, in Book 3091, Page 121. Isabelle L. Ryan died December 18, 1968, see Inheritance Tax Real Estate Certificate recorded at Book 4623, Book 524, and Estate of John J. Ryan, Norfolk Docket No. 08P1207AD.

WILSON'S LANE



VILLAGE ST.

PLOT PLAN  
IN

MEDWAY MASS.

SCALE 1 in. = 30 FT. MAY 15 1952

H. W. WHITTIER C.E.

APPLICANT JOHN J. RYAN



**November 23, 2010  
Planning and Economic Development Board  
155 Village Street  
Medway, MA 02053**

**BOARD MEMBERS PRESENT:** Bob Tucker, Chan Rogers, Tom Gay, and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:** Andy Rodenhiser

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Amy Sutherland, Meeting Recording Secretary  
Gino Carlucci, PGC Associates Planning Consultant  
Dave Pellegrini, Tetra Tech Rizzo

Vice Chairman Tucker opened the meeting at 7:00 pm.

**ROLLING HILLS SUBDIVISION**

There was a request for extension from owner Olga Guerrero. A letter dated November 16, 2010 was submitted by Olga Guerrero. **See Attached.** The letter requests an additional two years to undertake the subdivision infrastructure construction for the private way subdivision.

Attorney William Sack representing Ms. Guerrero would like to keep the present subdivision covenant and allow his client to complete the work.

The Board discussed that Ms. Guerrero is in violation of the original subdivision covenant because she sold off the lot with the house at 25 Milford Street before the new roadway and infrastructure was constructed or a bond provided. The Board is also aware of the Massachusetts Legislature which approved a permit extension law in August which in effect extends completion deadline for projects. The Board is not in favor of issuing a new covenant.

**On a motion made by Chan Rogers and seconded by Tom Gay, the Board votes unanimously to approve an extension for Rolling Hills Subdivision until November 21, 2012.**

Ms. Guerrero apologizes for this happening.

**ESTIMATE FOR SURVEY ANALYSIS for proposed Charles River Village OSRD provided by Tetra Tech Rizzo:**

**On a motion made by Tom Gay and seconded by Chan Rogers, the Board voted unanimously to accept the estimate for \$2,980.00 as presented to Tetra Tech Rizzo with the applicant paying for the services.**

Dave Pellegrini will contact both parties and set up a meeting with their surveyor. Dave indicated that there are two issues:

1. to clarify the 25 ft within the right of way.
2. Then find where the right of way falls.

**FOX RUN FARM 40B development:**

Tetra Tech Rizzo provided field observation reports for Fox Run Farm. The reports were for inspections 5 through 13. **(See attached).**

The compaction tests were reported great. The backfilling infiltration was being done last week. The as-built of services was provided. The applicant has installed the utility services per the new plan.

The applicant has formally submitted back up information for a proposed plan modification to the Zoning Board of Appeals. The meeting will take place on December 1<sup>st</sup>.

Susy Affleck-Childs distributed a draft Memorandum of Understanding among the Board, the ZBA and the Fox Run Farm developer. **(See Attached.)** This outlines what the Board's duties will be. The Board is in support of sending a Memorandum of Understanding to the Zoning Board of Appeals.

**On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted unanimously to sign the Form G/subdivision covenant for Fox Run Development since it was approved by Town Counsel.**

**FRANKLIN CREEK SUBDIVISION PLAN MODIFICATION**

The developer of the Franklin Creek subdivision submitted a Form C-4 to make a minor modification to the previously approved definitive subdivision plan regarding the materials for the retaining wall on lot 1.

Dave Pelligri has looked at the subject wall in the field and communicates that the retaining wall is working in the same function and location. The wall looks nice in general, but it was not built per plan. The contractor used interlocking blocks instead of natural stone as specified in the original plan.

**On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted to approve the modification to the plan with the retaining wall constructed of interlocking blocks.**

**Bob Tucker (aye), Tom Gay (aye), Chan Rogers (aye), and Karyl Spiller-Walsh (nay). Vote passes.**

**DISCUSSION – Possible Zoning Bylaw Amendments 2011 Annual Town Meeting:**

**The following were suggestions:**

- Rezone area on Route 126/Main/Village Streets near Bellingham for business uses.
- Site Dev. Issues with pre-existing non-conforming with major and minor site plans.
- Work with the bottlecap lots
- Provide for adaptive use projects in the Commercial III and IV districts
- Adding/revising definitions (Chan Rogers will speak with John Emidy)
- Refine zoning district boundaries
- Rework the Open Space Bylaw
- Establish construction hours (general bylaw)

The Board will review the list which will be discussed further at the December 14, 2010 meeting. Each member should identify their 5 key priorities for zoning work.

**Adjourn:**

**On a motion made by Bob Tucker, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting at 9:00 PM.**

**Future Meetings:**

The next meetings scheduled are: Tuesday, December 14 & 28, 2010

The meeting was adjourned at 9:00 PM.

Respectfully Submitted,



Amy Sutherland

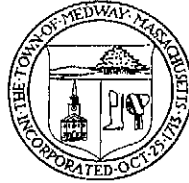
Meeting Recording Secretary

Reviewed and edited,



Susan E. Affleck-Chadwick

Planning and Economic Development Coordinator



**TOWN OF MEDWAY**  
**Planning & Economic Development**  
155 Village Street  
Medway, Massachusetts 02053

November 16, 2010

TO: Planning and Economic Development Board Members  
FROM: Susy Affleck-Childs  
RE: Rolling Hills Subdivision

Attached is a Letter from Olga Guerrero, owner/developer of the Rolling Hills subdivision property behind 25 Milford Street. She has requested that the Board allow her an additional two years to undertake the subdivision infrastructure construction for this small private way subdivision.

NOTE - This is the property where a lot was conveyed without a lot release from the Board.

You will remember that in June 2009, the Board approved a deadline extension for Rolling Hills to November 21, 2010. See attached notice.

Since then, the Massachusetts Legislature approved a permit extension law which in effect automatically extends the completion deadline for Rolling Hills to November 21, 2012.

**Guerrero & Associates**

14 Lexington Lane  
Millis, MA 02054

Medway Planning Board  
Town Hall  
Medway, MA 02053

November 12, 2010

RECEIVED  
NOV 16 2010

TOWN OF MEDWAY  
PLANNING BOARD

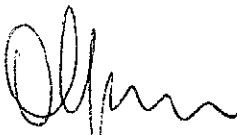
RE: Rolling Hills Subdivision

It is with great humility and embarrassment that I come before the Planning Board tonight concerning the above-referenced subdivision. I first would like to apologize to the Board for unintentionally embroiling it in a situation that has caused difficulties both for the Board and for an innocent purchaser of the property at 25 Milford Street. The house and lot were sold subject to the Planning Board Covenant that prohibited its sale, which Covenant I failed to carefully read. I take full responsibility for the error, even though I relied on the advice of my attorney in the transaction.

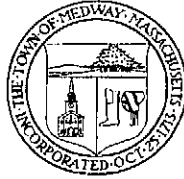
I respectfully ask that the Board grant me the opportunity to correct my error and permit me to use the two-year extension granted by the State to either identify a buyer who will take responsibility to complete Harmony Lane or, failing that, complete the work ourselves.

I ask the Board to please accept my apology and give me the opportunity to do good with this project. Thank you.

Sincerely,



Olga Guerrero



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Cranston (Chan) Rogers, P.E.*  
*Karyl Spiller Walsh*  
*John W. Williams, Associate Member*

June 24, 2009

**ROLLING HILLS SUBDIVISION**  
**Completion Deadline Extension**

**BACKGROUND** – The Rolling Hills Definitive Subdivision Plan, originally dated November 4, 2005 and revised July 17, 2006, prepared by Colonial Engineering of Medway, MA was approved by the Medway Planning Board on October 10, 2006. The final plan was endorsed by the Medway Planning Board on November 21, 2006 and recorded at the Norfolk County Registry of Deeds on December 5, 2006 as Plan #5 in Book #563 of 2006.

The approval pertained to the subdivision of a 3.3 acre site located at 25 Milford Street shown on Medway Assessors Map 2 as Parcel 139 into 3 house lots and a 455 foot long, single access permanent private roadway (to be known as Harmony Lane). The original applicant and property owner is Olga Guerrero of Millis, MA.

Specific Condition #2 of the Planning Board's October 10, 2006 Certificate of Action for Rolling Hills specifically provided that the construction of the roadway and all related infrastructure including stormwater drainage facilities and all utilities was to be completed within three years of the date of plan endorsement. That three year construction period will expire November 21, 2009.

On June 4, 2009, Olga Guerrero contacted the Planning and Economic Development Board regarding an extension of the deadline for completion of the subdivision. Due to the struggling economy, the developer requested more time to undertake the construction. As the request for a deadline extension was received before the expiration date, this matter could be addressed at a Planning and Economic Development Board meeting without needing a full public hearing.

**DECISION** – At its meeting on June 23, 2009, the Medway Planning and Economic Development Board voted to approve a 1 year extension to complete the subdivision road and infrastructure. The new completion date is November 21, 2010.

**CONDITION OF APPROVAL** – Pursuant to Section 6.1.3 of Medway's *Subdivision Rules and Regulations*, a further extension of time to complete the ways and improvements in the subdivision may be granted by the Board in the future if there are mitigating circumstances. Additional extensions may be applied for but not until at least nine (9) months have expired on this extension. Any request for extension must be submitted to the Board at least thirty (30) days before the new completion

deadline. The developer shall submit a written request to the Board outlining the mitigating circumstances necessitating the additional time for completion. Prior to approving any additional time, the Board may review the status of construction, revise the amount of the bond or other security and the Applicant may be required to provide a new or revised security instrument for the Board's approval.

**ATTEST:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

\_\_\_\_\_  
Date

cc: Maryjane White, Town Clerk  
David D'Amico, DPS Director  
Dave Pellegri, Tetra Tech Rizzo  
John Emidy, Interim Medway Building Commissioner  
Olga Guerrero



TETRA TECH RIZZO

November 22, 2010

Mr. Andy Rodenhiser  
Planning Board Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA

**Re: Proposal for Engineering Review  
Charles River Village-OSRD  
Medway, Massachusetts**

Dear Mr. Rodenhiser:

We are pleased to submit this Proposal to the Town of Medway Planning and Economic Development Board (the Client) for professional engineering services associated with the proposed Charles River Village project in Medway, Massachusetts (the Project). The objective of our services is to review the Neelon Lane record information as provided by both the applicant's and the abutter's surveyor, and provide recommendations to the Client.

### **Scope of Services**

The following specifically describes the Scope of Services to be completed:

- **Task 1 Document Review**

- Review information provided by both the applicant's surveying consultant (O'Driscoll Land Surveying Co.) as well as the abutter's surveying consultant (Guerriere & Halnon, Inc.). Also review letters and information written by abutters and provided by the Town, solely as they pertain to this topic. The abutter letters received to date include the following:

1. Letter dated November 21, 2010 written by the Newell's
2. Letter dated November 15, 2010 written by Ken Bancewicz
3. Letter anticipated to be submitted by the Kaplans

Following the review, TTR will provide correspondence to the Planning and Economic Development Board (PEDB) summarizing our professional opinion(s) on the topic.

- **Task 2 Meeting with Surveyors**

- Coordinate and attend a meeting held with both of the surveying consultants.

*Approved  
11-23-10*

*Revised*





## TETRA TECH RIZZO

### • Task 3 PEDB Hearing

- Prepare for, attend, and participate in the Planning and Economic Development Board hearing to discuss findings.

### Cost

Our cost for the above Scope of Services will be on a time and expenses basis in accordance with Tetra Tech Rizzo's and Medway's existing contract rates. Direct expenses will be billed at a fixed fee of three and a half (3.5) percent of labor costs. We suggest that you establish a budget of \$2,980 for these services, which will not be exceeded without your approval. Please be advised that this estimate is based on our current understanding of the Project needs and is for budget purposes only. The total cost of our services will depend greatly on the completeness and adequacy of the information provided.

The breakdown of this fee by task is as follows:

Task	Task Description	Fee
Task 1	Document Review	\$1,440
Task 2	Meeting with Surveyors	\$720
Task 3	PEDB Hearing	\$720
	Labor Subtotal	\$2,880
	Expenses (3.5%)	\$100
	<b>Total Fee</b>	<b>\$2,980</b>

### Schedule

We are prepared to begin work immediately upon receipt of this executed Proposal. We recognize that timely performance of these services is an important element of this Proposal and will put forth our best effort, consistent with accepted professional practice, to comply with the projects needs. We are not responsible for delays in performance caused by circumstances beyond our control or which could not have reasonably been anticipated or prevented.

### General Terms and Conditions

This Proposal is subject to the existing Terms and Conditions signed by Tetra Tech Rizzo and the Town of Medway. Should this proposal meet with your approval, please sign and return a copy to us for our files. Your signature provides full authorization for us to proceed. We look forward to working with you on this Project. Please contact us with any questions, or if you require additional information.



TETRA TECH RIZZO

Very truly yours,

David R. Pellegri, P.E.  
Project Manager

Sean P. Reardon, P.E.  
Vice President

Date Approved by Medway Planning and Economic Development Board: \_\_\_\_\_  
Date

Certified by: \_\_\_\_\_  
Susan E. Affleck-Childs Date  
Medway Planning and Economic Development Coordinator

**Tetra Tech Rizzo**  
 One Grant Street  
 Framingham, MA 01701

Project <b>Fox Run Farm</b>	Date <b>10-25-2010</b>	Report No. <b>5</b>
Location <b>Holliston Street, Medway, MA</b>	Project No. <b>127-21583-11001</b>	Sheet 1 of <b>2</b>
Contractor <b>Dowling Corporation (Mike Rose)</b>	Weather <b>A.M. SUNNY P.M.</b>	Temperature <b>A.M. 70 P.M.</b>

#### FIELD OBSERVATIONS

On Monday, October 25, 2010 Brian Marchetti from Tetra Tech Rizzo visited the project site to inspect the installation of sewer pipe and general site conditions.

##### 1. Observations

- A. Mr. Rose was in the process of installing sewer pipe from SMH-2 to SMH-3 upon arrival on-site. Sewer laterals were being installed for lots #2 and #3. The trench was backfilled with crushed stone per detail to approximately 6" above the pipe. The trench was then backfilled with the excavated material to existing grade and compacted in lifts with a plate compactor.

#### CONTRACTOR'S FORCE AND EQUIPMENT

#### WORK DONE BY OTHERS

Sup't		Bulldozer	1	Asphalt Paver		Dept. or Company	Description of Work
Foreman	1	Backhoe	1	Asphalt Reclaimer			
Laborers	2	Loader		Vib. Roller			
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.		Bobcat		Vib. Walk Comp.			
Carpenters		Hoeram		Compressor			
Masons		Excavator	1	Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tree Remover			
Surveyors		Conc. Mixer		Chipper			
		Conc. Truck		Screener			
		Pickup Truck		Drill Rig			
		Dump Truck 6 Whl		Boom Lift			
		Dump Truck 10 Whl		Water Tank			
		Dump Truck 14 Whl		Lull			
		Dump Truck 18 Whl		Gradall			

#### OFFICIAL VISITORS TO JOB

Police Details: n/a	<b>RESIDENT REPRESENTATIVE FORCE</b>	
Time on site: 11:30 A.M.-12:30 P.M.	Name	Name
CONTRACTOR'S Hours of Work:		
	Resident Representative Brian Marchetti	

**Tetra Tech Rizzo**  
One Grant Street  
Framingham, MA 01701

Project Fox Run Farm	Date 10-26-2010	Report No. 6
Location Holliston Street, Medway, MA	Project No. 127-21583-11001	Sheet 1 of 2
Contractor Dowling Corporation (Mike Rose)	Weather A.M. PARTLY CLOUDY P.M.	Temperature A.M. 70 P.M.

#### FIELD OBSERVATIONS

On Tuesday, October 26, 2010 Brian Marchetti from Tetra Tech Rizzo visited the project site to inspect the installation of sewer pipe and general site conditions.

##### 1. Observations

- A. Mr. Rose was in the process of installing sewer pipe from SMH-3 to SMH-4 upon arrival on-site as well as the remaining sewer laterals to the individual lots. The trench was backfilled with crushed stone per detail to approximately 6" above the pipe. The trench was then backfilled with the excavated material to existing grade and compacted in lifts with a plate compactor.

#### CONTRACTOR'S FORCE AND EQUIPMENT

#### WORK DONE BY OTHERS

Sup't		Bulldozer	1	Asphalt Paver		Dept. or Company	Description of Work
Foreman	1	Backhoe	1	Asphalt Reclaimer			
Laborers	2	Loader		Vib. Roller			
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.		Bobcat		Vib. Walk Comp.			
Carpenters		Hoeram		Compressor			
Masons		Excavator	1	Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tree Remover			
Surveyors		Conc. Mixer		Chipper			
		Conc. Truck		Screener			
		Pickup Truck		Drill Rig			
		Dump Truck 6 Whl		Boom Lift			
		Dump Truck 10 Whl		Water Tank			
		Dump Truck 14 Whl		Lull			
		Dump Truck 18 Whl		Gradall			

#### OFFICIAL VISITORS TO JOB

#### RESIDENT REPRESENTATIVE FORCE

Police Details: n/a	Name	Name
Time on site: 11:30 A.M.-1:00 P.M.		
CONTRACTOR'S Hours of Work:		
	Resident Representative Brian Marchetti	

**Tetra Tech Rizzo**  
One Grant Street  
Frammingham, MA 01701

Project <b>Fox Run Farm</b>	Date <b>10-27-2010</b>	Report No. <b>7</b>
Location <b>Holliston Street, Medway, MA</b>	Project No. <b>127-21583-11001</b>	Sheet 1 of <b>2</b>
Contractor <b>Dowling Corporation (Mike Rose)</b>	Weather <b>A.M. CLOUDY/RAIN P.M.</b>	Temperature <b>A.M. 70 P.M.</b>

#### FIELD OBSERVATIONS

On Wednesday, October 27, 2010 Brian Marchetti from Tetra Tech Rizzo visited the project site to inspect the installation of the cultic drainage system and general site conditions.

##### 1. Observations

- A. Mr. Rose requested that TTR inspect the excavation for the Cultec Stormwater System prior to its installation. The concern was that the material in the excavation would be similar to the silty material found elsewhere on site during utility installations. However, the material at the bottom of the excavation was a well draining, sandy gravel. TTR verified that the native material was suitable for use in the installation of the Cultec system.
- B. Mr. Rose was completing the installation/backfill of the sewer pipe from SMH-3 to SMH-4. The installation of the sewer system should be completed today.
- C. TTR returned to the site at 3:30 P.M. to inspect the Cultec System installation. ½ of the system has been installed and backfilled with double washed stone per detail.

#### CONTRACTOR'S FORCE AND EQUIPMENT

#### WORK DONE BY OTHERS

Sup't		Bulldozer	1	Asphalt Paver		Dept. or Company	Description of Work
Foreman	1	Backhoe	1	Asphalt Reclaimer			
Laborers	2	Loader		Vib. Roller			
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.		Bobcat		Vib. Walk Comp.			
Carpenters		Hoeram		Compressor			
Masons		Excavator	1	Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tree Remover			
Surveyors		Conc. Mixer		Chipper			
		Conc. Truck		Screener			
		Pickup Truck		Drill Rig			
		Dump Truck 6 Whl		Boom Lift			
		Dump Truck 10 Whl		Water Tank			
		Dump Truck 14 Whl		Lull			
		Dump Truck 18 Whl		Gradall			

#### OFFICIAL VISITORS TO JOB

Police Details: n/a	RESIDENT REPRESENTATIVE FORCE	
Time on site: 12:00 P.M.-12:30 P.M.	Name	Name
CONTRACTOR'S Hours of Work:		
	Resident Representative Brian Marchetti	

**Tetra Tech Rizzo**  
One Grant Street  
Framingham, MA 01701

Project <b>Fox Run Farm</b>	Date <b>10-28-2010</b>	Report No. <b>8</b>
Location <b>Holliston Street, Medway, MA</b>	Project No. <b>127-21583-11001</b>	Sheet 1 of <b>2</b>
Contractor <b>Dowling Corporation (Mike Rose)</b>	Weather A.M. <b>SUNNY</b> P.M.	Temperature A.M. <b>70</b> P.M.

### FIELD OBSERVATIONS

On Thursday, October 28, 2010 Steven Bouley from Tetra Tech Rizzo visited the project site to inspect the installation of the cultic drainage system and general site conditions.

#### 1. Observations

- A. Dimartino is continuing the installation of the Cultec Stormwater System. Approximately 3/4 of the chambers have been installed at the time of inspection. The isolator row is fully installed and wrapped in woven geotextile fabric per detail. Inspection ports have also been installed on every row including 2 at either end of the isolator row. Dimartino plans to complete the installation of the chambers today and backfill with double washed stone.

### CONTRACTOR'S FORCE AND EQUIPMENT

### WORK DONE BY OTHERS

Sup't					Dept. or Company	Description of Work
Foreman	1	Bulldozer	1	Asphalt Paver		
Laborers	2	Backhoe	1	Asphalt Reclaimer		
		Loader		Vib. Roller		
Drivers		Rubber Tire Backhoe/Loader		Static Roller		
Oper. Engr.		Bobcat		Vib. Walk Comp.		
Carpenters		Hoeram		Compressor		
Masons		Excavator	1	Jack Hammer		
Iron Workers		Grader		Power Saw		
Electricians		Crane		Conc. Vib.		
Flagpersons		Scraper		Tree Remover		
Surveyors		Conc. Mixer		Chipper		
		Conc. Truck		Screener		
		Pickup Truck		Drill Rig		
		Dump Truck 6 Whl		Boom Lift		
		Dump Truck 10 Whl		Water Tank		
		Dump Truck 14 Whl		Lull		
		Dump Truck 18 Whl		Gradall		

### OFFICIAL VISITORS TO JOB

Police Details: n/a	RESIDENT REPRESENTATIVE FORCE	
Time on site: 12:15 P.M.-12:45 P.M.	Name	Name
CONTRACTOR'S Hours of Work:		
	Resident Representative Steven Bouley	

Project Fox Run Farm	Date 10-28-2010	Report No. 8
Location Holliston Street, Medway, MA	Project No. 127-21583-11001	Sheet 2 of 2
Contractor Dowling Corporation (Mike Rose)	Weather A.M. SUNNY P.M.	Temperature A.M. 70 P.M.

**FIELD OBSERVATIONS CONTINUED**

2. Schedule
  - A. DiMartino plans to complete the installation of the Cultec Stormwater System next week. Mr. Rose plans to continue with water line installation tomorrow.
3. New Action Items
  - A. N/A
4. Previous Open Action Items
  - A. Unsuitable material encountered during trench excavations should be removed and replaced in all trenches. TTR will provide direction how to address remainder of unsuitable material within R.O.W.
5. Materials Delivered to Site Since Last Inspection:
  - A. Water Pipe

<b>Tetra Tech Rizzo</b> One Grant Street Framingham, MA 01701		
Project	Date	Report No.
Fox Run Farm	10-29-2010	9
Location	Project No.	Sheet 1 of
Holliston Street, Medway, MA	127-21583-11001	2
Contractor	Weather	Temperature
Dowling Corporation (Mike Rose)	A.M. SUNNY P.M. SUNNY	A.M. 45 P.M. 58

### FIELD OBSERVATIONS

On Friday, October 29, 2010 Steven Bouley from Tetra Tech Rizzo visited the project site to inspect the installation of the cultic drainage system, water pipe and general site conditions.

#### 1. Observations

- A. Mr. Rose was in the process of installing water pipe upon arrival on-site. He plans on installing approximately 160 ft of pipe today. The pipe will be installed for the entire 160 ft length then backfilled all at once. TTR to return to the site later in the day to observe backfilling operations.
- B. TTR returned to the site at approximately 12:45 P.M. The water pipe was in the process of being backfilled upon arrival. The pipe was bedded with sand, backfilled and compacted in lifts with native material.
- C. TTR received the updated plans regarding the Cultec Stormwater System. It appears that the system is adequately sized as currently constructed per the updated design. However, the design shows the invert out of the water quality unit approximately 2 ft higher than the invert into the Cultec System. TTR will consult with the design engineer to determine the intent of this discrepancy.
- D. No new unsuitable material has been encountered during the water pipe installation.

CONTRACTOR'S FORCE AND EQUIPMENT				WORK DONE BY OTHERS	
Sup't				Dept. or Company	Description of Work
Foreman	1	Bulldozer	1	Asphalt Paver	
Laborers	2	Backhoe	1	Asphalt Reclaimer	
Drivers		Loader		Vib. Roller	
Oper. Engr.		Rubber Tire Backhoe/Loader		Static Roller	
Carpenters		Bobcat		Vib. Walk Comp.	
Masons		Hoeram		Compressor	
Iron Workers		Excavator	1	Jack Hammer	
Electricians		Grader		Power Saw	
Flagpersons		Crane		Conc. Vib.	
Surveyors		Scraper		Tree Remover	
		Conc. Mixer		Chipper	
		Conc. Truck		Screener	
		Pickup Truck		Drill Rig	
		Dump Truck 6 Whl		Boom Lift	
		Dump Truck 10 Whl		Water Tank	
		Dump Truck 14 Whl		Lull	
		Dump Truck 18 Whl		Gradall	
Police Details: n/a				RESIDENT REPRESENTATIVE FORCE	
Time on site: 8:00 A.M.-8:45 A.M.				Name	Name
CONTRACTOR'S Hours of Work:					
				Resident Representative Steven Bouley	



**Tetra Tech Rizzo**  
One Grant Street  
Framingham, MA 01701

Project	Date	Report No.
Fox Run Farm	11-01-2010	10
Location	Project No.	Sheet 1 of
Holliston Street, Medway, MA	127-21583-11001	2
Contractor	Weather	Temperature
Dowling Corporation	A.M. SUNNY	A.M. 40
(Mike Rose)	P.M. SUNNY	P.M. 50

#### FIELD OBSERVATIONS

On Monday, November 1, 2010 Dave Pellegri from Tetra Tech Rizzo visited the project site to inspect the installation of the waterline.

##### 1. Observations

- A. Dowling is completing the installation of the waterline including the setting of the hydrant in the cul-de-sac island. The adjacent gate valve and associated thrust blocks have been set as well. The pipe, hydrant and gate were all set in sand and backfilled with approved on-site material. The trench was compacted in lifts.
- B. Mr. Rose informed us they would be installing drain structures tomorrow as well as importing gravel for the roadway base. I told him that we need to see a sieve test for all material imported for use within the right-of-way. He confirmed that Mujeeb (Owner) would forward that information to us shortly.
- C. Mr. Rose also informed us that they would be pressure testing some in the near future. We informed him that Tetra Tech does not need to witness the pressure testing if the testing is being completed by a competent independent firm. Dowling should however forward us copies of the test results as discussed. Mr. Rose confirmed that they would use an independent firm and will forward us results.

##### 2. Schedule

- A. Dowling will work on installing the drainage structures and roadway base tomorrow.

#### CONTRACTOR'S FORCE AND EQUIPMENT

#### WORK DONE BY OTHERS

Sup't					Dept. or Company	Description of Work
Foreman	1	Bulldozer	1	Asphalt Paver		
Laborers	2	Backhoe	1	Asphalt Reclaimer		
		Loader		Vib. Roller		
Drivers		Rubber Tire Backhoe/Loader		Static Roller		
Oper. Engr.		Bobcat		Vib. Walk Comp.		
Carpenters		Hoeram		Compressor		
Masons		Excavator	1	Jack Hammer		
Iron Workers		Grader		Power Saw		
Electricians		Crane		Conc. Vib.		
Flagpersons		Scraper		Tree Remover		
Surveyors		Conc. Mixer		Chipper		
		Conc. Truck		Screener		
		Pickup Truck		Drill Rig		
		Dump Truck 6 Whl		Boom Lift		
		Dump Truck 10 Whl		Water Tank		
		Dump Truck 14 Whl		Lull		
		Dump Truck 18 Whl		Grapple		

#### OFFICIAL VISITORS TO JOB

Police Details: n/a

Time on site: 3:00 A.M.-3:30 A.M.

CONTRACTOR'S Hours of Work:

#### RESIDENT REPRESENTATIVE FORCE

Name

Name

Resident Representative Dave Pellegri

Tetra Tech Rizzo  
One Grant Street  
Framingham, MA 01701

Project

Fox Run Farm

Date

11-02-2010

Report No.

11

Location

Holliston Street, Medway, MA

Project No.

127-21583-11001

Sheet 1 of

2

Contractor

Dowling Corporation  
(Mike Rose)

Weather

A.M. SUNNY

P.M. SUNNY

Temperature

A.M. 40

P.M. 48

### FIELD OBSERVATIONS

On Tuesday, November 1, 2010 Dave Pellegri from Tetra Tech Rizzo visited the project site to inspect the installation of the drainage system and roadway base material.

#### 1. Observations

- A. Dowling had installed Catch Basins 1, 2, and 3 today. The structures were set on a crushed stone base. The crushed stone was the same material that had been stockpiled on-site previously (appeared to be  $\frac{3}{4}$  inch crushed stone). They had also installed the reinforced concrete pipe between those catch basins and the drain manholes which they connect to. Lastly, they had installed DMHs 1 and 2. Both the drain structures and piping had been cast early enough to provide sufficient curing times (see section 5 from previous report). I noted that the contractor had installed mortar between the pipe and the drainage structures, however it did not appear that they used mortar around the joints. By the time we noticed this in the field, the contractor had left for the day so we will mention it to them tomorrow.
- B. Dowling also imported a gravel material being used to raise the grade of the roadway to the base course elevation. The material has been spread and compacted from station 1+50 to 2+00. The material looks more like a dense graded crushed stone than a typical gravel borrow which is good for the roadway. We intend to review the sieve results when we receive from Mujeeb. Mr. Rose confirmed that Mujeeb (the owner will deliver sieve information shortly).
- C. We spoke with Mr. Rose about our concerns with the fill material within the roadway right-of-way. I informed him that Tetra Tech expects a letter from the design engineer proposing a solution. There are two options for the owner. First they could remove all of the material from within the right-of-way. Second, they could remove a portion of the material down to a specified depth. They would then have to provide a stamped letter from a structural engineer certifying that the roadway would be structurally sound considering the selected approach. Mr. Rose said he would discuss with engineer and owner.

### CONTRACTOR'S FORCE AND EQUIPMENT

### WORK DONE BY OTHERS

Sup't					Dept. or Company	Description of Work
Foreman	1	Bulldozer	1	Asphalt Paver		
Laborers	2	Backhoe	1	Asphalt Reclaimer		
Drivers		Loader		Vib. Roller		
Oper. Engr.		Rubber Tire Backhoe/Loader		Static Roller		
Carpenters		Bobcat		Vib. Walk Comp.		
Masons		Hoeram		Compressor		
Iron Workers		Excavator	1	Jack Hammer		
Electricians		Grader		Power Saw		
Flagpersons		Crane		Conc. Vib.		
Surveyors		Scraper		Tree Remover		
		Conc. Mixer		Chipper		
		Conc. Truck		Screener		
		Pickup Truck		Drill Rig		
		Dump Truck 6 Whl		Boom Lift		
		Dump Truck 10 Whl		Water Tank		
		Dump Truck 14 Whl		Lull		
		Dump Truck 18 Whl		Gradall		

Police Details: n/a

Time on site: 3:30 A.M.-4:15 A.M.

CONTRACTOR'S Hours of Work:

### RESIDENT REPRESENTATIVE FORCE

Name

Name

Resident Representative Dave Pellegri

**Tetra Tech Rizzo**  
One Grant Street  
Framingham, MA 01701

Project

Fox Run Farm

Date

11-03-2010

Report No.

12

Location

Holliston Street, Medway, MA

Project No.

127-21583-11001

Sheet 1 of

2

Contractor

Dowling Corporation  
(Mike Rose)

Weather

A.M.

P.M. SUNNY

Temperature

A.M.

P.M. 50'S

### FIELD OBSERVATIONS

On Wednesday, November 3, 2010 Brian Marchetti from Tetra Tech Rizzo visited the project site to inspect the excavation of unsuitable materials within the right of way between STA 0+25 to STA 1+25, the import of 3" minus dense grade fill, the installation of the storm drainage system and general site conditions.

#### 1. Observations

- A. Mike Rose excavated approximately 100 linear feet of the subdivision roadway to remove trash and debris that was previously buried on site. Approximately 70 feet (STA 0+25 to STA 0+95) was excavated to an approximate depth of 4 feet and the remaining 30 feet (STA 0+95 to STA 1+25) was excavated to approximately 8 feet. TTR witnessed the limits of the excavation and confirmed that suitable material was encountered beyond STA 1+25 and additional excavation was not required. The objects/debris mixed within the unsuitable fill included tires, wood, glass products and metal debris including piping and what appeared to be an old kitchen appliance.
- B. The 3" minus dense grade fill appeared being imported on site for roadway fill appeared to exceed the requirements of the contract documents. The fill was being spread by a bulldozer in 6" to 12" lifts within the roadway and compacted with a vibratory roller. The 3" minus dense grade fill import material was also being used to fill the excavation of unsuitable material. The import material was being placed within the excavation in 1' to 2' lifts and compacted with the vibratory roller.
- C. Drainage infrastructure was also being installed on site. CB 1, CB 2, DMH 1 and DMH 2 were installed and backfilled including the rubber gasketed RCP pipe between the structures. The RCP pipe between DMH 2 and the water quality unit were being installed at the time of the inspection and appeared to be compliant with the contract documents.

### CONTRACTOR'S FORCE AND EQUIPMENT

### WORK DONE BY OTHERS

Sup't		Bulldozer	1	Asphalt Paver		Dept. or Company	Description of Work
Foreman	1	Backhoe	1	Asphalt Reclaimer			
Laborers	2	Loader		Vib. Roller	1		
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.	2	Bobcat		Vib. Walk Comp.	1		
Carpenters		Hoeram		Compressor			
Masons		Excavator	2	Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tree Remover			
Surveyors		Conc. Mixer		Chipper			
		Conc. Truck		Screener			
		Pickup Truck		Drill Rig			
		Dump Truck 6 Whl		Boom Lift			
		Dump Truck 10 Whl		Water Tank			
		Dump Truck 14 Whl		Lull			
		Dump Truck 18 Whl		Gradall			

### OFFICIAL VISITORS TO JOB

Police Details: n/a

### RESIDENT REPRESENTATIVE FORCE

Time on site: 12:15 P.M.-1:00 P.M.

Name

Name

CONTRACTOR'S Hours of Work:

Resident Representative Brian Marchetti

Project

Date \_\_\_\_\_

Report No.

13

Location

Project No.

Sheet 1 of

2

Contractor

Weather
---------

A.M.  
P.M. SLEET/RAIN

Temperature

A.M.  
P.M. 30's

On Monday, November 8, 2010 Brian Marchetti from Tetra Tech Rizzo visited the project site to inspect the installation of water services, the import of 3" minus dense grade fill, the installation of the storm drainage system and general site conditions.

- A. Mr. Rose was in the process of installing water services upon arrival on-site. Minimal work was conducted on-site Thursday and Friday of last week due to significant rain storms. The minimal work that was conducted involved the on-going import of dense grade material as fill for the roadway, the backfill of the drainage system up to the water quality unit and the pressure testing of the water main.
- B. Outback Engineering completed the roadway layout with 2' offsets from the proposed roadway. The water quality unit and Cultec system were not vertically located last week due to the weather conditions.
- C. Mujeeb Ahmed inquired if a compaction test was required on the proposed roadway prior to paving. TTR stated that compaction tests were not required per the construction documents, however it would be a good idea due to the fast pace of the project. Mujeeb stated he would look into having the tests performed however there may not be enough time to schedule them before paving this Friday.

### CONTRACTOR'S FORCE AND EQUIPMENT

Sup't		Bulldozer	1	Asphalt Paver		Dept. or Company	Description of Work
Foreman	1	Backhoe	1	Asphalt Reclaimer			
Laborers	2	Loader		Vib. Roller	1		
Drivers		Rubber Tire Backhoe/Loader		Static Roller			
Oper. Engr.	2	Bobcat		Vib. Walk Comp.	1		
Carpenters		Hoeram		Compressor			
Masons		Excavator	2	Jack Hammer			
Iron Workers		Grader		Power Saw			
Electricians		Crane		Conc. Vib.			
Flagpersons		Scraper		Tree Remover			
Surveyors		Conc. Mixer		Chipper			
		Conc. Truck		Screener		OFFICIAL VISITORS TO JOB	
		Pickup Truck		Drill Rig			
		Dump Truck 6 Whl		Boom Lift			
		Dump Truck 10 Whl		Water Tank			
		Dump Truck 14 Whl		Lull			
		Dump Truck 18 Whl		Gradall			

Police Details: n/a

Time on site: 12:15 P.M.-1:00 P.M.

**CONTRACTOR'S Hours of Work:**

RESIDENT REPRESENTATIVE FORCE

---

Name \_\_\_\_\_

Name \_\_\_\_\_

Resident Representative Brian Marchetti

Draft – November 23, 2010

## Memorandum of Understanding

Medway Zoning Board of Appeals  
Medway Planning and Economic Development Board  
Fox Run Farm LLC

Scope of Duties – The Medway Planning and Economic Development Board will provide oversight during the construction process of the Fox Run Farm 40B project. This will entail the following:

- fees
1. The Town's Consulting Engineer will conduct inspections of roadway and infrastructure construction in accordance with the standard schedule per the Board's *Subdivision Rules and Regs* and on behalf of the Medway Department of Public Services for installation of sewer and water service.
  2. The Board will coordinate the submittal of suitable performance security. This will initially be Subdivision Covenant which will then be replaced with another form of security (cash, bank agreement or insurance bond) at such time as the developer wishes to start house construction. Each type of performance security has its own form of agreement that the Board will execute with the developer. The Board will approve the amount of performance security based on an estimate provided by the Town's Consulting Engineer in accordance with the Subdivision Rules and Regulations.
  3. The Board will authorize lot releases at such time as the standard minimum infrastructure work is completed.
  4. Over the course of construction, the Board may reduce the amount of performance security based on a recommendation from the Town's Consulting Engineer.
  5. During the course of construction, minor field construction changes may be authorized by the Board based on the recommendation of the Town's Consulting Engineer.
  6. The Town's Consulting Engineer will review as-built plans provided by the developer's engineer.
  7. The Town's attorney will review sample deeds to ensure that properties will be properly conveyed to allow for an easy street acceptance process in the future. The developer should retain title to the roadway and all easements.

\_\_\_\_\_  
For Medway Planning and Economic Development Board

\_\_\_\_\_  
Date

\_\_\_\_\_  
For Medway Zoning Board of Appeals

\_\_\_\_\_  
Date

\_\_\_\_\_  
For Fox Run Farm LLC.

\_\_\_\_\_  
Date

DRAFT

\_\_\_\_\_ (hereinafter referred to as "approval instruments");

NOW, THEREFORE, for and in consideration of the mutual promises set forth below, and for good and valuable consideration, the parties agree as follows:

### **SECTION 1. INCORPORATION OF PREAMBLE**

The Preamble shall be incorporated into and become an enforceable part of this Covenant.

### **SECTION 2. EFFECTIVE DATE**

This Covenant shall be effective upon its execution and the recording of the Covenant by the Owner.

### **SECTION 3. RUNS WITH THE LAND**

This Covenant shall run with the land and shall be binding on all subsequent parties who have any title, interest, or rights in and to the parcel of land so divided, or a portion thereof. This Covenant shall operate as a restriction upon the land until release.

### **SECTION 4. OBLIGATIONS, DUTIES AND RIGHTS OF THE BOARD**

A. Upon construction of a portion of the ways and installation of a portion of the municipal services in accordance with the approval instruments, the Board may release the Owner from this Covenant as to those lots that are adequately serviced by the ways and municipal services so constructed, so long as the construction of ways and municipal services are, in the opinion of the Board, sufficiently secured by another method of performance guarantee as provided in M.G.L., ch. 41, section 81U. A *Certificate of Partial Release* shall be executed by a majority of the members of the Board and shall be recorded or registered at the Norfolk County Registry of Deeds by the Owner.

B. Upon completion of ways and installation of municipal services in accordance with the approved instruments, the Board shall release the owner from this Covenant and shall issue a *Certificate of Completion and Release* that shall be executed by a majority of the members of the Planning Board and shall be recorded or registered at the Norfolk County Registry of Deeds by the Owner.

### **SECTION 5. OBLIGATIONS, DUTIES AND RIGHTS OF THE OWNER**

A. The Owner shall not convey or transfer title to any lot within this subdivision, except as otherwise provided in this Covenant, until the completion of the construction of the ways and installation of the municipal services for this subdivision in accordance with the approval instruments, unless and until the Owner provides the Board with another method of securing construction of the ways and installation of the municipal services deemed sufficient by the Board.

B. The Owner shall not build upon any lot within this subdivision, except as otherwise provided in this Covenant, until the completion of the construction of the ways and installation of the municipal services for this subdivision in accordance with the approval instruments, unless and until the owner provides the Board with another method of securing construction of the ways and installation of the municipal services deemed sufficient by the Board.

C. The Owner shall complete construction of the ways and installation of the municipal services for this subdivision no later than three (3) years from this date.



D. The Owner agrees and understands that failure to complete construction of the ways and installation of the municipal services by the agreed-upon date shall result in automatic rescission of approval of the definitive subdivision plan. The Board shall forthwith carry out the rescission as provided in M.G.L., ch. 41, section 81W.

E. The Owner agrees and understands that the Board will not release this Covenant in full, unless another method of security is provided, or until the ways and municipal services have been deemed by the Board to be constructed and installed in accordance with the approval instruments, which shall include demonstration of adequate construction and installation for six (6) months prior to said release.

F. No provision of this Covenant shall prevent the Owner from varying the method of securing the construction of ways and the installation of municipal services from time to time or from securing by one, or in part by one and in part by another of the methods as provided in M.G.L., ch. 41, sections 81U, as long as the Board deems the method or methods chosen for securing the construction of ways and the installation of municipal services as sufficient.

G. The Owner shall at all times provide the Board *forthwith (no more than 14 days after transfer of title)* with the name of the current owner or owners of this subdivision or portions thereof and the address of such owner or owners, except that lots released from the provisions of this Covenant are exempt. The Owner agrees and understands that failure to comply with this provision could result in rescission of approval of the definitive subdivision plan.

H. The Owner shall at all times provide the Board *forthwith (no more than 14 days after transfer of title)* with the name of any mortgagee or mortgagees of this subdivision or portions thereof and the address of such mortgagee or mortgagees, except that lots released from the provisions of this Covenant are exempt. At the time of executing this Covenant, the mortgagee(s) of this subdivision is/are NONE, whose address is/are N/A. The Owner agrees and understands that failure to comply with this provision could result in rescission of approval of the definitive subdivision plan.

I. The Owner shall record or register the approved and endorsed definitive subdivision plan; this Covenant, upon its execution; and any certificates of release of this covenant, or portions thereof, at the Norfolk County Registry of Deeds and forthwith provide the Board with written evidence thereof. The Owner further agrees to pay the costs of such recordings.

#### **SECTION 6. MORTGAGEES AND SUCCEEDING OWNERS**

Nothing in this Covenant shall preclude the Owner from mortgaging the entire parcel of land, or a portion thereof, which constitutes this subdivision. If the mortgagee acquires title to the entire parcel of land, or a portion thereof, shown on the approved definitive subdivision plan, through foreclosure or by other means, such as accepting a deed in lieu of foreclosure, then the mortgagee and any succeeding owner of the land transferred by the mortgagee may sell any lot, subject to that portion of this Covenant which provides that no lot shall be built upon until the ways are constructed and the municipal services are installed to serve such lot. Said mortgagee and any succeeding Owner shall be subject to all other applicable provisions of this Covenant and any amendments thereto.

#### **SECTION 7. CONVEYANCE OF LAND OR LOTS SUBJECT TO COVENANT**

Nothing in this Covenant shall preclude the owner from conveying by a single deed, the entire parcel of land shown on the approved definitive subdivision plan, or all lots not previously released from the terms of this Covenant by the Board, so long as the deed provides that the land conveyed is subject to this Covenant, and any amendments thereto, with proper reference to the book and page where this covenant, and any amendments thereto are recorded or

registered at the Norfolk County Registry of Deeds. A deed of any part of the subdivision in violation of this Covenant, or any amendments thereto, shall be voidable by the grantee prior to the release of this Covenant no later than three (3) years from the date of such deed.

#### **SECTION 8. BINDING EFFECT**

This Covenant, and any amendments thereto, shall be binding on the Owner, the Owner's agents and representatives, and any successors to the Owner's title interest, and rights in the parcel of land constituting this subdivision, including executors, administrators, devisees, heirs, successors and assigns of the owner.

#### **SECTION 9. USE OF TERMINOLOGY**

Use of the term "Owner" in this Covenant is for convenience only and should not be considered as a limitation on those parties who may be subject to and bound by the provisions of this Covenant and any amendments thereon. Use of the term "Planning Board or Board" in this Covenant is for convenience only and may include agents or representatives of the Planning and Economic Development Board.

#### **SECTION 10. APPOINTMENT OF AN AGENT**

If someone other than the Owner will represent the Owner, the Owner must designate such representative below.

Name of representative: N/A

Address of representative: \_\_\_\_\_

Telephone #: Days \_\_\_\_\_ Evenings \_\_\_\_\_

Relationship of representative to Owner: \_\_\_\_\_

In executing this Covenant, I hereby authorize the person or persons named above to represent my interest before the Planning Board with respect to the subdivision that is the subject of this Covenant.

#### **SECTION 11. AMENDMENTS**

This Covenant may be amended, in writing, by agreement of all of the parties to this Covenant.

#### **SECTION 12. GOVERNING LAW**

This Covenant, and any amendments thereto, shall be governed by the laws of the Commonwealth of Massachusetts.

#### **SECTION 13. SEVERABILITY**

If a court of competent jurisdiction determines that any provision of this Covenant is unenforceable, such determination shall not affect the remaining provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, I, the Owner, hereby certify under the pains and penalties of perjury that the information contained in this Covenant is true and complete; and we, the parties to this Covenant, set our hands and seals to this Covenant on the date(s) written below.

We, the Owner and his/her spouse, as far as necessary, hereby release all rights of dower, curtesy, or homestead, or any other interests that we may have in the parcel of land that constitutes the subdivision.

**OWNER**

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Date

By: \_\_\_\_\_

Its: \_\_\_\_\_

Duly authorized

\_\_\_\_\_  
Witness

COMMONWEALTH OF MASSACHUSETTS

Norfolk, SS. \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_

\_\_\_\_\_, Owner, or person duly authorized to execute this Covenant on behalf of the Owner, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily and for its stated purpose.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**OWNER'S SPOUSE**

N/A \_\_\_\_\_

Signature of Owner's Spouse

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

COMMONWEALTH OF MASSACHUSETTS

Norfolk, SS. \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned notary public, personally appeared the above named \_\_\_\_\_,

proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily and for its stated purpose.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD**

_____	_____	_____
Member	Date	Witness
_____	_____	_____
Member	Date	Witness
_____	_____	_____
Member	Date	Witness
_____	_____	_____
Member	Date	Witness

COMMONWEALTH OF MASSACHUSETTS

Norfolk, SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned notary public,  
personally appeared the above named \_\_\_\_\_

\_\_\_\_\_

proved to me through satisfactory evidence of identification, which was \_\_\_\_\_

\_\_\_\_\_

to be the person(s) whose name is signed on the preceding or attached document, and  
acknowledged to me that \_\_\_\_\_ signed it voluntarily and for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:

## LAND SUBDIVISION – FORM C-4

### **Application/Petition to Revise a Previously Approved Definitive Subdivision Plan**

**Planning & Economic Development Board - Town of Medway, MA**

#### **INSTRUCTIONS TO APPLICANT/PETITIONER**

*This Application/Petition is made pursuant to the Medway Planning Board's Subdivision Rules and Regulations.  
Please complete this entire Application/Petition.*

1. *Submit two (2) signed originals of the Application/Petition and one (1) copy of the proposed Revised Definitive Subdivision Plan to the Town Clerk who will date stamp both original Applications.*
2. *Provide one (1) original Application/Petition date stamped by the Town Clerk, ten (10) copies of the proposed Revised Definitive Subdivision Plan, the appropriate Filing Fee, and an advance of the Plan Review Fee to the Medway Planning & Economic Development Board.*

*The Town's Planning and Engineering Consultants will review the Application/Petition and the proposed Revised Definitive Subdivision Plan. You or your duly authorized Agent/Official Representative will be expected to attend the Planning & Economic Development Board meeting at which your Application will be considered to answer any questions and/or submit such additional information as the Board may request. Your absence may result in a delay in its review.*

\_\_\_\_\_, 20\_\_\_\_

**TO: The Planning & Economic Development Board of the Town of Medway, MA**

The undersigned herewith petitions the Town of Medway Planning & Economic Development Board to **REVISE** a previously approved Definitive Subdivision Plan of property located in the Town of Medway.

#### **ORIGINAL DEFINITIVE SUBDIVISION PLAN INFORMATION**

Plan Title: FRANKLIN CREEK

Prepared by: LAND PLANING, INC.

Of: BELLINGHAM

Plan Date (and revision dates): 6-22-2005.

Approved by the Planning Board on: \_\_\_\_\_

OR/Constructively approved by Town Clerk's certificate on: \_\_\_\_\_

Approval endorsed by the Planning Board on: \_\_\_\_\_

Recording information: Date: \_\_\_\_\_

Plan #: \_\_\_\_\_ Book: \_\_\_\_\_ Page: \_\_\_\_\_

Certificate of Action: Book: \_\_\_\_\_ Page: \_\_\_\_\_

Total Acreage of Land: 118,082 sq ft Original Zoning Classification: District 11

The original definitive subdivision plan showed the division of land into 3 building lots numbered 2, 4 and 6 parcels not intended for building thereon to be used as:  
Residential homes

Was the original plan for the proposed street (s) to be?

☒ Permanently privately owned

☐ Publicly accepted

Approved Street Names: FRANKLIN CREEK LANE

Utilities:

☒ Town water ☐ Private well

☒ Town sewer ☐ Private septic

### PETITIONER INFORMATION

Petitioner's Name: WOOD STRUCTURE CONSTRUCTION INC.

Petitioner's Address: 326 MAIN ST.  
MEDFIELD, MA 02052

Name of Primary Contact: MARKO VAJENTIC

Telephone: (508)-359-9940 FAX: (508)-359-1731

Email address: info@woodsc.net

Describe Petitioner's Interest in subdivision: OWNER & DEVELOPER

Official Representative's Name: MARKO VAJENTIC

Address: 326 MAIN ST. MEDFIELD, MA 02052

Telephone: (508) 359-9940 FAX: (508) 359-1731

Email address: info@woodsc.net

### ORIGINAL APPLICANT INFORMATION

Applicant's Name: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Name of Primary Contact: \_\_\_\_\_

Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

### PRESENT SUBDIVISION OWNER INFORMATION

Please complete only if the original applicant and present owner are not the same person or entity.

Present Owner's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name of Primary Contact: \_\_\_\_\_

Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

### CONSULTANT INFORMATION

Engineer: LAND PLANNING, INC. BILL

Address: 167 HARTFORD AVE.

BELLINGHAM, MA 02019

Primary Contact: BILL

Telephone: 508-966-4130 Fax: 508-966-5054 Email: bellingham@landplanninginc.com

Surveyor: SAME

Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

### CURRENT INFORMATION

This is a petition/motion to **REVISE** a previously approved definitive subdivision plan.

How will the plan be changed? SEGMENTED blocks in place of Field Stone.

What sheets in the original plan set are to be changed? E3

Does the proposed **REVISION**:

Change the roadway layout/right of way? \_\_\_\_\_ Yes ☒ No

Change any lot lines? \_\_\_\_\_ Yes ☒ No

Attach a letter/detailed explanation/justification as to **WHY** the plan needs to be revised.

Title of Revised Plan: RETAINING WALL

Prepared by: LAND PLANNING, INC. (Bill)

Of: LAND PLANNING INC.

Plan Revision Date: 9/24/10

Current Medway Zoning District Classification: AGRICULTURAL & Residential District II  
Frontage Requirement: 150 Area Requirement: 22,500 sq ft

**Scenic Road**

Does any portion of the subdivision have frontage on a Medway Scenic Road?

☐ Yes ☒ No If yes, please name: \_\_\_\_\_

**Wetlands**

Is any portion of the site within a Wetland Resource Area?

☒ Yes ☐ No

**Groundwater Protection**

Is any portion of the site within the Groundwater Protection Overlay District?

☐ Yes ☒ No

**Flood Plain/Wetland Protection District**

Is any portion of the site within the Flood Plain/Wetland Protection Overlay District?

☐ Yes ☒ No

**SIGNATURES**

I hereby certify, under the pains and penalties of perjury, that the information contained in this application is true, accurate and complete to the best of my knowledge and belief. If applicable, I hereby authorize Nonstewart Co. Inc. to serve as my Agent/Official Representative to represent my interests before the Medway Planning & Economic Development Board with respect to this application/petition to Revise a Previously Approved Definitive Subdivision Plan.

I agree to abide by the current Medway Planning Board's *Rules and Regulations for the Review and Approval of Land Subdivisions*. In submitting this application, I authorize the Planning & Economic Development Board, its staff and agents, to access the site during the plan review process

  
Signature of Petitioner

9/24/10  
Date

\_\_\_\_\_  
Signature of Agent/Official Representative

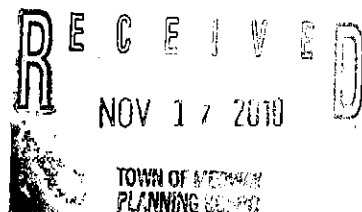
\_\_\_\_\_  
Date

**FEES**

Filing Fee - \$250

Advance on Plan Review Fee - \$500

Please submit 2 separate checks each made payable to: Town of Medway





**Date Form C-4 & Revised Definitive Subdivision Plan  
Received by Planning & Economic Development Board**

Filing Fee Paid: Date: 11-17-10 Amount: \$250 Check # 1459

Advance on Plan Review Fee Paid:  Date: \_\_\_\_\_ Amount: \_\_\_\_\_ Check # \_\_\_\_\_

**Date Form C-4 & Revised Definitive Subdivision Plan  
Received by Town Clerk**

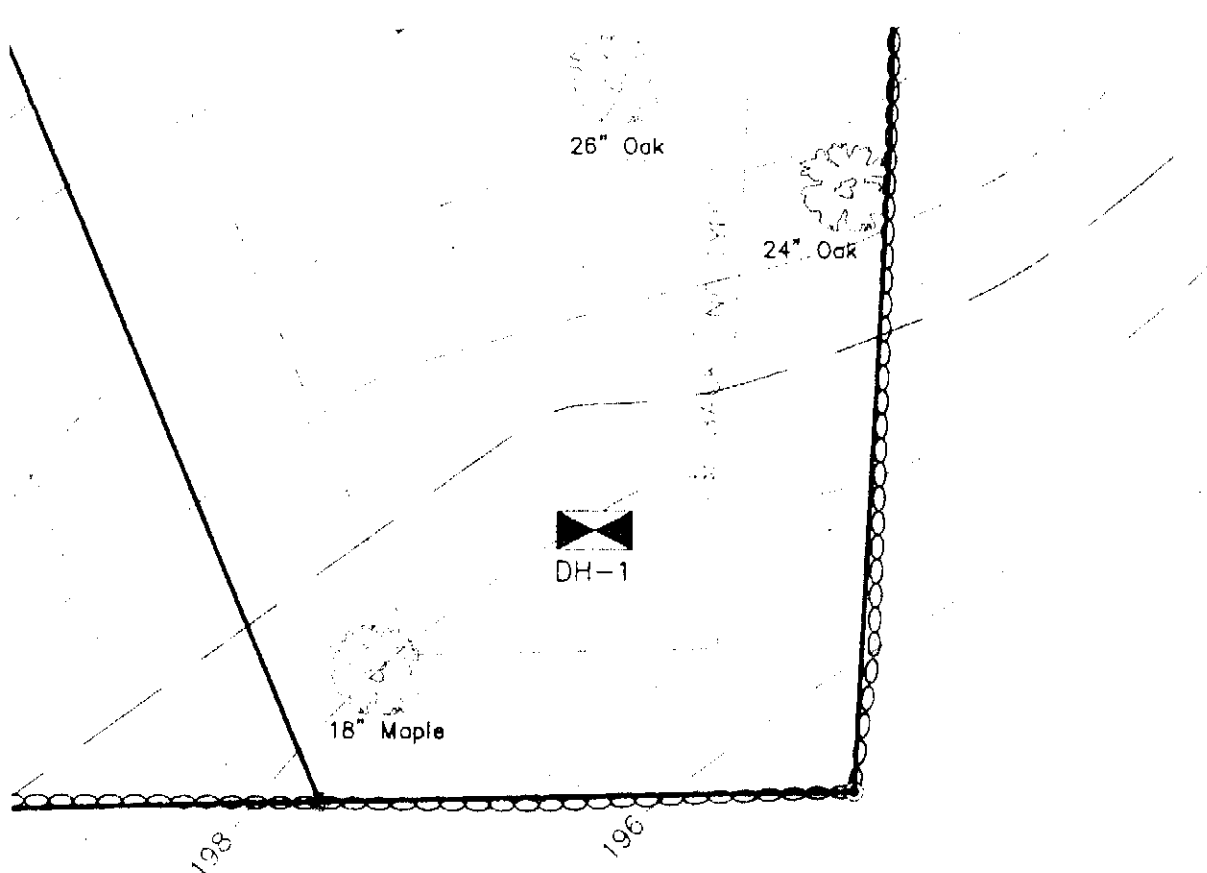
**PROPOSED REVISION TO DEFINITIVE SUBDIVISION PLAN  
SUBMITTAL DOCUMENTS CHECKLIST**

**Town Clerk**

- ☒ One (1) signed original Application/Petition – Form C-4
- ☒ One (1) copy of proposed Revised Definitive Subdivision Plan

**Planning & Economic Development Board**

- ☐ One (1) signed Original Application/Petition – Form C-4  
(Date Stamped by Town Clerk)
- ☒ Letter/Written explanation why the plan needs to be changed.
- ☒ Ten (10) copies of proposed Revised Definitive Subdivision Plan prepared  
in accordance with Section 5.6 and 5.7 of the *Subdivision Rules and Regulations*
- ☒ Filing Fee (\$250) - Payable to Town of Medway
- ☐ Advance of Plan Review Fee (\$500) – Payable to Town of Medway



Tina

# SITE PLAN

## FRANKLIN CREEK

### DEFINITIVE PLAN

#### A PRIVATE WAY SUBDIVISION

LOCATED AT  
18 FRANKLIN STREET  
MEDWAY, MASSACHUSETTS

OWNER/ APPLICANT  
WOODSTRUCTURE CONSTRUCTION

CHECKED	
GN	CHECKED
	NGH
	NGH
	NGH
	NGH



## LAND PLANNING, INC.

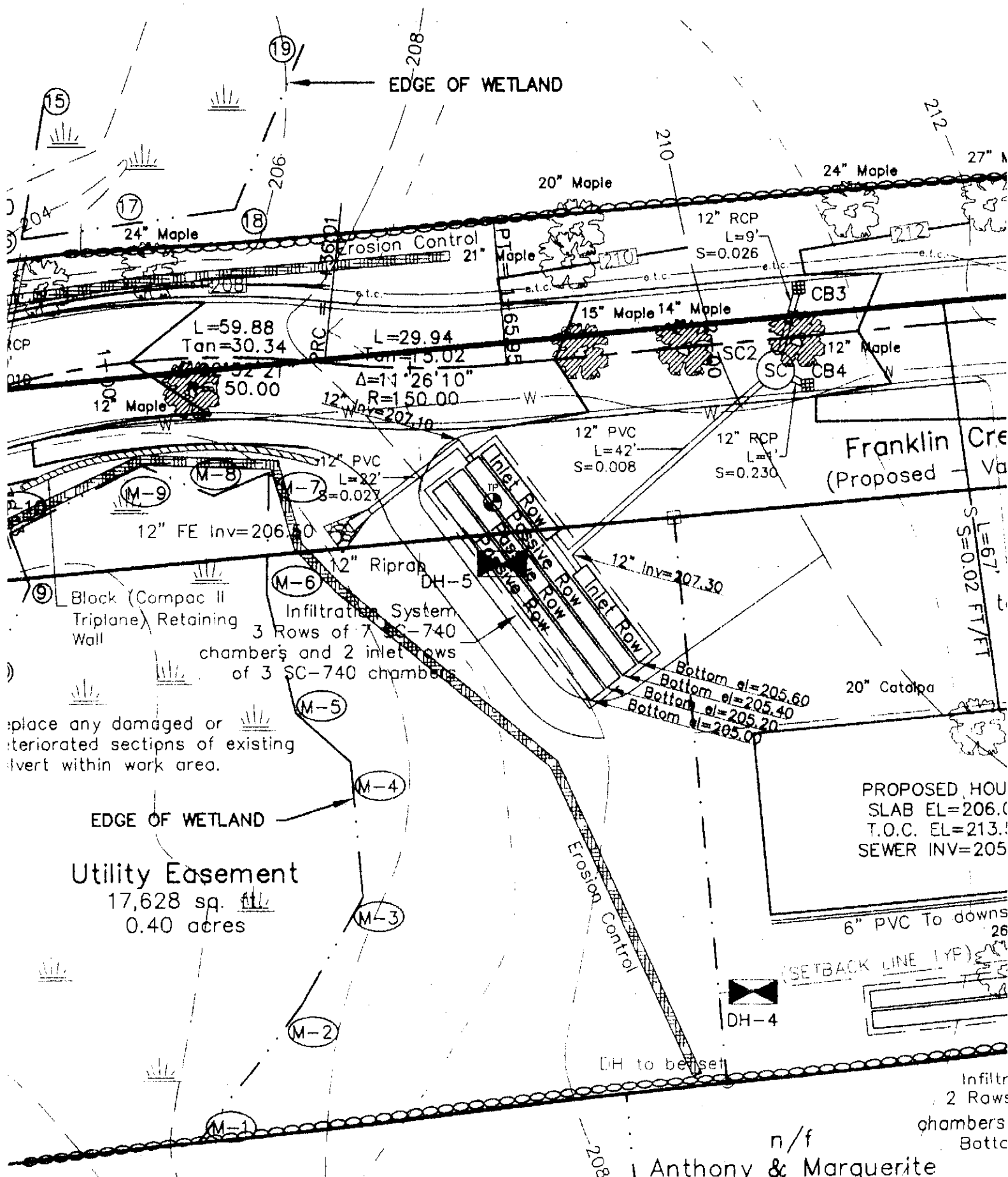
CIVIL ENGINEERS • LAND SURVEYORS  
ENVIRONMENTAL CONSULTANTS

**BELLINGHAM:** 167 HARTFORD AVE. 02019 (508) 966-4130  
**N. GRAFTON:** 214 WORCESTER ST. 01536 (508) 839-9526  
**HANSON:** 1115 MAIN STREET 02341 (781) 294-4144  
**HOLDEN:** P.O. BOX 644 01520 (508) 829-3006

DATE  
JULY 22 2005

JOB NO.  
R1730

SHEET NO.  
2



Black (Compac II Triplane) Retaining Wall

replace any damaged or deteriorated sections of existing invert within work area.

L=59.88  
 Tan=30.34  
 Δ=11'26"10"  
 R=150.00  
 W=207.10

L=29.94  
 Tan=15.02  
 Δ=11'26"10"  
 R=150.00  
 W=207.10

**Franklin Cre**  
 (Proposed - Va

**PROPOSED HOUSE**  
 SLAB EL=206.0  
 T.O.C. EL=213.0  
 SEWER INV=205

n/f  
 Anthony & Marguerite



## *Commonwealth of Massachusetts*

### **Joint Committee on Municipalities and Regional Government**

#### **Comprehensive Land Use Reform and Partnership Act**

#### **Description of Sections**

**May 18, 2010**

#### **Overview of the bill:**

The bill proposes changes to three existing sections of Massachusetts General Law and creates one new chapter.

- Offers clarity and updating of Chapter 40A (The Zoning Act), Section 81D of Chapter 41 (the master plan) and portions of Chapter 41 (The Subdivision Control Law).
- Creates a new statute in the Massachusetts General Laws, Chapter 40U, that offers additional powers, practices, and preferences to communities that "opt-in" to certain additional performance standards consistent with the state's sustainable development principles.

#### **Specific Provisions For All Communities:**

- **Section 1. The Zoning Act (Chapter 40A)**

The bill reorganizes and consolidates Chapter 40A (the Zoning Act) going from 17 to 11 sections. Like topics are grouped for easier access. Presentation is in outline format with the use of reader-friendly headings. The bill leaves significant portions of the state's zoning laws intact, while also providing substantive zoning updates to all communities. Among these changes are:

- **Construction and Purposes.** The bill adds new language to clarify the construction and purposes of zoning in Massachusetts. The bill clearly reiterates the home rule powers of cities and towns -- while recognizing the legislature's role in limiting the exercise of home rule authority in order to promote overriding state interests. The bill recognizes that legitimate property rights and constitutional principles should not be violated by local land use regulations.
- **Consistency.** The bill requires that zoning ordinances and by-laws not be inconsistent with an adopted master plan under c. 41, § 81D. A seven year grace period is available to comply, and a city or town without a plan may instead adopt an existing regional plan.
- **Mansionization.** Eliminates the prohibition on the regulation of maximum interior area of a single family dwelling
- **Exclusionary practices.** A bar on exclusionary zoning practices has been added.
- **Vesting.** The complete zoning freeze for subdivision plans has been modified to also include building and special permits, and standardized so all three approvals are treated similarly. Thus, a development project proposed in a building permit, special permit, or definitive

subdivision plan duly applied for prior to the date of adoption of a zoning change will be governed by the zoning then in effect for a period of 2, 3, or 8 years, respectively. A minor subdivision will be treated as a definitive subdivision plan under this section, but with a 3 year zoning protection period.

- Adoption of zoning bylaws. The two-thirds super majority vote remains the default to adopt or amend zoning ordinances or by-laws, but a lesser majority vote now may be prescribed in a zoning ordinance or by-law. Such a reduction in vote majority must itself be adopted by a two-thirds vote of the local legislative body, and the change shall not become effective until 6 months have elapsed after the vote.
- Special Permits. The required vote majority necessary to approve a special permit now may be reduced by ordinance or by-law. The effective duration of a special permit is set at no shorter than three years (which matches the period of vested rights for a special permit described above). Finally, a process for the extension of a special permit is established.
- Site Plan Review. A new sub-section places this common zoning approval within the Zoning Act for the first time, affirming that site plan review is a process for uses allowed by-right, distinct from discretionary uses subject to a special permit. A time limit of 95 days is set for the review, subject to mutually-agreed-upon extensions. Public hearings are optional. A site plan shall be approved if it meets the three stated criteria, although reasonable conditions and limitations may be imposed. An approved site plan shall have an effective duration of no shorter than two years. Consultant fees to assist the board in its review may be assessed of an applicant. A site plan, when required in conjunction with a discretionary review, such as special permit, shall be integrated into the processing of the application for the special permit and not made the subject of a separate proceeding.
- Variances. The criteria for granting variances under the old statute were so narrowly drawn that a lawful variance was difficult to grant in Massachusetts. Consequently, some communities that adhered to the statute granted few if any variances, while others, ignoring the statute out of perceived necessity, granted many variances according to no set standards. This subsection seeks to find a middle ground by setting reasonable criteria for variances while still maintaining a community's discretion to condition or deny a variance. The effective life of a variance is extended from one to two years before it lapses if not used, and the permissible extension increases from six months to one year.
- Standard Procedures. Standard procedures for zoning applications, hearings, and decisions were organized and clarified from various sections of the old c. 40A. Unless otherwise indicated elsewhere in the Zoning Act these are the default procedures to be followed.
- Inclusionary Zoning. The bill provides parameters for zoning measures that require the creation of affordable housing in development projects. It encompasses the wide array of such techniques used currently in the state. Subject to granting authority approval, off-site units, land dedication, or funds may also be provided in lieu of on-site dwelling units. Dedicated accounts may be set up for this purpose. Any dwelling units created under this statute must be price-restricted for no less than 30 years. Inclusionary zoning ordinances or by-laws may require all or a portion of the units created be eligible for inclusion on the community's Subsidized Housing Inventory.
- Development impact fee. The bill establishes that development impact fees are permissible if in accordance with this subsection, which is based upon a number of in-state and out-of-state models. Communities following the requirements of this subsection will have defensible impact fee ordinances or by-laws that are less prone to being overturned. Public capital facilities for which impact fees may be assessed are listed. Municipal expenses ineligible for the application of impact fees, such as maintenance or salaries, are also listed.

Affordable housing subject to a restriction on sale price or rent is exempt from being assessed an impact fee. The planning and study prerequisites to the adoption of an impact fee ordinance or bylaw are detailed, as is fiscal administration of an impact fee program.

- Dispute Resolution. This new subsection sets out the procedure for a voluntary land use dispute resolution process utilizing a neutral facilitator to help resolve conflicts stemming from an application for a land use permit.
- Mediation of land use appeals. A voluntary mediation process is allowed which stays an appeal for at least 180 days, and longer if extended.

- **Section 2. Master Plans (amends Chapter 41 Section 81D)**

The bill proposes significant amendments to the section of law that requires municipalities to plan for their community's future. Specifically, the revised Section:

- Reiterates the existing requirement for communities to create a master plan, and states that plans should be updated or extended every ten years.
- Reduces the number of required planning elements from nine to five as follows: goals and policies, housing, natural resources and energy, land use and zoning, and implementation.
- Articulates six other, optional elements which may be added at the community's discretion; certain of which are required in order to adopt a development impact fee ordinance or bylaw or to opt-in to the provisions of Chapter 40U (see below).
- Requires a self assessment of consistency with an adopted regional plan.
- Authorizes "partnership plans" described in new Section 40U.
- Requires final adoption of a master plan and component by the local legislative body by a simple majority vote.
- Requires a public hearing prior to vote on the master plan.
- Encourages, but does not require certification by the regional planning agencies, unless the master plan includes a partnership plan, in which case certification is required.

- **Sections 3-18. Subdivision Control Law (amends Chapter 41)**

The bill makes selected amendments to the Subdivision Control Law:

- Minor subdivisions. Allows, by local option, the replacement of approval not required ("ANR") with a carefully crafted minor subdivision law.
- Minor Lot Line Changes. Establishes a new, streamlined method for making minor lot line changes.
- Parks and Playgrounds. Allows towns to require that parks and playgrounds not exceeding 5% of the subdivision's area within the new neighborhood.
- Consistency. Requires subdivision regulations not be inconsistent with master plans.
- Roadway Width. Establishes a presumption that requirements for roadway widths of greater than 24 feet are excessive.

- Appeals. Introduces standards for appellants of a decision by the planning board on subdivision approval.
- Submittal of Plans. Establishes new submittal requirements for subdivision plans

### **Provisions for Partnership Communities (Communities that "Opt In")**

- **Section 19. Land Use Partnership Act (New Chapter 40U)**

The bill creates a new statute in the Massachusetts General Laws -- Chapter 40U, The Land Use Partnership Act -- that offers additional powers to "partnership communities" that, by local option, adopt a partnership plan and implementing regulations to satisfy additional performance standards consistent with the state's sustainable development principles.

- A process is established through which municipalities can become "partnership communities" by adopting partnership plans and implementing regulations that meet not only the basic requirements of Chapter 41 Section 81D but also additional performance standards.
- The partnership plans and implementing regulations must receive certification of the regional planning agency, determining that they meet minimum standards and consistency.
- For the first five years of the program, certification will be met if the municipality adopts a partnership plan and implementing regulations that satisfy the following. Subsequently, certification requirements may be set forth in regulations promulgated by an Interagency Planning Board.
  - Prompt and predictable permitting of commercial and industrial development within one or more economic development districts
  - Prompt and predictable permitting of residential development within one or more residential development districts that collectively can accommodate a number of new housing units equal to a housing target number equal to five percent of the total number of year round housing units in the community.
  - Prompt and predictable permitting of renewable or alternative energy generating facilities, renewable or alternative energy research and development facilities, or renewable and alternative energy manufacturing facilities within one or more zoning districts that are eligible locations.
  - A requirement for use of open space residential design for any development of 5 or more housing units in districts where the minimum lot area exceeds 40,000 square feet.
  - A requirement for low impact development techniques for any development that disturbs more than one acre of land
- Once a city or town becomes a Partnership Community, that community shall enjoy, in addition to those powers enumerated to all cities and towns in Chapter 40A, the following additional powers:
  - Rate of development. The power to regulate the rate of development

- Natural Resource Protection Zoning. The power to protect natural resources by limiting development densities in areas designated by the state or municipality as having important natural or cultural resource values.
- Vested Rights. The vesting period for a definitive subdivision plan would be reduced from eight years to four years.
- Development Agreements. The power to enter into development agreements that function as a bona fide local land use regulation.
- Development impact fees. Development impact fees authorized under Section 9F of Chapter 40A could be used to defray the costs of public elementary and secondary schools, libraries, municipal offices, affordable housing, and public safety facilities.
- Priority for infrastructure funding. Partnership Communities would receive priority in the awarding of discretionary funds for local infrastructure improvements and other programs
- Planning technical assistance. It is intended that technical assistance grants be offered to municipalities to assist in the preparation of partnership plans and implementing regulations.



## ***Medway Planning and Economic Development***

### **IDEAS for ZONING BYLAW AMENDMENTS & OTHER POSSIBLE TOWN MEETING WARRANT ARTICLES**

UPDATED 9-22-10

<b><i>I. On-Going Substantive Zoning Work</i></b>	<b><i>NOTES</i></b>	<b><i>Priority for 2011ATM?</i></b>	<b><i>Lead Person</i></b>
A. Town Center/Commercial Mixed Use – 40R Overlay	Recommended in 2009 Master Plan		
B. Expand east side industrial park (Industrial I) - Rezone part of ARI			
C. Rezone area on Route 126/Main/Village Streets near Bellingham for business uses	What kind of uses would you want here?		
D. Traditional Neighborhood Design Overlay District	Draft completed by Gino Carlucci (2007 Smart Growth Grant); Recommended in 2009 Master Plan		
E. Oak Grove/Bottle Cap Lots - 40R Overlay			

<b>II. Zoning Amendment Recommendations from the 2009 Master Plan</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
A. Establish a Transfer of Development rights option	Model bylaw available		
B. Establish a Wildlife Habitat Corridor Overlay Zoning District			
C. Adopt zoning to encourage mixed use development such as apartments above retail – also known as Top of Shop zoning			
D. Rezone property along Route 109 near Millis, at intersection of Routes 109/126, around the Police Station, and at Clark and Route 109 for new office space construction with residential appearance			
E. Create a new zoning classification for office space and light industry			
F. Rezone properties that are no longer suitable for industrial uses			
G. Review zoning to assure that design standards are consistent with master plan vision			
H. Create an overlay district to provide for mixed uses along portions of Village Street that will preserve historic and scenic areas where mixed uses already exist	This could be similar to the existing AUOD along Main Street – maybe this could be the same zoning and just offer it in another area		
I. Review/revise zoning for high volume drive thru businesses to reduce or eliminate such uses because of safety concerns			

<b><i>II. Zoning Amendment Recommendations from the 2009 Master Plan</i></b>	<b><i>NOTES</i></b>	<b><i>Priority for 2011 ATM?</i></b>	<b><i>Lead Person</i></b>
J. Review zoning to ensure that aquifers, wellheads and watershed areas are preserved – expand protection area around wells			
K. Rezone parcels for optimal use and Town benefit, especially areas adjacent to currently zoned industrial property			

<b>III. Zoning Amendment Recommendations from 1999 Master Plan that Haven't Been Addressed</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
<p>A. Look at Commercial III (around Town Hall) and Commercial IV (around the Police Station) zones.</p> <ul style="list-style-type: none"> <li>• Evaluate the possibility of expanding boundaries of these zones and ways to strengthen the "village characteristics",</li> <li>• encourage preservation/ adaptive use and allow for mixed uses . . . similar to AUOD on Main Street/ Route 109.</li> <li>• Interface with Medway Historic Commission re: the new Medway Village National Register Historic District in the Commercial District III area.</li> </ul>	<p>These districts do not provide for any residential uses other than the construction of new single family homes</p>		
<p>B. Rezone contaminated lands for economic development.</p>			
<p>C. Create option for Neighborhood Conservation Districts (Zoning or general bylaw?)</p>			

<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
A. Add/revise DEFINITIONS as requested/suggested by John Emidy, Building Commissioner/ZEO): <ul style="list-style-type: none"> <li>• trailer</li> <li>• lot</li> <li>• parcel</li> <li>• street lot line</li> <li>• rear lot line</li> <li>• front lot line</li> <li>• side lot line</li> <li>• setback</li> <li>• frontage</li> <li>• farm</li> <li>• agricultural use</li> <li>• accessory family dwelling unit</li> <li>• industrial use</li> <li>• storage</li> </ul>			
B. Revise new Commercial I <ul style="list-style-type: none"> <li>• link special permits to site plan review; criteria, etc. to streamline and consolidate review process;</li> <li>• change authority so special permits are issued by the PB in conjunction with site plan review</li> </ul>	Work with Karen Johnson/ Charter Realty & Development		
C. OSRD – Revisit formula re maximum # of units and open space; strengthen integrity of 4 step design process			
D. Establish Use & Dimensional Tables – Requested by Building Commissioner John Emidy			
E. Modify Affordable Housing Infill Bylaw to allow it to be used on undersized (but neighborhood compatible) parcels created thru ANR process			

<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
F. Large Lot Zoning – Allow a single family home to be constructed on an oversize lot with less frontage than normally required with an automatic permanent deed restriction against future subdivision (by right or special permit?)	Many samples available from other towns.		
G. Create a new Village Residential (VR) zoning district for portions of ARII that are already more dense than the present ARII standards (150' frontage and 22,500 sq. ft of area)	This would better match the zoning text to the actual uses/sizes on the ground		
H. Contractor's Yards (outdoor) – Define and authorize as a by right use in Industrial I; not allow in residential districts at all (or allow by special permit???)			
I. Signs <ul style="list-style-type: none"> <li>• Pull sign provisions from zoning and convert to a general bylaw</li> <li>• Establish specific sign provisions for Medway Mill</li> <li>• Require DRC approval of sign design</li> </ul>			
J. Strengthen buffer requirements in commercial and industrial zoning districts where such are adjacent to residential districts			
K. Exempt Uses – Any clean-up or improvements needed (after having gone thru a limited site plan with the Marian Community's lodging center/retreat facility)??			

<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
M. Commercial I – revise zoning setback requirements			
N. Establish a setback requirement ( <i>from side lot lines</i> ) for driveway locations. (Requested by Bob Klein – 533-6212). He suggests a 6' setback.	Is this a zoning matter? Perhaps it might be better addressed in the <i>Subdivision Rules and Regs</i> and/or the DPS street opening permit requirements		
O. Noise standards			
P. Adaptive Use Overlay District – require adequate Main Street sidewalks or payment in lieu of construction			

<b>V. Zoning Map - Clean-Up Zoning District Boundaries</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
A. South side of Coffee Street near Main Street (Change from ARI to ARII)			
B. Southeast corner of Summer and Highland Streets. (Change from ARI to ARII)			
C. Refine ARI and ARII boundary near Brandywine Terrace east to Winthrop Street			
D. Refine ARI and ARII on east side of Winthrop Street north of Adams Street up to Lovering St.			
E. Refine boundary of ARII district along Lovering Street			
F.			
G.			
H.			
I.			



<b>VI. OTHER POSSIBLE TOWN MEETING WORK</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead</b>
A. Amend CPC Bylaw – Adjust composition of the CPC to include representative of the Open Space Committee			
B. General Bylaw/or article to authorize BOS to accept conveyance of land or interests therein when such is already provided for in a decision by the PB, ZBA or ConCom (instead of having to go to town meeting) – Medfield example; recommended by Mark Cerel			
C. General Bylaw - Right to Farm (recommended in 2009 Medway Master Plan)			
D. General Bylaw – Ban underground sprinkler systems (recommended in 2009 Medway Master Plan)			
E. Something on business hours of operation??? – Prohibit or regulate 24 hour operations.			

**December 14, 2010  
Medway Planning and Economic Development Board  
155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Chan Rogers, Tom Gay, Bob Tucker (arrived at 8:20 p.m.) and Karyl Spiller-Walsh.

**ABSENT WITH NOTICE:**

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Amy Sutherland, Meeting Recording Secretary  
Gino Carlucci, PGC Associates Planning Consultant  
Dave Pellegrini, Tetra Tech Rizzo

The Chairman opened the meeting at 7:05 pm.

**Northeastern Benchmark Study:**

Susy Affleck-Childs will be setting up a meeting to review the results of the Northeastern University Economic Development Self Assessment Tool Benchmark Study. The Economic Development Committee will be invited to this meeting.

**Minutes November 23, 2010:**

**On a motion made by Chan Rogers and seconded by Tom Gay, the minutes from November 23, 2010 were accepted unanimously as written.**

**Minutes November 16, 2010:**

The minutes of November 16, 2010 will be tabled until the next meeting to make the recommended revisions.

**REPORTS**

**DOER Green Communities Program**

The Town is waiting to learn if it has been designated as a Green Community. The designation has not been determined yet.

**Medway Affordable Housing Trust:**

The Board is in receipt of a draft 5 year action plan for the Medway Affordable Housing Trust for Fiscal Year 2012-2016 prepared by the Medway Affordable Housing Committee.

**Zoning Bylaw Amendments:**

The Board had a discussion about possible Zoning Bylaw amendments to be worked on for the 2011 Annual Town Meeting. **See Attached list.** The following recommendations were noted:

- Duplex residential housing living by right
- Reviewing the OSRD and large lot zoning and looking at the back land
- Further review of contractors yard
- Exempt uses
- Commercial Land Use
- Site Plan Review
- Overlay District

Susy Affleck-Childs informed the Board that there are new flood plans being updated and those updates will need to be referenced in the zoning bylaw and new zoning maps. Gino Carlucci will be working on that project.

Member Rogers will be meeting with the Building Commissioner, John Emidy on zoning bylaw ideas and Rogers will report back to the Board.

Susy Affleck-Childs will be meeting with Gino Carlucci to begin work on drafting text.

### **PUBLIC HEARING CONTINUATION - Charles River Acres Open Space Residential Development**

The Chairman opened the continued hearing.

The Chairman indicated that member Tucker will be arriving late, but will be using the Mullin Rule to make up for his partial absence. He will be reviewing the tape and audio.

The Chairman took a telephone call from member Tucker at 7:36 pm regarding his attendance status. Mr. Tucker expects to be at the meeting in an hour.

The Board is in receipt of an email from Mr. Yorkis dated December 9, 2010. **(ATTACHED)**  
The email makes reference to six points which the applicant would like to know the Board's agreement and/or preference relative to:

1. Neelon Lane being 25' wide and is a statutory public way.
2. The second area is relative to the use of Neelon Lane as the primary access point for the subdivision is acceptable.
3. The applicant is also seeking agreement that the applicant's most recent proposal showing Neelon Lane as the primary access point for the subdivision is acceptable. The Board is not ready to make a determination in relation to this item.
4. The construction of a 3' wide paved sidewalk within the emergency access connecting the proposed subdivision to Cherokee is acceptable.
5. The plan set entitled "Charles River Village" as revised September 24, 2010 is acceptable.
6. The proposed access points to the open space within the proposed 13 unit OSRD subdivision revised September 24, 2010 is acceptable.

The applicant would like to submit a final set of plans noting the Board's preferences for the Board to review at the next meeting.

After the Board reviewed the email, the applicant asked the Board to hold off on responding to the various items until Tetra Tech provided their recommendations.

The Chairman indicated the Board is not ready to make a determination that using Neelon Lane as the primary access point for the subdivision is acceptable.

**Tetra Tech:**

The Board is in receipt of a memo from Robert Daylor of Tetra Tech dated December 10, 2010. **(ATTACHED)**. This memo explained the technical analysis regarding the proper width of Neelon Lane. Second, it noted that there must be an analysis of the proper layout of Neelon Lane. Lastly, The Board will have to review its options regarding the process moving forward.

Tetra Tech Rizzo did an analysis exclusively based on the documents provided to it by the PEDB. No additional research was conducted. A meeting was held on December 3, 2010 with the applicant, its engineer and one of the abutters, Beth McDonald, and her engineer. The minutes from this meeting were provided to the Board. **(ATTACHED)**

The goal of that meeting was to provide the surveyors representing the applicant and abutter the opportunity to present their collected data and information to Tetra Tech.

Bob Daylor from Tetra Tech Rizzo provided the Board with a synopsis of the meeting with the Charles River Village representatives and provided his explanation about the issues relative to the width of Neelon Lane.

It is Mr. Daylor's opinion that after hearing both sides of the discussion, it was clear that the right-of-way dimension is 25'. The surveyors on both sides were in agreement on this matter. The evidence of this was from the Town of Medway Selectman meeting notes from March 26, 1863. The minutes reference the layout and the creation of the statutory private way known as Neelon Lane to be twenty-five feet wide.

Mr. Daylor further explained that the real question is in relation to the exact location of Neelon Lane. The individual deeds prevent the applicant from accurately closing at the Neelon Lane right-of-way. It is the opinion of Tetra Tech Rizzo that it is not the Board's place to resolve this dispute, although they may act on the special permit application as proposed. It was further explained that the location question will have to be resolved during the next phase of the project review.

The last issue is in relation to the length of Neelon Lane. It is the opinion of Tetra Tech Rizzo that the layout of the 125 feet property and the extension off of it in the southerly direction as reflected on the plans dated 9/24/10 is incorrect. Tetra Tech Rizzo has the opinion that the accepted layout extends in a straight line on the applicant's property to the fence line which no longer exists. There is physical evidence of old wall remnants and a line of large trees just south of the barn which might be the ancient fence line.

In the concluding analysis, it is the opinion of Mr. Daylor that the Board has enough information to act on the OSRD application. One option presented to the Board by Mr. Daylor would be to include a condition in the decision that absolves the Board from any responsibility to adjudicate the Neelon Lane location conflict. It would have to be the responsibilities of the individual parties to take this a step further. The second option would be to include a condition requiring the dispute to be resolved prior to construction, with any plan changes provided to the Board. Tetra Tech Rizzo made one last recommendation which would be to have the drawings modified to accurately represent the southerly extension of Neelon Lane.

Member Spiller-Walsh is not comfortable moving to phase two (Definitive Plan stage after the special permit) without having these issues resolved.

Attorney Valkevich indicates that he makes reference in his letter dated December 14, 2010 that the road does in fact extend further. There are calculation errors on this plan. He is recommending that this be addressed and fixed.

Mr. Yorkis responds by stating that it is speculation to say that some evidence of an old wall might be the ancient fence. There is no evidence to support this. It may be or not be evidence. It is speculation.

Attorney Valkevich asks the Board what is the legal basis for Mr. Daylor's proposed resolution to the two options.

Mr. Pellegri, from Tetra Tech Rizzo indicated that the legal implications were not part of the review by Tetra Tech Rizzo.

Mr. Daylor responded that he is not present at the meeting to provide legal advice. He will only provide the information sought by the Board in relation to the documentation provided.

Dan O'Driscoll communicated that he showed exactly the conclusions as shown on the plans. This was indicated on the plan which was revised and dated December 14, 2010. It was noted on the plan. Dave Faist indicated that there is no impact on the calculations.

Bob Daylor reiterated again that the language is precise as worded. He did see the evidence in the old fence line. This is not speculation.

Paul Yorkis noted that there may be other evidence other than the fence and no one is sure.

Member Tucker arrived at 8:22 pm.

Engineer Faist then presented some calculation numbers (**See Attached**) relative to the density questions which were brought up at the last meeting. He provided an aerial photograph shown with the proposed overlay.

The density was looked at relative to three different streets.

1. Massapoag St., 21 homes on 6.12 acres = 3.4 homes
2. Charles River Road: 60 homes on 31.8 acres = 1.9 homes
3. Charles River: 13 homes on 7.61 acres = 1.7 homes

The Board discussed whether the density numbers should be done looking at the 13 homes on 3.61 acres and not the 7.61 acres since the buildable portion of the site is 3.61 acres,

Member Spiller-Walsh believes that the intent of an OSRD is not to add to the density over a conventional subdivision.

Mr. Yorkis noted that the numbers as presented are consistent and accurate with the Town of Medway's OSRD Bylaw and the comparisons provided.

Member Spiller-Walsh suggested that the Board discuss what is considered open space, along with the primary and secondary conservation land and if this area has protection. It is her belief that the Board has the right to ask these questions since most of the land which is designated for open space is on a slope.

Paul Yorkis asks the Board to review again the email he sent regarding the several items they are seeking guidance on.

Mr. Yorkis indicated that Neelon Lane is 25' wide and is a statutory private way. The Board is in agreement with this fact based on the information provided.

Mr. Yorkis also noted that the applicant intends to use of Neelon Lane as the primary access point for the subdivision. David Faist presented and discussed the applicant's most recent Neelon Lane entrance and width layout plan which was entitled "Village Street – Neelon Lane Proposed Conditions Sketch" prepared by Faist Engineering Inc. & O'Driscoll Land Surveying Co., dated October 29, 2010. **See Attached.**

Mr. Yorkis also informed the Board that there will be construction of a 3' wide paved sidewalk within the emergency access connecting the proposed subdivision to Cherokee Lane.

Engineer Faist went on to explain that the most recent layout is for the proposed 13 unit OSRD Subdivision.

Member Rogers makes reference to the fact that there are several streets in town that are not 25 feet wide. One example is Fisher St.

Member Spiller-Walsh is concerned with the corner rounding at Village Street and Neelon Lane. This seems very narrow. Her concern is also with what happens to the children as they wait for the school bus. Mr. Yorkis indicated that the school bus stops and routes change yearly.

The Board communicated that the sidewalk discussion could take place during the definitive stage and any decision that the Board prepares could reference language making sure the applicant meets the AAB compliant standards.

Member Spiller-Walsh read a section of the Open Space Bylaw. She suggests reducing some of the units and combining some to establish vistas with views. The intent of the OSRD is to not add density. The Board is the steward of land. One idea would be to combine units 9 and 10 and create a clear vista to the open space.

Member Yorkis disagrees. No one can build any subdivision in Medway any longer without affordable units. The Board has a cottage style development with single family homes that are different since the units are smaller in size. The Board has a communication from the Open Space Committee supporting the plan as shown. The bylaw encourages preservation of open space along the Charles River. There is an economic reality and the proposal is an economically viable proposal. Tampering with the units is a concern. The proposal reflects the applicant's best plan.

Member Spiller-Walsh notes that the open space is visually blocked. The open space does not have a vista and thus it should be created within the special permit process. It is worth doing and would be unique to the site.

Member Rogers feels the Board must accept the proposal as submitted. This proposed development does fit the neighborhood.

Chairman Rodenhiser notes that this whole project could be turned into a 40B project and then the Board would not have a say at all.

Susy Affleck Childs communicates that the bylaw does allow flexibility for the arrangement of units; there could be some duplexes to create the vista areas.

Mr. Yorkis indicates that at the site walk a suggestion was made about the cart path and giving this a buffer. This was done. The team has consistently listened and responded to suggestions made. He further verbalized that we have been trying to create a 13 unit single family OSRD and to create a subdivision with multi-family houses does not make sense. The proposed developed area did have some invasive things that were suggested to be removed. There is space to look at, which includes trees.

Member Rogers communicates that homes can be built on land which slopes and these homes can look great.

Engineer Faist notes the proposed access points to open space on sheets 3 of 4 on the "Concept Plan". The Riverview Street is an easy access point. The four access points were explained. The parking was not noted or proposed for Riverview Street. The details need to be worked out during the definitive plan stage. The plan also shows the proposed public easement of passage.

The Chairman asks the public if they have any questions.

Abutter, Mrs. Kaplan wanted to know why the density on Neelon Lane wasn't used in the analysis.

Engineer Faist responded indicating that they were trying to show the density in area neighborhoods as a comparison point. Faist Engineering provided a generalized approach.

Abutter, Mrs. Kaplan wanted to know where the applicant will be required to add signs. In the previous meetings, the Police Department indicated that there “no parking” signs would be posted.

Abutter, Mrs. McDonald would like the applicant to provide a density map with calculations only based on the buildable portion of the site to see how this will affect the density comparison.

Engineer Faist indicated that the density calculations are up for a point of discussion and he could provide that number.

Attorney Valkevich wants to know if the Board will add a requirement within any decision that the location of the road be resolved.

The Chairman wants to know from Mr. Yorkis what he wanted to do to regarding the road location issue.

Mr. Yorkis responded that he will need to consult with legal counsel on that matter.

Abutter Mr. Newell, asked if the road is longer, how does this effect where and how the cul-de-sac is used? He also wanted to know will the easement be restricted and is the cul-de-sac part of the statutory way?

Chairman Rodenhiser responds that the easement gives all a right to use it and would need to be left open.

Attorney Valkevich asks if the length of Neelon Lane is extended, then would the cul-de-sac be at that exact location point. There will have to be access over that. Attorney Valkevich communicates that a spite strip remains.

Member Gay noted that this is not characterized as a spite strip.

Dan O’Driscoll communicates that the cul-de-sac will fall inside the 25 foot easement.

Consultant Daylor from Tetra Tech Rizzo indicates that the two lines and layout lines are not the same line and there is a gap.

One of the residents wanted to know if the emergency access will be posted and will there be signage.

Mr. Yorkis responded that there will be some signage and maintenance of this area.

Discussion then moved to the radius at the beginning of Neelon Lane at Village Street. Engineer Faist communicated that a larger radius could be accomplished, but an easement would be needed.



Consultant Carlucci indicated that for some projects, a smaller radius is recommended to slow down the traffic.

The Board discussed the radius and is comfortable with an 18 foot road width with a 15 foot radius.

Abutter, Mrs. Kaplan informed the Board that she is not interested in providing an easement on her property since she does not want this project to be accessed via Neelon Lane.

Abutter Mr. Bankewitz is concerned about the safety of this area and hopes that the applicant will make the road width 25 feet.

Consultant Pellegrini believes that for the safety of vehicles the road would need to be 25 ft.

Member Spiller-Walsh communicates to the abutters that it may be in their best interest to work with the applicant to find a way to improve the landscaping at the corner to embellish the property to meet their needs.

**Attorney Valkevich letter dated December 14, 2010:**

The Board is in receipt of a letter dated December 14, 2010 from Attorney Valkevich. **(See Attached)** This letter is in relation to the application for the OSRD and Affordable Housing Development Special Permits. The letter makes reference that the rights of Neelon Lane can only be determined by a court. It is the abutters' perspective that the applicant has still not proved to the Board that the applicant has the right to build and make improvements. Another point that Attorney Valkevich makes is that without full resolution of the location and width of Neelon Lane, this project cannot go forward.

At the conclusion of the discussion, Mr. Yorkis indicated that he will supply the Board with a set of revised plans.

The hearing for Charles River Village OSRD will be continued until Tuesday, January 11, 2011 at 7:15 pm.

NOTE - Member Tucker left the meeting at 10:30 pm.

**Fox Run Farm 40B Development – Discussion of Performance Security**

Mujeeb Ahmed, developer and owner was present.

The Board is in receipt of a memo from Attorney Wickstrom who represents Fox Fun Development Group, LLC dated December 9, 2010. **(See Attached)** The letter makes reference that Fox Run Development Group would like the immediate release of 4 lots for building and sale without providing any cash security. This would allow his client the chance to complete the roadway and build a home without the need to borrow more money. At the closing of each house, the Town will get a check for 25% of the bond amount.

After reviewing the letter from Attorney Wickstrom, the Board next reviewed a revised bond estimate dated December 14, 2010 prepared by Tetra Tech Rizzo. The total amount indicated is \$94,451.00. **(See Attached)**

Dave Pellegri from Tetra Tech Rizzo explained that the unit prices were taken from the latest information provided on the Mass DOT. Mr. Pellegri indicated that the binder repair pricing includes the area of roadway that will require repair as described in inspection report #16. The estimate also includes the removal of the existing binder and top 4" of gravel base and the replacement of both. The area of pavement and gravel to be removed and replaced includes the area north of the centerline of the roadway. The loam and seeding pricing includes all non-hardscape areas within the right of way. It was indicated that the estimate for signage can be removed. This will remove \$600.00. The adjusted bond estimate would then be \$93,701.00.

The Board is also in receipt of an email **(See Attached)** from the developer's project engineer James Pavlik, in relation to the bond estimate which was originally estimated to be \$148,763. It is his opinion that the estimate should only include items within the roadway layout and all utility infrastructures up to the lot lines. He believes it should not include landscaping on private house lots. It was suggested that after the noted adjustments, the overall bond estimate would be \$89,176. Tetra Tech reviewed the email and communicated to the Board that the \$93,701.00 what they recommend.

**On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the revised bond estimate for Fox Run Farm as presented by Tetra Tech Rizzo in the amount of \$93,701.00.**

The Board next discussed the Form H - Bond Agreement. The Board was in receipt of emails in relation to the bond agreement. **(See Attachment).**

It was the recommendation of Town Counsel that the performance security be paid in full before any lot is released from the subdivision covenant. Mr. Mujeeb would like to have 4 lots released allowing them to start building houses but not require them to fund the bond account until they convey the lots. The Board is not in support of this.

The applicant would like to be placed on the agenda for Tuesday, January 11, 2011 at 7:15 pm to address the surety issue further.

Affleck-Childs informs the Board that she has communicated with Town Counsel and it was determined that the applicant must comply with all state and local laws in relation to security of the bond estimate.

The Board would like to start the meeting at 6:50 pm on January 11, 2011.

**Resignation:**

The Board is in receipt of a resignation letter from Paul Yorkis from the Economic Development Committee which was dated December 8, 2010. **(See Attached.)**

Susy Affleck-Childs communicated that Mr. Yorkis had been in contact with the State Ethics Commission staff. It was recommended that he resign from the Economic Development Committee since this committee has not been designated by the BOS as special municipal employees. There are changes in the state conflict of interest standards which reference the special employee status of committee members. It has been determined that it is not in the best interest of the Town to have him be a member of the Economic Development Committee until such time as that committee is so designated or special employee status. This decision rendered by Town Counsel will affect a variety of committees.

**On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting at 11:00 PM.**

**Future Meetings:**

The next meetings scheduled are: Tuesday, January 11, 2011 and January 25, 2011.

The meeting was adjourned at 11:00 PM.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Reviewed and edited by,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

## ***Medway Planning and Economic Development***

### **IDEAS for ZONING BYLAW AMENDMENTS & OTHER POSSIBLE TOWN MEETING WARRANT ARTICLES**


UPDATED 9-22-10

<b><i>I. On-Going Substantive Zoning Work</i></b>	<b><i>NOTES</i></b>	<b><i>Priority for 2011ATM?</i></b>	<b><i>Lead Person</i></b>
A. Town Center/Commercial Mixed Use – 40R Overlay	Recommended in 2009 Master Plan		
B. Expand east side industrial park (Industrial I) - Rezone part of ARI			
C. Rezone area on Route 126/Main/Village Streets near Bellingham for business uses	What kind of uses would you want here?		
D. Traditional Neighborhood Design Overlay District	Draft completed by Gino Carlucci (2007 Smart Growth Grant); Recommended in 2009 Master Plan		
E. Oak Grove/Bottle Cap Lots - 40R Overlay			

<b>II. Zoning Amendment Recommendations from the 2009 Master Plan</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
A. Establish a Transfer of Development rights option	Model bylaw available		
B. Establish a Wildlife Habitat Corridor Overlay Zoning District			
C. Adopt zoning to encourage mixed use development such as apartments above retail – also known as Top of Shop zoning			
D. Rezone property along Route 109 near Millis, at intersection of Routes 109/126, around the Police Station, and at Clark and Route 109 for new office space construction with residential appearance			
E. Create a new zoning classification for office space and light industry			
F. Rezone properties that are no longer suitable for industrial uses			
G. Review zoning to assure that design standards are consistent with master plan vision			
H. Create an overlay district to provide for mixed uses along portions of Village Street that will preserve historic and scenic areas where mixed uses already exist	This could be similar to the existing AUOD along Main Street – maybe this could be the same zoning and just offer it in another area		
I. Review/revise zoning for high volume drive thru businesses to reduce or eliminate such uses because of safety concerns			

<b><i>II. Zoning Amendment Recommendations from the 2009 Master Plan</i></b>	<b><i>NOTES</i></b>	<b><i>Priority for 2011 ATM?</i></b>	<b><i>Lead Person</i></b>
J. Review zoning to ensure that aquifers, wellheads and watershed areas are preserved – expand protection area around wells			
K. Rezone parcels for optimal use and Town benefit, especially areas adjacent to currently zoned industrial property			

<b>III. Zoning Amendment Recommendations from 1999 Master Plan that Haven't Been Addressed</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
<p>A. Look at Commercial III (around Town Hall) and Commercial IV (around the Police Station) zones.</p> <ul style="list-style-type: none"> <li>• Evaluate the possibility of expanding boundaries of these zones and ways to strengthen the "village characteristics",</li> <li>• encourage preservation/ adaptive use and allow for mixed uses . . . similar to AUOD on Main Street/ Route 109.</li> <li>• Interface with Medway Historic Commission re: the new Medway Village National Register Historic District in the Commercial District III area.</li> <li>• Allow for construction of residential duplexes and mixed uses by right</li> </ul>	<p>These districts do not provide for any residential uses other than the construction of new single family homes</p>		
<p>B. Rezone contaminated lands for economic development.</p>			
<p>C. Create option for Neighborhood Conservation Districts (Zoning or general bylaw?)</p>			

<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
<p>A. Add/revise DEFINITIONS as requested/suggested by John Emidy, Building Commissioner</p> <ul style="list-style-type: none"> <li>• trailer</li> <li>• lot</li> <li>• parcel</li> <li>• street lot line</li> <li>• rear lot line</li> <li>• front lot line</li> <li>• side lot line</li> <li>• setback</li> <li>• frontage</li> <li>• farm</li> <li>• agricultural use</li> <li>• accessory family dwelling unit</li> <li>• industrial use</li> <li>• storage</li> <li>• temporary contractor's lawn sign</li> </ul>			
<p>B. Revise new Commercial I</p> <ul style="list-style-type: none"> <li>• link special permits to site plan review; criteria, etc. to streamline and consolidate review process;</li> <li>• change authority so special permits are issued by the PB in conjunction with site plan review</li> </ul>	<p>Work with Karen Johnson/ Charter Realty &amp; Development</p>		
<p>C. OSRD – Revisit formula re maximum # of units and open space; strengthen integrity of 4 step design process</p>	<p><i>Susy</i>   <i>Strengthen language</i></p>		
<p>D. Establish Use &amp; Dimensional Tables – Requested by Building Commissioner John Emidy</p>			
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G. Create a new Village Residential (VR) zoning district for portions of ARII that are already more dense than the present ARII standards (150' frontage and 22,500 sq. ft of area)	This would better match the zoning text to the actual uses/sizes on the ground  Possibly allow duplexes by right?		
H. Contractor's Yards (outdoor) – Define and authorize as a by right use in Industrial I; not allow in residential districts at all (or allow by special permit???)			
I. Signs <ul style="list-style-type: none"> <li>• Pull sign provisions from zoning bylaw and convert to a general bylaw</li> <li>• Establish specific sign provisions for Medway Mill</li> <li>• Require DRC approval of sign design</li> </ul>			
J. Strengthen buffer requirements in commercial and industrial zoning districts where such are adjacent to residential districts			
K. Exempt Uses – Any clean-up or improvements needed (after having gone thru a limited site plan with the Marian Community's lodging center/retreat facility)??			

<b>IV. Other Zoning Bylaw Amendment Ideas</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
M. Commercial I – revise zoning setback requirements			
N. Establish a setback requirement ( <i>from side lot lines</i> ) for driveway locations. (Requested by Bob Klein – 533-6212). He suggests a 6' setback.	Is this a zoning matter? Perhaps it might be better addressed in the <i>Subdivision Rules and Regs</i> and/or the DPS street opening permit requirements		
O. Noise standards			
P. Adaptive Use Overlay District – require adequate Main Street sidewalks or payment in lieu of construction - establish an additional AUOD district – west of Town Hall			
Q. Establish another area for Commercial III or IV zoning – West Medway commercial area – west of Mechanic Street;	Presently this area is zoned ARII but it has many commercial uses functioning as pre-existing non-conforming or old special permits/use variances		
R. Revise flood plain/wetlands section to reflect new FIRM maps			
S. Site Plan Review – add provision for a modest review of certain very limited projects such as façade renovations that need a building permit but nothing else – would include DRC review plus input from John Emidy/SAC; could also apply to non substantial modifications to previously approved site plan projects			

<b>V. Zoning Map - Clean-Up Zoning District Boundaries</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead Person</b>
A. South side of Coffee Street near Main Street (Change from ARI to ARII)			
B. Southeast corner of Summer and Highland Streets. (Change from ARI to ARII)			
C. Refine ARI and ARII boundary near Brandywine Terrace east to Winthrop Street			
D. Refine ARI and ARII on east side of Winthrop Street north of Adams Street up to Lovering St.			
E. Refine boundary of ARII district along Lovering Street			
F. West side of West Street south of Edison easement - change from AR2 to industrial			
G.			
H.			
I.			

<b>VI. OTHER POSSIBLE TOWN MEETING WORK</b>	<b>NOTES</b>	<b>Priority for 2011 ATM?</b>	<b>Lead</b>
A. Amend CPC Bylaw – Adjust composition of the CPC to include representative of the Open Space Committee			
B. General Bylaw/or article to authorize BOS to accept conveyance of land or interests therein when such is already provided for in a decision by the PB, ZBA or ConCom (instead of having to go to town meeting) – Medfield example; recommended by Mark Cerel			
C. General Bylaw - Right to Farm (recommended in 2009 Medway Master Plan)			
D. General Bylaw – Ban underground sprinkler systems (recommended in 2009 Medway Master Plan)			
E. Something on business hours of operation??? – Prohibit or regulate 24 hour operations.			
F. Something to limit hours for outdoor construction			

## Susan Affleck-Childs

---

**From:** PGYORKIS@aol.com  
**Sent:** Thursday, December 09, 2010 7:01 PM  
**To:** Susan Affleck-Childs  
**Subject:** Request to the Planning and Economic Development Board

Dear Ms. Affleck-Childs,

Would you please share with members of the Planning and Economic Development Board that it is the applicants hope that at the Planning and Economic Development Board meeting on Tuesday December 14, 2010 that the membership of the Board will be able to give the applicant and the development team an indication of the Board's agreement and/or preferences regarding the following:

1. Neelon Lane is 25' wide and is a statutory private way.
2. The applicant's use of Neelon Lane as the primary access point for the subdivision is acceptable.
3. The applicant's most recent Neelon Lane entrance and width layout plan entitled "Village Street – Neelon Lane Proposed Conditions Sketch prepared by Faist Engineering, Inc. & O'Driscoll Land Surveying, Co., dated October 29, 2010, is acceptable.
4. The applicant's construction of a 3' wide paved sidewalk within the emergency access connecting the proposed subdivision to Cherokee Lane is acceptable.
5. The applicant's most recent layout of the proposed 13 unit OSRD subdivision as shown on a plan set entitled "Charles river Village Special Permit – Concept Plans Open Space Residential Development (OSRD)", prepared by Faist Engineering, Inc. & O'Driscoll Land Surveying Co., revised September 24, 2010, is acceptable.
6. The applicant's proposed access points to the open space within the proposed 13 unit OSRD subdivision as shown on Sheet 3 of 4, "Concept Plan – Charles River Village – OSRD" prepared by Faist Engineering, Inc. & O'Driscoll Land Surveying Co., revised September 24, 2010, is acceptable.

It is the applicant's goal to submit a final set of plans reflecting the Planning and Economic Development Board's preferences and the applicant's preferences for consideration and action at the first Board meeting in January.

Thank you in advance for your assistance.

Paul G. Yorkis  
President  
Patriot Real Estate, Inc.  
An Energy Star Certified REALTOR  
159 Main Street  
Medway, MA 02053  
Cell - 508-509-7860  
Office - 508-533-4321



**TETRATECH**

December 10, 2010

Town of Medway  
Planning and Economic Development Board  
155 Village Street  
Medway, Massachusetts 02053

**Re: Charles River Village Open Space Residential Development  
Neelon Lane Analysis  
Medway, Massachusetts**

Dear Board Members:

During the Medway Planning and Economic Development Board (PEDB) hearings associated with the Open Space Residential Development application submitted for the Charles River Village project, the applicant's surveyor, O'Driscoll Land Surveying, Inc. (O'Driscoll) provided the board with information pertaining to the existing width and layout of the existing Neelon Lane. A second surveyor Guerriere & Halnon, Inc (G&H), hired by the abutter at 9 Neelon Lane (Beth McDonald) then submitted property line information which appeared to conflict with that submitted by O'Driscoll. The PEDB felt that this conflicting right-of-way information required a third party professional land surveyor to review the information, and provide the board with direction. Tetra Tech (Tt) has thus been asked to review the information provided by both parties. This letter summarizes the results of that analysis.

**Existing Documentation and Approach**

The analysis conducted by Tt was based solely on the documents provided by the PEDB. These documents primarily consist of the following items:

- Letter dated November 4, 2010 written by attorney F. Sydney Smithers
- Letter dated November 12, 2010 written by G&H along with supporting documentation. Supporting documentation consists of historic deed and record information.
- Letter dated November 16, 2010 written by attorney Thomas Valkevich

One Grant Street  
Framingham, MA 01701  
Tel 508.903.2000 Fax 508.903.2001



- Letter dated November 17, 2010 written by O'Driscoll along with supporting documentation. Supporting documentation consists of historic deed and record information.
- Letter dated November 15, 2010 written by Ken Bancewicz
- Letter dated November 21, 2010 written by the Newells
- Charles River Village Special Permit-Concept Plans prepared by O'Driscoll and Faist Engineering, Inc. dated 7/28/10 and revised 9/24/10.
- Worksheet received at a meeting held on 12/3/10 prepared by O'Driscoll laying out the various property lines using the varying deed information.

A meeting was held on December 3, 2010 between the interested parties to review the submitted information and provide both parties opportunity to provide explanations for their positions. Meeting minutes and an attendance sheet for this meeting will be provided under a separate cover.

After reviewing the information provided, Tt felt it appropriate to approach the matter as a three step process. The first step involved the technical analysis regarding the proper width of Neelon Lane. The second step involved the technical analysis of the proper layout of Neelon Lane. Lastly, the third step involved the options open to the PEDB regarding the process moving forward. Tt will attempt to provide our professional opinion for each of these items in the following paragraphs below.

#### **Neelon Lane Width**

One of the documents submitted in the survey packages for Tt to review was the Town of Medway Selectman meeting notes from March 26, 1863. This document describes the layout and creation of the statutory private way known as Neelon Lane. According to the meeting minutes, the roadway was laid out by the Selectmen and accepted by the 1863 Annual Town Meeting to be twenty five feet (25') wide. There were also awards for land damages to three abutters for the taking of property necessary to create Neelon Way and the assessment of costs to build and maintain the way.

The question of the lane's width has been raised because of the lack of property monuments which clearly demark the lane and abutting properties. Compounding the lack of monumentation is the fact that the deeds and plans for properties in the area of the lane have inconclusive or conflicting descriptions. The surveyors for both the applicant and the abutters have done competent work in researching the property records. However, depending upon what records are held as correct, the resulting lane width can be calculated with varying widths. Some of these would result in as narrow a width as 21.28 along the Village Street sideline.



It is our professional opinion based on the review of materials submitted by both the applicant and abutter's consultants, that the Town meeting was laid out by the Selectmen as 25 feet in width and that layout was accepted by the 1863 Town Meeting. Further, the three effected properties were awarded damages to compensate them for providing a twenty five (25) foot way across their land. It's important to note the underlying fee (property ownership) remains in the title of the abutting properties. This opinion was voiced by Tt at the 12/3/10 meeting and met no objections by either the applicant's or abutter's party.

#### **Neelon Lane Layout**

While there is no question about the width of the Neelon Lane layout, its exact location cannot be fixed from available plans and deeds. After reviewing both surveyors record information, and hearing their explanation regarding the layout of Neelon Lane it is clear that there is a bust in one (or more) of the individual deeds that prevents them from accurately closing at the Neelon Lane Right-of-Way. The first approach, proposed by O'Driscoll, is to hold the northeast corner of Neelon Lane 148.50 feet from the northeast corner of Lot 1 as depicted on plan number 1253 dated 1959. The other approach as proposed by G&H is to hold the dimensions provided on the Whitney Lot provided on the 1959 plans. O'Driscoll provided a worksheet at the 12/3/10 meeting that illustrated the location of the Neelon Lane Right-of-Way using both of these approaches. TTR agreed, and neither party objected at the 12/3/10 meeting, that the appropriate layout lay somewhere in between the two approaches illustrated in the worksheet.

While we find that the applicant's approach to the laying out of Neelon Lane is acceptable, it will not be dispositive of the precise location question. Further, it is our opinion that the PEDB is not the correct entity to resolve this dispute, but we do believe it is appropriate at this time to review the special permit application as proposed. We do however recommend that the location question be addressed during the next phase of the project review as discussed in the next section below.

There is another factor in the Neelon Way layout that has to be addressed by the applicant. That is the length of the 25 foot way. The actual layout description is from the Old Hartford Road (Village Street) "southerly in a straight line"....."to a fence opposite the southerly side of said Neeland (Neelon) barn." It is our opinion that the layout of the 125' property and extending in the southerly direction as reflected on the O'Driscoll and Feist plans dated 7/28/10 and revised 9/24/10 is incorrect. In our opinion the accepted layout extends in "a straight line" into the applicant's property to the fence line which no longer exists, however it is obvious from the 1863 documents that it is a point south of the barn which does remain. There is some physical evidence of old wall remnants and a line of large trees just south of the barn which might be the ancient fence.





TETRA TECH

line. This needs to be addressed in the next phase. But even in the revised submission the layout is not correctly extended because the applicant's plans show the road bending to follow the existing wall along the westerly property line of the McDonald land. It is clear that the layout does not bend, and further the applicant and the abutter's own the fee underlying the 25 foot statutory way. Therefore there is no justification for changing the course of the 1863 layout to trace 2010 physical evidence.

#### **Process Moving Forward**

Based on the discussion above regarding both the Neelon Lane Width and Layout, it is our opinion that the PEDB has enough information to act on the OSRD application for this project at this time. As stated previously it is our professional opinion that the width of Neelon Lane remains twenty five feet (25') and this dimension therefore can be used in determining the adequacy and appropriateness of the proposed roadway dimensions.

As discussed above, the exact east/west location of Neelon Lane and its length remains in question. However it is our professional opinion that this is not an issue to be decided by the PEDB, and we recommend that it be addressed in some way during the definitive review phase. At that time we recommend that the PEDB may condition the project in one of two ways. The first option would be to provide a condition that absolves the PEDB from any responsibility to adjudicate the Neelon Lane location conflict. If necessary, that would be the responsibility of the individual parties to take further action. The second option would be to provide a condition requiring the dispute to be resolved prior to construction, with any plan changes resulting from the resolution to be submitted to the PEDB for approval. We would be available to discuss these options further during the definitive design phase if necessary.

Lastly we feel that the drawings should be modified as part of this application approval process, to accurately represent the southerly extension of Neelon Lane as suggested by Tt above.

Tt will attend the December 14, 2010 PEDB hearing for this project and will be available to answer any questions that arise after the review of this letter. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.

Very truly yours,

Robert F. Daylor PE, PLS  
Senior Vice President

PA21583\127-21583-11003\DOCS\REVIEW LETTER-2010-12-10.DOC

David R. Pellegri, PE  
Project Manager



TETRA TECH RIZZO

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DEC 14 2010

TOWN OF MEDWAY  
PLANNING BOARD

## MEETING MINUTES-CHARLES RIVER VILLAGE

Date and Time:	Friday-12/3/10 9:00 AM-10:00 AM	Project Name	Charles River Village
Location:	Medway Town Hall Sanford Hall	Project No.	127-21583-11005
Originated By:	David Pellegri <i>DP</i>	Recorded By:	David Pellegri
Signed:			
Date Prepared:	12/13/10		
Participants:			
Name	Organization	Number	
Dave Pellegri	Tetra Tech (Tt)	508-903-2408	
Bob Daylor	Tetra Tech (Tt)	508-903-2308	
Bob Constantine	Guerriere and Hanlon	508-528-3221	
Paul Atwood	Guerriere and Hanlon	508-473-6630	
Beth McDonald	Abutter	508-523-1838	
Susy Affleck-Childs	Town of Medway	508-533-3291	
Chan Rogers	Town of Medway PEDB	508-533-0422	
Paul Yorkis	Patriot Real Estate	508-509-7860	
Dan O'Driscoll	O'Driscoll Land Surveying	508-533-3314	

### Summary

The objective of this meeting was to provide the surveyors representing the applicant and abutter the opportunity to present their collected data and information to Tetra Tech (Tt), and explain their position, as it relates to the Neelon Lane layout. The information presented at this meeting will assist Tt in their review of the project issue.

### Discussion

Dan O'Driscoll began the meeting by explaining his position regarding the width of Neelon Lane. Dan referenced the minutes from the Selectmen meeting of 1863 which clearly delineates the width of Neelon Lane to be 25'.

Paul Atwood raised some questions regarding one deed as it relates to one other piece of land other than the Whitney and Wilson parcels.



After hearing the two sides opinions regarding the width of Neelon Lane Bob Daylor stated that he felt that it was clear that the Right-of-Way dimension is 25' and that both surveyors are in agreement of point. He stated that he views the three main issues associated with this project moving forward as the following:

1. Technical Issues-This is basically surveying issues which can be discussed by the three surveyors now involved in the project.
2. Legal Issues- These probably can't be resolved through this review process.
3. Policy/Procedural Issues-This process will determine how the PEDB moves forward with the project.

Bob also stated that there are clearly some issues with the older deeds and plot plans that prevent them from closing accurately at the limits of Neelon Lane. Since some of these older deeds are not accurate, those involved will need to follow the proper hierarchy of information when interpreting.

Dan confirmed the point above and noted that one plan shows the property extending into Neelon Lane.

Paul A. stated that there is a legality question whether the neighbors have a say in the improvements of Neelon Lane.

Bob professed that this was probably a legal question but his impression was that because fees were paid in the past then the neighbors may no longer have those rights.

Bob stated that he walked the site prior to the meeting and had some observations regarding the layout of Neelon Lane.

- Bob noted that Neelon Lane needed to be extended to the south to be consistent with the old deeds. Paul Yorkis stated that Tt was referring to an older set of plans and the latest revision shows the extension of that roadway to the proper location. Paul then provided an updated version for discussion.
- Bob noted that there was some evidence in the field to represent the southern limits of the roadway. Setting this line will be a matter of surveying.



**TETRA TECH**

The issues of the layout of Neelon Lane may need to be settled through the Title Insurance process.

Dan then provided a worksheet that showed the different possible locations of Neelon Lane using the different record information.

Paul A. then asked since everyone now agrees that the Layout of Neelon Lane is unclear based on the record information, how does the applicant set the correct lines.

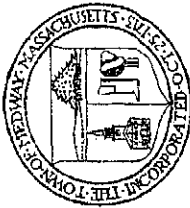
Dan then went on to explain why he felt it was appropriate to set the location as currently illustrated on the most current plans.

Paul A. then explained why he set the line from the opposite property limits.

At that point Bob Daylor felt that he had a good grasp of both opinions on the layout and asked if there was any additional information that may be helpful. Neither side offered new record information to assist the review at this time.

### **Action Items**

1. Tt to provide recommendation letter to the board prior to the Planning and Economic Development Hearing on December 14, 2010.



# MEETING ATTENDANCE SHEET

Charles River Village  
December 3, 2010

Name	Company	Telephone No.	E-mail
1. Dave Pellegrini	TTR	508-703-2408	david.pellegrini@tetratech.com
2. Bob Dayton	TZ	508-908-2308	bob.dayton@tetratech.com
3. Rob Constantine	G&H	508-528-3221	rconstantine@guerrierandhannon.net
4. Beth McDonald	HOMBANNER	508-523-1838	LMRET24@YAHOO.COM
5. Paul Atwood	G&H	508-423-6630	PATWOOD@GUERRIERANDHANNON.COM
6. Sunny Appleby-Childs	TJM	508-833-3291	sapplebychilds@townofmedway.org
7. Chan Rogers	Medway PB	508-533-0422	chanrogers@comcast.net
8. Paul G. York	Patm + Telectel Inc	508-509-7860	pgyork@Aer.com
9. Daniel A. O'Driscoll	O'Driscoll LAND SURVEYING CO.	508-533-3314	odlandsurvey@verizon.NET
10.			
11.			
12.			
13.			

**FAIST ENGINEERING, INC.**

600 Charlton Street · Southbridge, MA 01550

Mr. Andy Rodenhiser  
Chairman – Medway Planning Board  
Town of Medway  
155 Village Street  
Medway, MA 02053

December 10, 2010

Re: Charles River Road Area Density Estimate - *“Charles River Village-OSRD” Medway, MA*

Dear Medway Planning Board:

Faist Engineering, Inc. (FE) is providing the attached Figure entitled **“Assessor’s Map Density Estimate”** to illustrate the comparison between the existing development density of the adjacent Charles River Road area to the proposed 13-Unit *“Charles River Village-OSRD”* development located at #6 Neelon Lane (the *“Site”*).

FE is utilizing the January 1, 2009 Medway Assessor’s Map No. 1-8 depicting the Site, adjacent parcels & roadway areas. Our estimates are based on the visible dwelling footprints shown on the Assessor’s Map and utilizing AutoCAD software to accurately scale and calculate the subject areas. We looked at three (3) specific areas within the Charles River Road area between Village Street and the Charles River to evaluate existing area development density.

Massapoag, King Philip, & Wamesit Streets

This area is directly adjacent to the Site and consists of approximately 21 homes on 6.1 +/- Acres of land. This area is slightly smaller than the proposed OSRD and has the highest per Acre density at **3.4 Homes/Acre**.

West Side of Charles River Road

This area extends from Village Street all the way to the Charles River along the west side of Charles River Road. Seven (7) named public ways along this road provide access to approximately 29 homes on 13.3 +/- Acres of land. This area includes the 7 public ways and provides a density estimate of **2.2 Homes/Acre**.

Charles River Road – Overall Density Estimate

We also are providing a broader look at the adjacent area by taking into account the approximately 60 homes located on 31.8 +/- Acres of land extending from Village Street to the Charles River along both sides of Charles River Road. This area takes into account all street right-of-ways, the Charles River Tennis club, and several undeveloped building parcels to provide an overall density estimate of **1.9 Homes/Acre**.

Proposed “Charles River Village – OSRD”

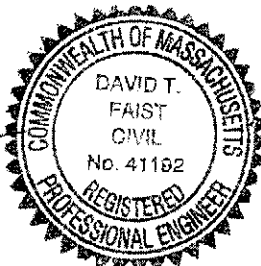
The proposed Site will provide 13 dwelling units on 7.61 Acres, with the development parcel providing approximately 4.18 Acres of Open Space. This provides an overall project density of **1.7 Homes/Acre**.

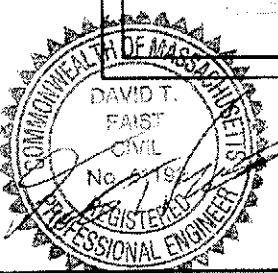
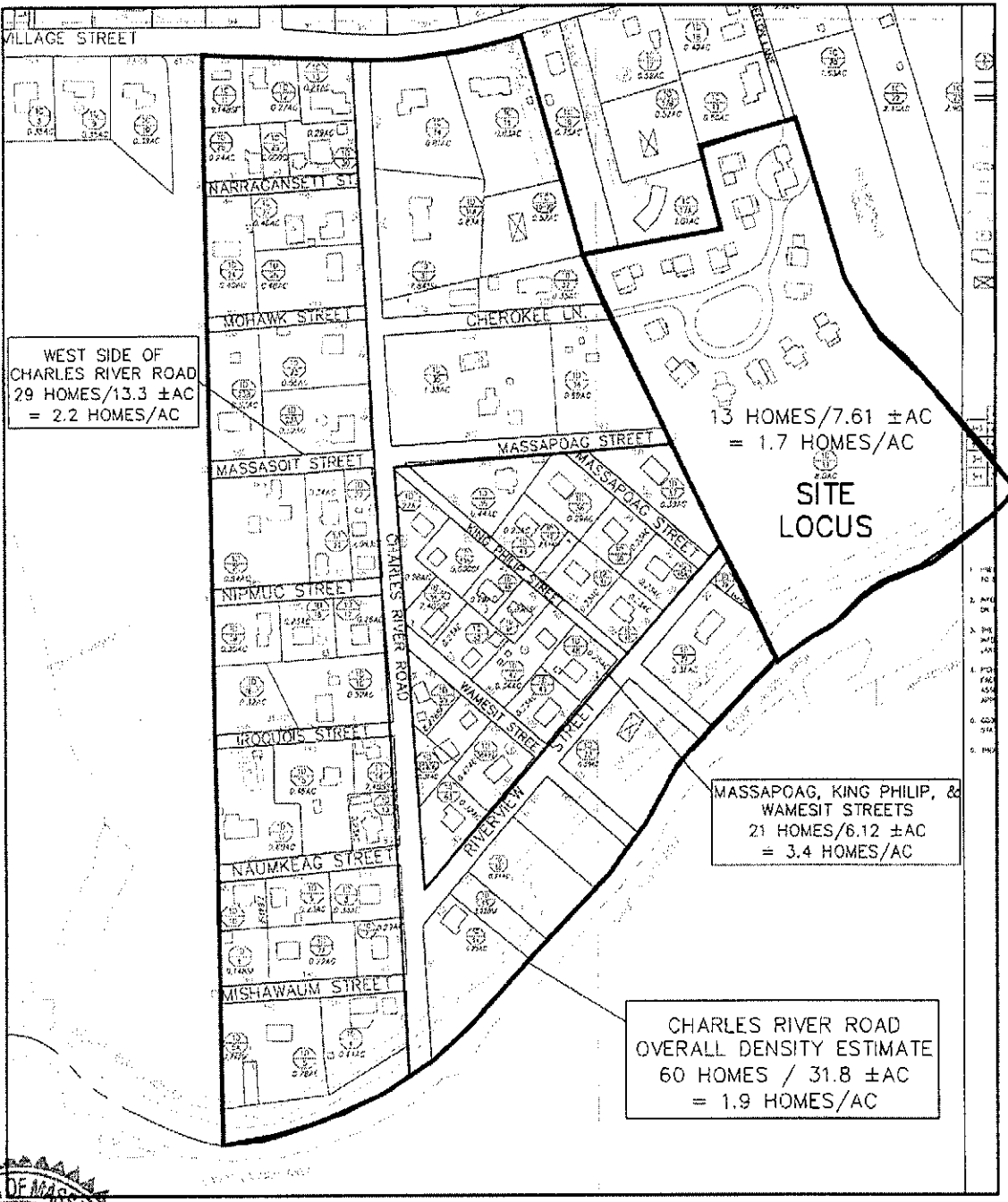
Therefore, we believe the proposed 13-Unit OSRD development will provide less density than the existing adjacent Charles River Road neighborhoods. We hope the Planning Board finds this information useful in your deliberations regarding the *“Charles River Village-OSRD”* Special Permit application. Please call me with any questions or comments at (508) 765-7755.

Thank you.

Sincerely,

*David T. Faist*  
David T. Faist, P.E.  
Principal Engineer





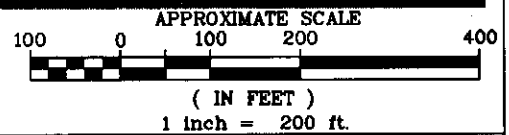
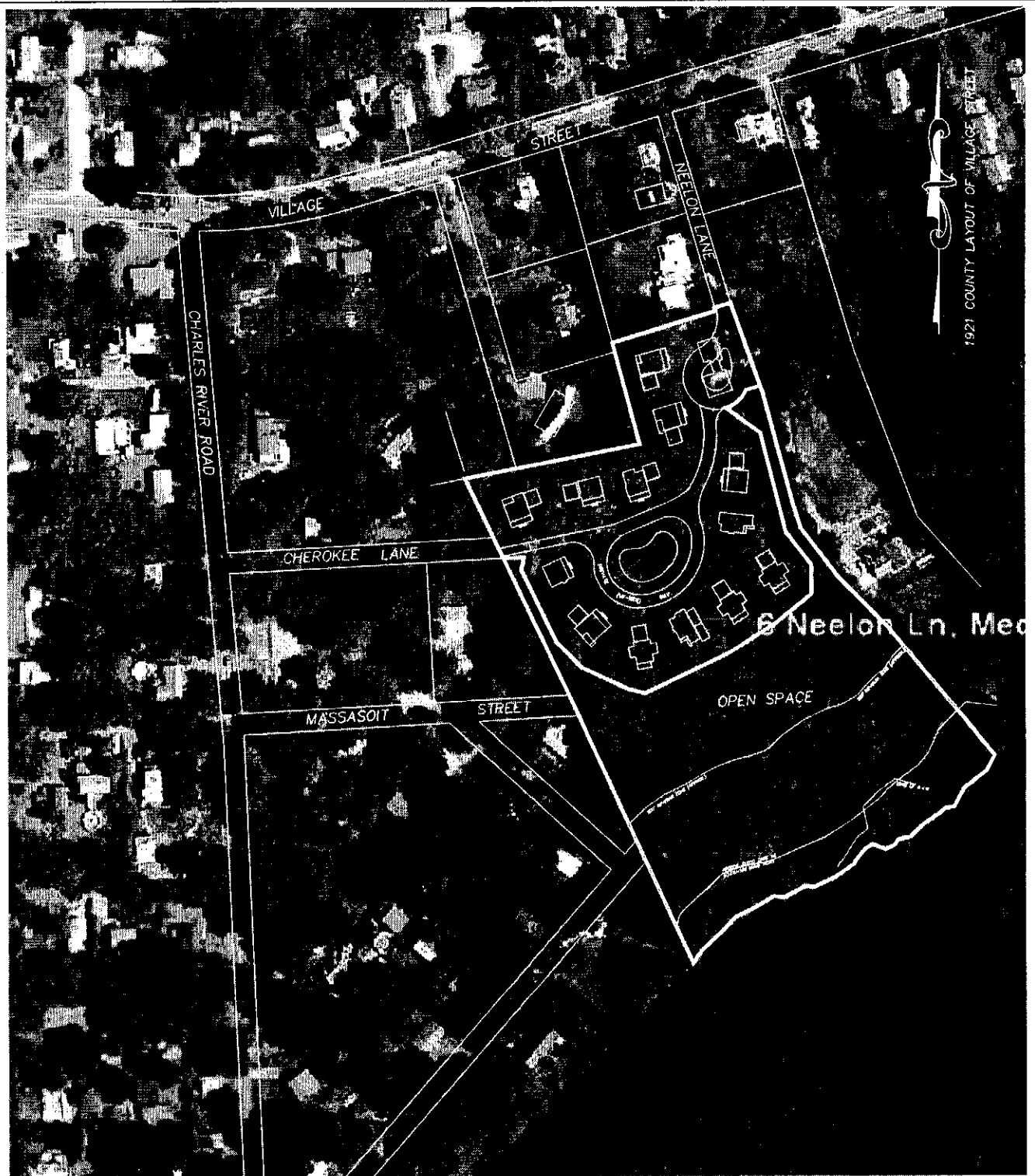
ASSESSOR'S MAP  
DENSITY ESTIMATE  
"CHARLES RIVER VILLAGE"  
MEDWAY, MASSACHUSETTS  
MAP: 1-8 JANUARY 1, 2009  
SCALE: 1"=300'

DATE: DECEMBER 8, 2010

PREPARED FOR:  
CHARLES RIVER VILLAGE, LLC  
P.O. BOX 1  
Medway, Massachusetts

**FAIST ENGINEERING, INC.**  
600 Charlton Street  
Southbridge, MA 01550  
MA Phone/Fax: (508) 765-7755

**O'DRISCOLL**  
**LAND SURVEYING Co.**  
LAND SURVEYING GPS MAPPING LAND CONSULTING  
MEDWAY, MASSACHUSETTS 02053 (508) 533-3314



AERIAL PHOTOGRAPH SKETCH  
 "CHARLES RIVER VILLAGE"  
 MEDWAY, MASSACHUSETTS  
 MAP: 1-7 PARCEL: 1D/33

DATE: NOVEMBER 24, 2010

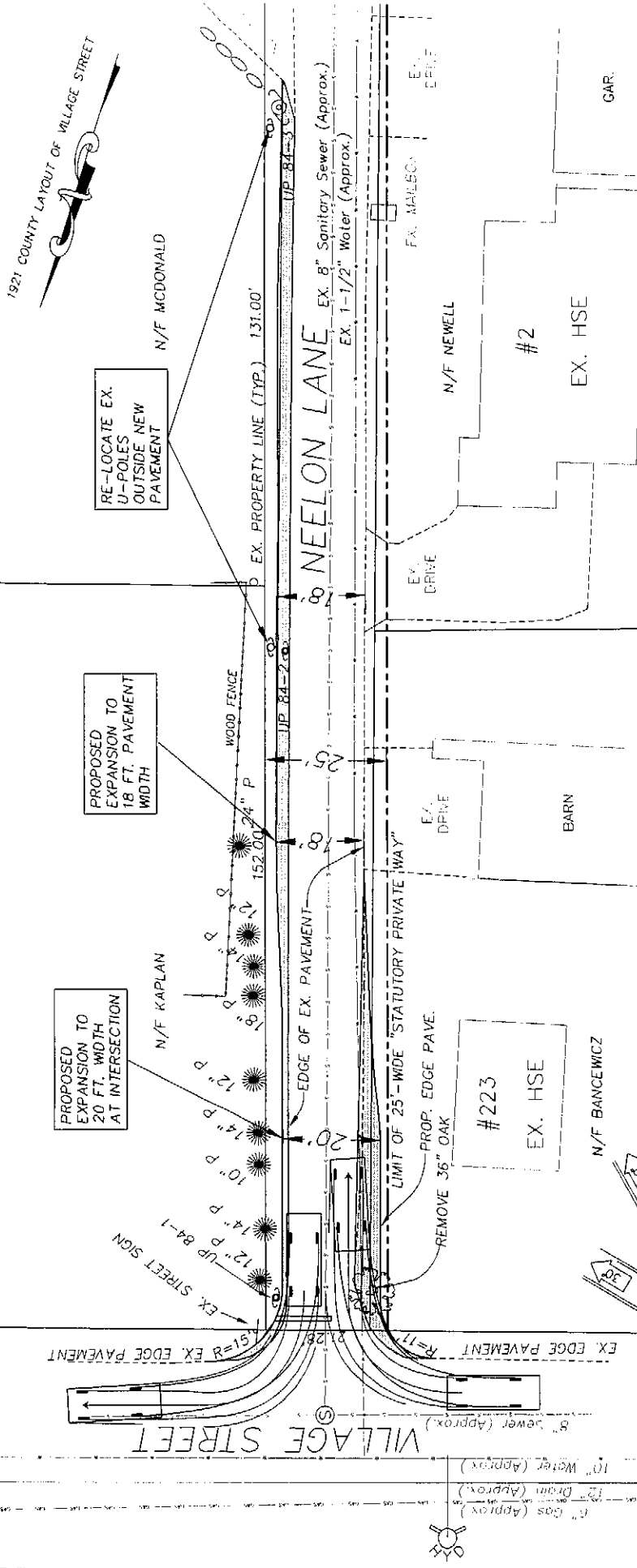
SCALE: 1"=200'

PREPARED FOR:  
 CHARLES RIVER VILLAGE, LLC  
 P.O. BOX 1  
 Medway, Massachusetts

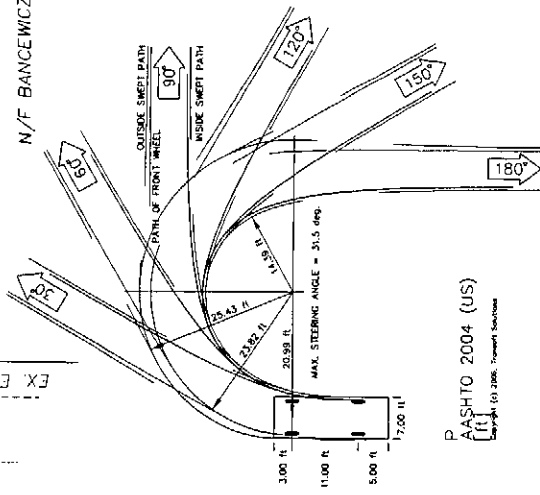
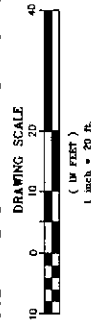
FAIST ENGINEERING, INC.

600 Charlton Street  
 Southbridge, MA 01550  
 MA Phone/Fax: (508) 765-7755





# VILLAGE STREET - NEELON LANE PROPOSED CONDITIONS SKETCH



ASHTO 2004 (US)  
Copyright © 2004, Transport Software

- NOTES:
- 1) LIMITED EXISTING CONDITIONS & SITE PROPERTY BOUNDARIES ARE BASED ON AN ON-THE-GROUND SURVEY BY O'DRISCOLL LAND SURVEYING CO. INFORMATION SHOWN IS SOLELY FOR OSRD SPECIAL PERMIT CONCEPT PLAN PURPOSES ONLY.

**FAIST ENGINEERING, INC.**  
600 Charlton Street Southbridge, MA 01550  
MA Phone/Fax: (508) 765-7755

**O'DRISCOLL LAND SURVEYING CO.**  
LAND SURVEYING GIS MAPPING LAND CONSULTING  
46 COTTAGE STREET MEDWAY, MASSACHUSETTS 01948 (508) 533-3314  
DATE ISSUED: 10/25/10 PROJECT NO: CHA-2345

**Thomas J. Valkevich**  
**Attorney at Law**  
**99 Walnut Street, Suite G**  
**Saugus, Massachusetts 01906**  
**781-233-6812**  
**Facsimile 781-231-5124**  
**Email: tjvesq@netzero.com**

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DEC 14 2010

December 14, 2010

Town of Medway  
Planning & Economic Development Board  
155 Village Street  
Medway, Massachusetts 02053

TOWN OF MEDWAY  
PLANNING BOARD

RE: Charles River Village Open Space Residential Development (OSRD)  
Application for OSRD and Affordable Housing Special Permits  
Hearing date December 14, 2010

Dear Board Members:

Please be advised that I again represent Mary E. McDonald of 9 Neelon Lane, Medway in the matter of the Application for OSRD and Affordable Housing Special Permits as to some issues raised by the plan as submitted. Ms. McDonald will also express some additional matters as to which she possesses personal knowledge as to site conditions, access issues, neighborhood matters and subsurface concerns at the meeting.

As a procedural matter, we still have concerns that the representative for the applicant is Mr. Paul Yorkis who, according to available records, is a member of the Economic Development Committee, and that the Planning and Economic Development Board is the appointing authority for members of that Committee. We have asked whether or not the Board has a public disclosure on file as to this relationship as to this matter, and the board responded that it did not. The board then proceeded to detail how much they have relied on and respected Mr. Yorkis' opinion. There remains concern over the Board's apparent deference to Mr. Yorkis as evidenced by board members concerns that "we must approve this" and expressed apprehensions that the Board will be sued if they don't.

There remain issues about the nature and extent of rights in Neelon Lane that can only be fully and finally determined by a court of competent jurisdiction. See the signed and stamped letter from Guerrire and Halnon, Inc. The letter speaks for itself, but the conclusion is that a judicial determination is required. The Board, at the last meeting on November stated its intention to refer the matter to a third engineering firm, apparently to interpret the issues raised. The report of the Board's selected engineers confirms that the Board is "not the correct entity to resolve this dispute." The engineer's suggestion that the board can proceed as to other issues, however, does not seem appropriate. If the Board must condition it's final decision and permitting upon resolution of the location issues, the matter should be tabled at best, withdrawn until resolution, or denied. Given the Board's engineers conclusion that Neelon Lane may extend further than shown on

any plans submitted , the computations, open space available, and layouts may all need revision . That the Board can somehow absolve itself of an approval given the absence of the petitioner's showing of rights to build and improve its project as depicted is totally impermissible. I ask that the Board, through Town Counsel, demonstrate its authority to exempt any petitioner from meeting such requirements. The right of the Board to absolve itself is clearly not a matter to be resolved by the engineer, but rather by statute, judicial decision. For the Board to proceed to any approval suggests that the Board is looking only on how to approve this project, not the application of all appropriate standards.

There still remains an issue about the nature and extent of the petitioner's rights, and the Towns right's to make the improvements and traffic control measures discussed in the various meetings. The Town Counsel reported that the right to install underground utilities was a matter of probability, that it may be permissible. The petitioners counsel stated that he was "confident" that the Town could impose traffic control and parking and curb cut restraints, which is not a certainty of legal right.. The burden is on the petitioner to demonstrate that they have the right to build the project in all respects.

The " Village Street-Neelon Lane Proposed Conditions Sketch" submitted by Faist Engineering at the November 16, 2010 meeting shows pavement extending to the edge of the twenty five foot layout of Neelon Lane, and even using that disputed width, can only accommodate, under ideal conditions of vehicles being tight to the edge of the right of way, two passenger size vehicles. Any other scenario, e.g. SUV's Trucks, Delivery vehicles would have to stop and wait on Village Street until all exiting vehicles departed Neelon,Lane. This would also require cars to stop and wait should a vehicle larger than a passenger size be exiting Neelon. Without full and final resolution of the location and width of Neelon Lane, the petitioner's own plan cannot go forward

The report filed by Gillon Associates, Traffic and Parking Specialists, dated November 15, 2010. addresses compliance with ADA standards which are completely ignored by the petitioner. Since Neelon Lane must accommodate the public, the question remains as to the applicability of ADA standards to development.

It should be noted that the petitioner's density studies submitted recently ignore the Neelon Lane neighborhood. Much has been made of the access over Neelon Lane by the petitioner, yet the petitioner conveniently completely ignores those densities, as well as the enormous detrimental impact the scope of this project will have on this quiet neighborhood.

The following matters are reiterated since the Board has not specifically addressed them in the past meetings:

The Town has considered development of parcels in this location in the past, but not approved development using Neelon Lane as access. The issues raised by using Neelon Lane as access militate against approval of the plans as submitted. At most, Neelon Lane's public use should be consistent with its limited access as historically and legally existing. For all the foregoing reasons, the proposed plan does not comply with the OSRD by-law in numerous respects, namely by not complying with all sections of the Zoning By-law, the access over Neelon Lane is not compatible or in harmony with the

character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, and safe, convenient access over such a narrow, substandard route, cannot be demonstrated, especially given the 30' wide public way Cherokee Lane on the opposite side of the subdivision.

The proposal, as submitted fails to comply with the existing rights of parties on Neelon Lane, with accepted safety and traffic standards affecting the community at large and not just the abutters, the board's own standards for issuance of a special permit as stated in section 10 and sections 11 (g), (i), (j) , and (k). The proposal clearly does not meet the standards set out in the purposes section of site plan review, sections C.1. (c) (3), (8), (9), (10) and (11).

The Board rules, at section 12 (d) of article T reference site plan review standards that shall be applied to the project which include protections of neighbors from noise fumes etc and safe access for emergency vehicles. The approval of this plan will destroy the character of the existing neighborhood

Finally, the revised plan STILL lays out a way and cul de sac which does abut the McDonald parcel. There exists a gap between the layout on the developer's parcel and the McDonald parcel .. Leaving such a strip is certainly contrary to sound planning practices. I believe previous cases in other towns have given the nickname "spite strips" to this feature. Ms McDonald is concerned that, as drawn, this plan would adversely affect her property and possible development or changes.

The Board must deny or indefinitely delay the petition pending resolution of the issues concerning Neelon Lane, by allowing withdrawal or otherwise. To do otherwise would waste the Town's resources by examining details of a project that may not have the access determined for quite some time. Not only is this Board not the proper authority for such resolution, but any resolution of the length or width or location of Neelon Lane will require action by the Town unless a strictly judicial determination is rendered. The Board is not in the business of absolving itself from its responsibilities for the orderly development of projects under the Zoning By-laws and statutes of the Commonwealth.

Thomas J. Valkevich  
Attorney for Mary E. McDonald



November 12, 2010

Medway Planning Board  
155 Village Street  
Medway, MA 02053

On behalf of our client, Elizabeth McDonald of #9 Neelon Lane, Guerriere & Halon, Inc. submits, for Planning Board review, the following information pertaining to the location, width and status of Neelon Lane:

**Timeline**

- 1851.Dec.10    **C.B. Whitney** acquires land east in reference to now Neelon Lane --- Deed Book 222 Page 44.
- 1856.Aug.05    **Neelan** (aka Neeland, Neelon) acquires land west and south in reference to now Neelon Lane --- Deed Book 289 Page 154.
- 1856.Oct.21    **Kearns** acquires one acre west in reference to now Neelon Lane --- Deed Book 250 Page 26.
- 1863.Apr.06    Town accepts 25 feet wide private way partly on
1. Land set apart for a way by J.W.B. Wilson (Deed Book 250 Page 26)  
    (at the time owned by Kearns)
  2. Land of Neeland
  3. Land of C.B. Whitney
- 1921.Dec       Village Street laid out (Neelon Lane scales 16.5' +/- wide)
- 1950.Mar.25    Plan of Land by H.W. Whittier depicting Lots A & B (land of Kearns) on "Wilson's Lane" (Neelon Lane) recorded as Plan No. 335 of 1950 --- Deed Book 2903 Page 45.
- 1959.Oct.21    Plan of Land by Schofield depicting McDonald (C.B. Whitney) Lot recorded as Plan No. 1253 of 1959 --- Deed Book 3776 Page 530.

**Summary of this timeline and all other information collected by this surveyor:**

Since there are a number of ambiguous pieces to this puzzle and a lack of physical monuments on site, two or more competent surveyors could arrive at different solutions. The location of the properties and the location of Neelon Lane (a.k.a. Wilson Lane) as interpreted by Guerriere & Halon, Inc are arrived at using the following rationale:

*On April 5, 1863, the three properties owned by Kearns, Neelan and Whitney all abutted one another.*

*On April 6, 1863, the town accepted the 25' Wide Private Way partially over the land of all three extending southerly from what is now Village Street to a fence opposite the southerly side of the Neeland house (#6 Neelon Lane). It was not taken in fee.*

Question for Title Attorney: What is the current status of the title in the 25' Wide Way? While it was referred to as a Private Way in 1863, subsequent deeds refer to "excepting the town road" (Deed Book 363 Page 210) and plans were created showing the land removed (Plan 335 of 1950). Guerriere & Halnon has not found written evidence that the Town of Medway has acquired the fee interest in Neelon Lane. If title is to the original lot lines lie within the 25' Wide Way, all parties with interest in The Way would need to agree on improvements.

In 1950, a plan of the land formerly owned by Kearns is recorded depicting H.W. Whittier's interpretation of what remained of the "one acre lot" (Deed Book 250 Page 26) after taking out the "land set apart by Wilson." Unfortunately, this plan does not close mathematically. Therefore, it must be closed using available evidence. G&H started at the corner of the original stone wall first described in 1856 as the border. Working away from there, a combination of angles from the 1950 plan and original deed distances was used to retrace the intent of Mr. Whittier. G&H believes that the resulting easterly line best sets up the westerly sideline of the 25' Wide Private Way, Neelon Lane.

In 1959, a plan of the land formerly owned by Whitney is recorded (Plan No. 1253 of 1959) depicting Schofield's interpretation of the westerly sideline of Whitney's land described in deed Book 222 Page 44 after the 25' Wide Private Way was accepted.

Regardless of the title status in the Way, and in conjunction with the possibility that the westerly line shown on the 1959 plan is questionable and may follow the existing wall more closely and the original deed calls in Deed Book 222 Page 44, G&H believes that the original boundary line between land formerly of Whitney (McDonald) and that of land formerly of Neeland and Wilson (Aquafrasca and Lots A & B) would be somewhere inside the 25' Wide Way and would enter at the southerly end of the way somewhere in the middle, not along the easterly sideline as shown on the Plan of Land by Schofield done in 1959.

If our interpretation is correct, then the Way would be further east than that shown by the applicant's surveyor and the property line would enter the southerly end of the way leaving less than 25' on the Applicant's land.

Simply holding the plan done in 1959 on the Whitney (McDonald) lot and G&H's interpretation of the 1950 plan would result in remaining land for the way of 21.5' more or less at Village Street and 18.0' more or less at the southerly end of the Kearns lot (#2 Neelon Lane).

Guerriere & Halnon, Inc. believes that the uncertainties of the location, width and status of Neelon Lane should be resolved in the Land Court after submission by a land surveyor of all necessary plans, deeds, interpretations, survey, etc.

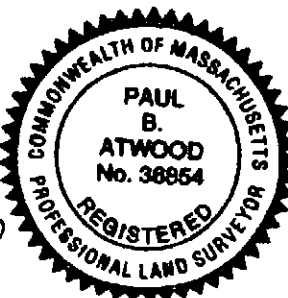
Furthermore, based on the issues raised above, it would be imprudent for The Town of Medway and the applicant before the Planning Board to propose improvements to Neelon Lane without first settling these issues. The risk of encroaching onto private land and infringing property rights of abutters should signal caution in this matter.

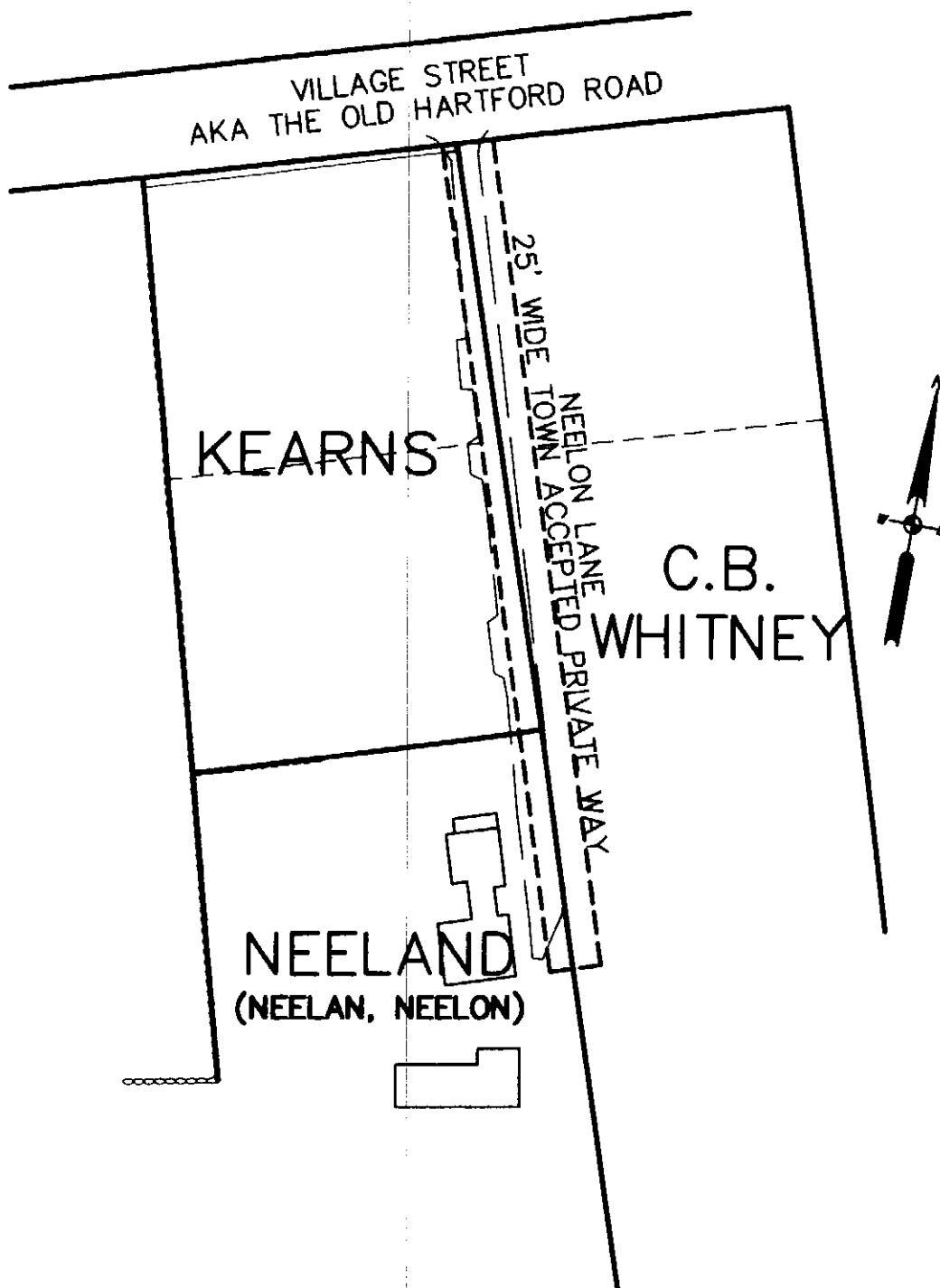
Sincerely,

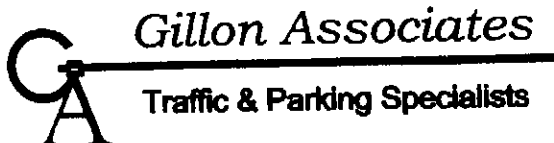
*Paul B. Atwood*

Paul B. Atwood, PLS

11/16/10







Gillon Associates

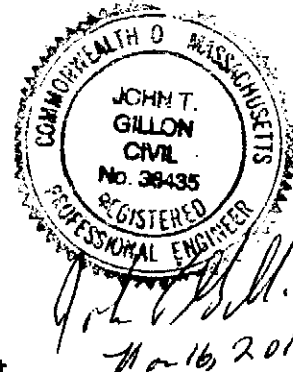
Traffic & Parking Specialists

3 Old Farm Road  
Norwood, MA 02062-6513  
Tel./ Fax: (781) 762-8856  
e-mail: jt.gillon@norwoodlight.com

November 15, 2010

Medway Planning Board  
155 Village Street  
Medway, MA 02053

Reference: Traffic Issues  
Neelon Lane Roadway Layout



Dear Board Members:

On behalf of our client, Elizabeth McDonald, of #9 Neelon Lane, I have prepared this review for the Planning Board's consideration. I have reviewed the proposal plans, the Conley Associates Memorandum dated September 2, 2010, and I have visited the site. In addition, I have researched reference manuals regarding minimum paved travel way and sidewalk widths. The minimum widths provided do not appear adequate for a roadway open to the public.

The proposal before the Board involves providing a total paved two-way travel way of eighteen (18) feet on Neelon Lane, along with a paved four-foot wide sidewalk. Although the Conley Memorandum does show a copy of Exhibit 5-5 from the "Geometric Design of Highways and Street" (Green Book) published by the American Association of State Highway and Transportation Officials, the table shows 18 feet of travel way is the minimum "along" with a two-foot wide shoulder on each side of the road (middle of table) bringing the usable surface to **22-foot minimum**. Obviously the eighteen-foot wide paved roadway abutting the sidewalk does not afford a two-foot wide shoulder on that side. The Institute of Transportation Engineer's "Traffic Engineering Handbook" 6<sup>th</sup> Edition also shows this 22-foot minimum layout on Table 7-17, page 236. The MassDOT 2006 Edition of their "Project Development and Design Guideline" Manual suggests the clear width for a sidewalk is five feet excluding the width of the curb. (p. 5-14). Although this manual does not specify a minimum paved surface width for local roads, it does state "Local roads should Meet Municipal Standards". Although I presume this was adopted to retain the scenic quality of some local communities, the statement does not offer any leeway for reducing minimum Town-wide standards through waivers and variances.

The Americans with Disabilities Act (ADA) does allow for narrow sidewalks to serve wheelchairs at 36-inches. However, since two wheelchairs have to pass each other within a two hundred-foot section, all sidewalks **MUST** be widened to five-feet minimum every two hundred feet to allow for passage.

The narrow roadway pavement width coupled with a short turning radius at the Village Street intersection will require the turning of large vehicles to travel over the center line of the roadway into the path of opposing traffic. Thus, the pavement width should be widened and a larger radii provided.

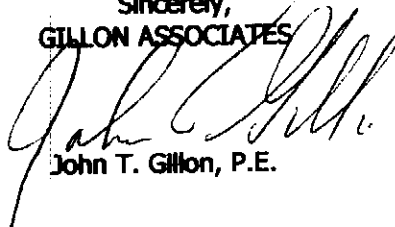
On another note, the National Center for Safe Routes to School has indicated the ADA 36-inch minimum sidewalk width was not a sidewalk recommendation. They recognize that 3-foot width does not allow for two-way travel and they recommend a five to six-foot sidewalk width to allow for children being socially active and to walk side by side comfortably.



Medway - Neelon Lane  
November 15, 2010 p. 2

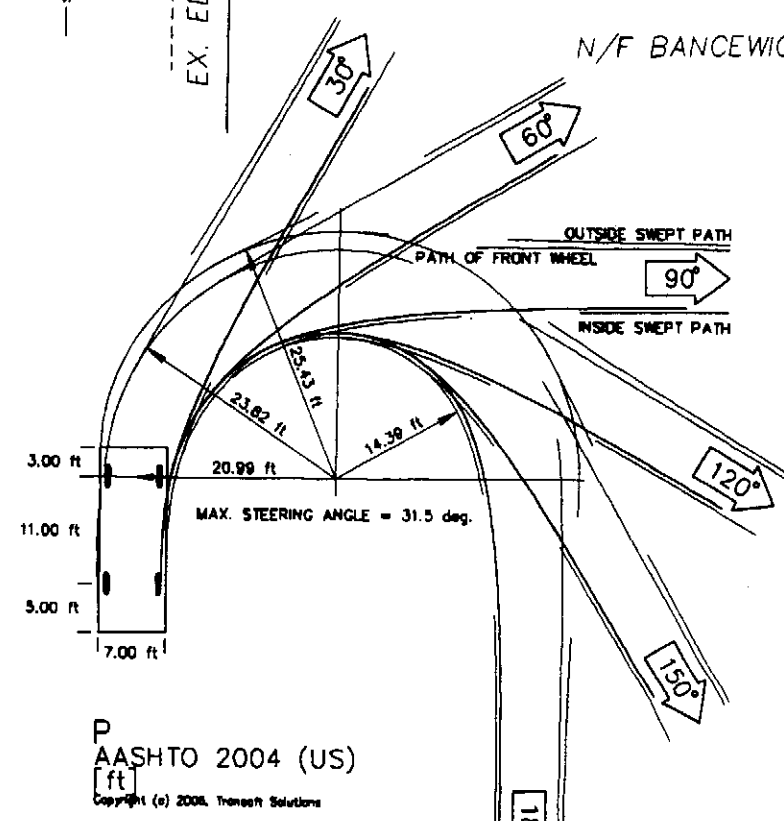
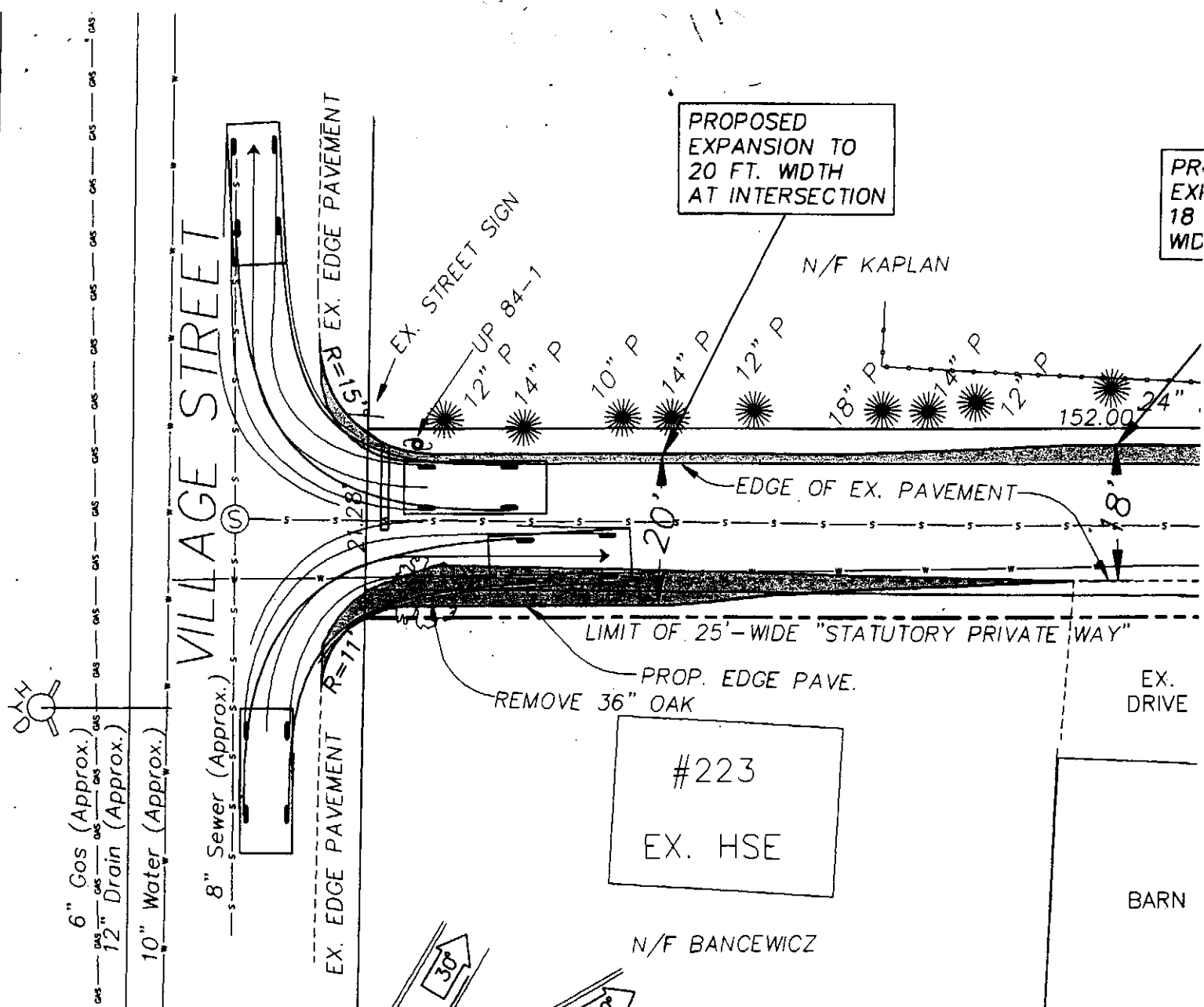
The Board should also consider the ramifications and implications of granting these proposed physical features. Once minimum widths are waived on one project, there will be other developments that cannot be built without waivers coming forward claiming similar hardships. Thank you for the opportunity to present these thoughts.

Sincerely,  
GILLON ASSOCIATES

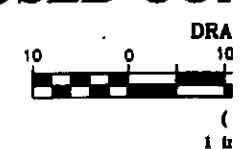
A handwritten signature in black ink, appearing to read "John T. Gillon", is written over the printed name. The signature is fluid and cursive, with a large initial "J" and "G".

John T. Gillon, P.E.

Morrell Condu  
no access issues

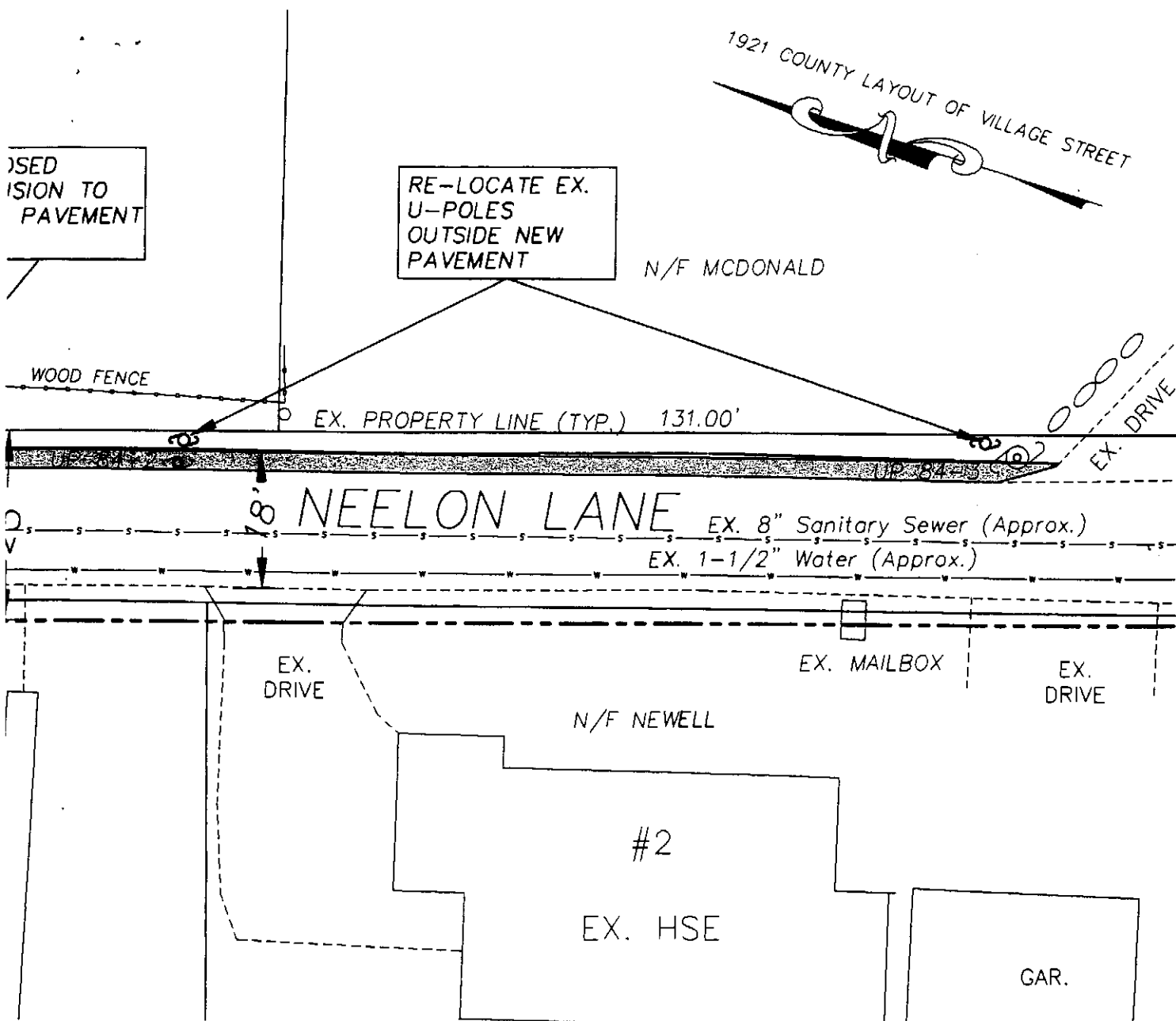


# VILLAGE STRE. PROPOSED COI



P  
AASHTO 2004 (US)  
ft  
Copyright (c) 2008, Threest Solutions

- NOTES:**
- 1) LIMITED EXISTING CONDITIONS ON-THE-GROUND SURVEY BY SOLELY FOR ASPR SPECIAL P



## NEELON LANE CONDITIONS SKETCH



20 ft



### FAIST ENGINEERING, INC.

600 Charlton Street Southbridge, MA 01550  
MA Phone/Fax: (508) 765-7755

O'DRISCOLL  
LAND SURVEYING Co.

LAND SURVEYING GPS MAPPING LAND CONSULTING

46 COTTAGE STREET MEDWAY, MASSACHUSETTS 02053 (508) 533-3314

THE PROPERTY BOUNDARIES ARE BASED ON AN  
O'DRISCOLL LAND SURVEYING CO. INFORMATION SHOWN IS  
CONCEPT PLAN PURPOSES ONLY

TASHJIAN, SIMSARIAN & WICKSTROM, LLP

COUNSELORS AT LAW

60 CHURCH STREET

WHITINSVILLE, MASSACHUSETTS 01588-1416

TELEPHONE (508) 234-4551

FACSIMILE (508) 234-8811

EDWARD D. SIMSARIAN  
JOHN A. WICKSTROM  
JAMES E. TASHJIAN  
TIMOTHY P. WICKSTROM  
ELIZABETH W. MORSE  
THOMAS J. WICKSTROM  
MARK P. WICKSTROM  
THOMAS M. HOFFEY, JR.  
LUKE T. TASHJIAN

BERGE C. TASHJIAN  
(1937-1995)

WORCESTER OFFICE:  
370 MAIN STREET  
WORCESTER, MA 01608-1763  
TEL. (508) 756-1578  
FAX (508) 756-1153  
PLEASE RESPOND TO  
WHITINSVILLE OFFICE

December 9, 2010

Sent via email

Town of Medway

Attn: Susan E. Affleck-Childs, Coordinator

Medway Planning and Economic Development Board

155 Village Street

Medway, Ma 02053

RECEIVED  
DEC 09 2010

RE: Fox Run Farm

TOWN OF MEDWAY  
PLANNING ECON

Dear Ms. Affleck-Childs and Members of the Board:

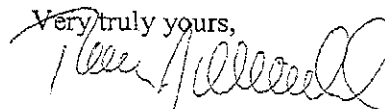
As you know, this office represents Fox Run Development Group, LLC in connection with the project known as "Fox Run farm". I sent you a letter dated November 30 suggesting an agreement with the Town for an immediate release of 4 lots for building and sale and a proposal to place the bond with the Town.

What my client hereby proposes is an immediate release of 4 lots for building and sale without any cash security at this time. This would give my client an opportunity to use his funds to complete the roadway and build a home without the need to borrow excess funds or use other funds, thereby helping his cash flow. In addition as each lot sells, we would be required, at closing, to cut a check to the Town Treasurer for 25% of the bond amount. So, one hundred percent of the bond amount would be with the Town after the first 4 lots sell and he could then obtain a release of the rest of the lots from the covenant. I see no risk to the Town agreeing to this scenario as a lot of roadwork is done already, the payments would come from the first 4 sales, and in the extremely unlikely event my client leaves the project unfinished, the Town would be secured as it would have 100% of the cash bond by the fourth sale. In addition the other lots would still be burdened by the covenant until the full bond is in place.

We ask the board to consider and approve this request.

Thank you.

Very truly yours,



Thomas J. Wickstrom



TETRA TECH RIZZO

MEMORANDUM

To: Susan Affleck-Childs – Medway Planning and Economic Development Board  
Coordinator

Fr: Steven Bouley–Tetra Tech Rizzo

Re: **Fox Run Farm  
Bond Estimate  
Medway, MA**

RECEIVED  
DEC 07 2010

Dt: December 2, 2010

TOWN OF MEDWAY  
PLANNING BOARD

At the request of the Medway Planning and Economic Development Board, Tetra Tech Rizzo (TTR) has performed an inspection of the Fox Run Farm development in order to prepare a bond estimate for the remaining work to be completed by the developer. The inspection is also required to determine whether the developer has satisfactorily completed the minimum infrastructure improvements as specified in Section 6.6.3 of the Town of Medway Planning Board Rules and Regulations that need to be completed before the board authorizes a release to allow for construction of the dwelling units.

On Thursday, December 2, 2010, Steven Bouley from TTR performed an inspection to accomplish the tasks specified above. It was our determination that items remain outstanding and must be addressed prior to the board issuing a release. The outstanding items are as follows.

### Section 6.6.3

1. *Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales, infiltration systems or any other stormwater management facilities. (Ch. 100 §6.6.3c)*
  - The flared end on the outlet pipe of the underground stormwater system and the rip-rap outlet protection does not appear to be constructed as detailed. A 3" layer of crushed stone has not been installed below the rip-rap. See attached photo #1-2.
2. *As-built plan of each detention pond and forebay contoured in two foot (2') intervals; and all critical elevations and details of the structures, pipes and headwalls. (Ch. 100 §6.6.3d)*
  - No As-Built Plan has been submitted.



TETRA TECH RIZZO

3. *Street name signs and "Street Not Accepted by the Town" signs in a size and form as specified by the Medway Department of Public Services, and all regulatory signs as specified in the approved plan. (Ch. 100 §6.6.3e)*

- No Street Signs have been installed.

4. *Stop line pavement markings. (Ch. 100 §6.6.3f)*

- A stop line and the word "STOP" have been painted in the roadway. However, the pavement markings do not appear to be per any standard. It is at the discretion of the town to allow the use of non-standard pavement markings. See attached photo #3-4.

5. *Sidewalk binder. (Ch. 100 §6.6.3g)*

- Sidewalk binder has not been installed.

Also, please find attached a draft bond estimate for preliminary discussion. This bond estimate will need to be revised prior to issuance, to include the outstanding items above. Once these items are addressed the attached bond estimate will be finalized and may be utilized by the planning board to assess a proper bond value. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.



TETRA TECH RIZZO

Photo #1



Photo #2





TETRA TECH RIZZO

Photo #3



Photo #4







TETRA TECH RIZZO

**Bond Value Estimate  
Fox Run Farm  
Comprehensive Permit  
Medway, Massachusetts  
December 2, 2010**

One Grant Street  
Framingham, MA 01701  
Tel 508.903.2000 Fax 508.903.2001

DESCRIPTION	QUANTITY	UNIT	UNIT COST	ENGINEERS ESTIMATE
HMA Top Course - 1 1/2" Depth (Roadway)	125	TON	\$100.00	\$12,500
HMA Top Course - 1 1/4" Depth (Sidewalk)	23	TON	\$100.00	\$2,300
HMA Binder Course - 1 3/4" Depth (Sidewalk)	32	TON	\$85.00	\$2,720
HMA Berm - Modified	402	LF	\$5.00	\$2,010
HMA Binder Repair <sup>2</sup>	1	LS	\$1,700.00	\$1,700
Gravel Borrow (Sidewalk)	110	CY	\$57.50	\$6,325
Vertical Concrete Curb	333	LF	\$40.00	\$13,320
Vertical Granite Curb	125	LF	\$39.00	\$4,875
Concrete Wheelchair Ramp	30	SY	\$78.00	\$2,340
Drain Structure Adjustments	5	EA	\$280.00	\$1,400
Sanitary Structure Adjustments	3	EA	\$290.00	\$870
Landscaping/Playground <sup>3</sup>	1	LS	\$8,000.00	\$8,000
Screening Trees <sup>3</sup>	36	EA	\$200.00	\$7,200
Stockade Fence <sup>3</sup>	80	LF	\$20.00	\$1,600
Loam <sup>4</sup>	214	CY	\$40.00	\$8,560
Seeding <sup>4</sup>	1,947	SY	\$1.50	\$2,921
Singage	2	EA	\$300.00	\$600
Light Poles	3	EA	\$10,000.00	\$30,000
Pavement Markings	1	LS	\$500.00	\$500
2 year Snow Plowing	515	LF/YR	\$2.50	\$2,575
2 year Road Maintenance	515	LF/YR	\$2.00	\$2,060
2 year Drainage Maintenance	515	LF/YR	\$2.00	\$2,060
As-built Plans	515	LF	\$5.00	\$2,575

\$119,011

<b>Subtotal</b>	\$119,011
<b>Contingency (25%)</b>	\$29,753
<b>Recommended Bond Value</b>	<b>\$148,763</b>

**Notes:**

- Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 12/2009 - 12/2010.
- Binder repair pricing includes the area of roadway that will require repair as described in inspection report #16. Pricing includes removal of the existing binder and top 4" of gravel base and the replacement of both. The area of pavement and gravel to be removed and replaced includes the area north of the centerline of the roadway between STA 0+40 to STA 0+60. Area could increase/decrease per an inspection at the time of removal.
- Items for Landscaping, Screening Trees and Stockade Fencing is included in this estimate based upon letter correspondence by Rice Associates dated August 17, 2005. The landscaping/playground item includes the landscaping of the center island in the cul-de-sac and the installation of the playground area. Screening trees include 36 trees (Arborvitae) that will be planted along the northern and south eastern property boundaries to screen the development from abutting properties. Stockade fencing will be installed at each duplex dwelling along the center of the backyard.
- Loam and seeding pricing includes all non-hardscape areas within the right of way, openspace lots and the drainage easement.



TETRA TECH RIZZO

**Bond Value Estimate  
Fox Run Farm  
Comprehensive Permit  
Medway, Massachusetts  
December 14, 2010**

One Grant Street  
Framingham, MA 01701  
Tel 508.903.2000 Fax 508.903.2001

DESCRIPTION	QUANTITY	UNIT	UNIT COST	ENGINEERS ESTIMATE
HMA Top Course - 1 1/2" Depth (Roadway)	125	TON	\$100.00	\$12,500
HMA Top Course - 1 1/4" Depth (Sidewalk)	23	TON	\$100.00	\$2,300
HMA Binder Course - 1 3/4" Depth (Sidewalk)	32	TON	\$85.00	\$2,720
HMA Berm - Modified	402	LF	\$5.00	\$2,010
HMA Binder Repair <sup>2</sup>	1	LS	\$1,700.00	\$1,700
Gravel Borrow (Sidewalk)	110	CY	\$57.50	\$6,325
Vertical Concrete Curb	333	LF	\$40.00	\$13,320
Vertical Granite Curb	125	LF	\$39.00	\$4,875
Concrete Wheelchair Ramp	30	SY	\$78.00	\$2,340
Loam <sup>3</sup>	44	CY	\$40.00	\$1,760
Seeding <sup>3</sup>	394	SY	\$1.50	\$591
Singage	2	EA	\$300.00	\$600
Light Poles	3	EA	\$5,000.00	\$15,000
Pavement Markings	1	LS	\$250.00	\$250
2 year Snow Plowing	515	LF/YR	\$2.50	\$2,575
2 year Road Maintenance	515	LF/YR	\$2.00	\$2,060
2 year Drainage Maintenance	515	LF/YR	\$2.00	\$2,060
As-built Plans	515	LF	\$5.00	\$2,575
				<b>\$75,561</b>

<b>Subtotal</b>	<b>\$75,561</b>
<b>Contingency (25%)</b>	<b>\$18,890</b>
<b>Recommended Bond Value</b>	<b>\$94,451</b>

**Notes:**

- Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 12/2009 - 12/2010.
- Binder repair pricing includes the area of roadway that will require repair as described in inspection report #16. Pricing includes removal of the existing binder and top 4" of gravel base and the replacement of both. The area of pavement and gravel to be removed and replaced includes the area north of the centerline of the roadway between STA 0+40 to STA 0+60. Area could increase/decrease per an inspection at the time of removal.
- Loam and seeding pricing includes all non-hardscape areas within the right of way.

## Susan Affleck-Childs

---

**From:** Pellegrini, David [david.pellegrini@tetrattech.com]  
**Sent:** Monday, December 13, 2010 10:47 AM  
**To:** jpavlik; Susan Affleck-Childs  
**Cc:** mujeebahmed58@yahoo.com; Paul Cusson  
**Subject:** RE: Fox Run Farm Bond Estimate

Thanks Jim,  
I'll take a look at the information.

RECEIVED  
DEC 13 2010

Dave

**From:** jpavlik [mailto:jpavlik@outback-eng.com]  
**Sent:** Monday, December 13, 2010 9:33 AM  
**To:** Susan Affleck-Childs; Pellegrini, David  
**Cc:** mujeebahmed58@yahoo.com; Paul Cusson  
**Subject:** FW: Fox Run Farm Bond Estimate

TOWN OF MEDWAY  
PLANNING BOARD

Dear Susy and Dave,  
For your considerations, attached please find both TTR's bond estimate memo (\$148,763 to complete) and a proposed bond estimate prepared by Mujeeb Ahmed (\$89,176 to complete).

We believe the estimate to complete should only be concerned with items within the roadway layout and all utility infrastructure up to the lot lines -- and not anything related to construction on the lots such as the playground, because this work would be under the jurisdiction of the Zoning Board per the Comprehensive Permit. Accordingly, we suggest deduct 75% of \$8000 cost shown for "landscaping/playground" (remaining 25% or \$2000 would cover landscaping of the cul de sac only), and deduct \$7200 and \$1600, respectively for screening trees and stockade fence at rear of duplexes (all this work is on individual lots). Mujeeb also adjusted other items to reduce the overall cost down to \$89,176, such as placing street signs which are to be delivered shortly, rim adjustments are covered in topcoat paving cost.

Also, our street light detail (Belle Chase, stock number 9165 or 9285, by Mel Northey) shown on sheet 5 of CP plans is not the town standard for a subdivision (was picked by developer back in 2005 when project was still condo) -- please advise if we should request change to the town standard for metering purposes.

Please review and let me know if you have any further questions.

James A. Pavlik, P.E., Principal  
Outback Engineering, Inc.  
165 East Grove Street  
Middleborough, MA 02346  
Tel: (508) 946-9231 x203  
Fax: (508) 947-8873  
Email: [jpavlik@outback-eng.com](mailto:jpavlik@outback-eng.com)  
Website: [www.outback-eng.com](http://www.outback-eng.com)

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----- Forwarded Message -----

**From:** Susan Affleck-Childs <[saffleckchilds@townofmedway.org](mailto:saffleckchilds@townofmedway.org)>  
**To:** Mujeeb Ahmed <[mujeebahmed58@yahoo.com](mailto:mujeebahmed58@yahoo.com)>  
**Cc:** "Pellegrini, David" <[david.pellegrini@tetrattech.com](mailto:david.pellegrini@tetrattech.com)>  
**Sent:** Tue, December 7, 2010 10:38:54 AM  
**Subject:** Fox Run Farm Bond Estimate

Hi Mujeeb,

Attached is the bond estimate prepared by Tetra Tech Rizzo. I will provide this estimate to the Medway Planning and Economic Development Board for consideration at its meeting on 12/14/2010.

Please contact me if you have any questions.

Susy

**Susan E. Affleck-Childs**

Medway Planning and Economic Development Coordinator  
155 Village Street  
Medway, MA 02053

508-533-3291

[saffleckchilds@townofmedway.org](mailto:saffleckchilds@townofmedway.org)

---

**From:** Pellegri, David [<mailto:david.pellegri@tetrattech.com>]

**Sent:** Monday, December 06, 2010 3:54 PM

**To:** Susan Affleck-Childs

**Subject:** FW: Fox Run Farm Bond Estimate

Susy,

Attached is the bond estimate for the Fox Run Farm project. Let me know if you have any questions/issues.

Thanks,

Dave

---

**From:** Bouley, Steven

**Sent:** Monday, December 06, 2010 3:34 PM

**To:** Pellegri, David

**Subject:** Fox Run Farm Bond Estimate

Steven Bouley | Engineer |

Tel: 708.802.2332 | Main: 508.505.2000 | Fax: 508.802.2001

[steven.bouley@tetrattech.com](mailto:steven.bouley@tetrattech.com) [www.tetrattech.com](http://www.tetrattech.com)

**TOWN OF MEDWAY**  
**PLANNING and ECONOMIC DEVELOPMENT BOARD**

**AGREEMENT FOR DEPOSIT OF MONEY**

This agreement is entered into this \_\_\_\_\_ day of December, 2010, between the Town of Medway, acting through its Planning and Economic Development Board, with an address of 155 Village Street, Medway, MA 02053 (hereinafter referred to as "the Board"), and Fox Run Development Group, LLC with an address of C11, 287 Chancy Street, Mansfield, MA ("Applicant"), to secure the construction of ways and installation of municipal services in the subdivision of land shown on an approved subdivision plan described below, in accordance with General Laws Chapter 41A Section 81U, and all other applicable provisions of the Subdivision Control Law and General Laws.

WHEREAS, on October 19, 2005, after a duly noticed public hearing, the Medway Zoning Board of Appeals approved a comprehensive permit to Rice Associates, Inc. for Fox Run Farm for a 10 lot subdivision, which is entitled Comprehensive Permit Subdivision Lotting Plan, Fox Run Farm, Medway, MA prepared by Outback Engineering dated \_\_\_\_\_ and recorded at the Norfolk County Registry of Deeds in Plan Book 599 Page 64, (hereinafter referred to as the "Plan"); and

WHEREAS, the approved Plan shows the division of a parcel of land located at 122 Holliston Street and further described in a deed or deeds dated October 14, 2010 and recorded in the Norfolk County Registry of Deeds in Book 28163 Page 357.

WHEREAS, the Board is required by G.L. c. 41A § 81U to secure the construction of ways and installation of municipal services in the subdivision.

NOW, THEREFORE, the parties agree as follows:

1. The Applicant hereby binds and obligates itself, successors and assigns to the Board in the sum of \_\_\_\_\_ and has secured this obligation by depositing with the Town of Medway Town Treasurer a deposit of money in the above sum to be deposited in a subdivision escrow account in the name of the Town of Medway. The deposit of money is to be used to secure the performance by the Applicant of all covenants, conditions, agreements, terms and provisions contained in the following: the Subdivision Control Law (G.L. c. 41A §§ 81K-81GG); the Zoning Board of Appeals Comprehensive Permit Decision and all conditions of approval, the approved Plan; all conditions subsequent to approval of this Plan due to any amendment, modification or revision of the Plan; all of the provisions set forth in this Agreement and any amendments thereto; and the following additional documents: \_\_\_\_\_. (hereinafter the "Approval Documents").

2. The Applicant shall complete the construction of ways and the installation of municipal services no later than \_\_\_\_\_ years from the date of this agreement.

3. Upon completion of all obligations as specified herein on or before the completion date, or such later date as may be specified by vote of the Zoning Board of Appeals with the concurrence of the Applicant, the deposit of money including all interest accrued thereon shall be returned to the applicant by the Town of Medway. In the event the Applicant should fail to complete the construction of ways and installation of municipal services as specified in the Approval Documents and within the time herein specified, the Board, in accordance with applicable laws, may apply the deposit of money held by the Town of Medway Town Treasurer, in whole or in part, for the benefit of the Town of Medway to the extent of the reasonable costs to the Town of Medway to complete construction of ways and installation of municipal services as specified in this agreement. Any unused portion of the deposit of money, together with accrued interest, will be returned to the Applicant upon completion of the work by the Town of Medway.

4. The Zoning Board of Appeals may rescind approval of the Plan or breach of any provision of this Agreement or any amendments thereto. Such rescission shall be in accordance with G.L. c. 41 s. 81W.

5. The Board shall notify the Town of Medway Town Treasurer of any authorized reduction or release of the deposit of money that secures this agreement in full or in part. Upon receipt of a notice of reduction or release, the Treasurer shall forthwith return the deposit of money, or portion thereof, together with accrued interest, to the Applicant, or to such other person or entity as the Applicant may designate in writing.

6. The Applicant agrees and understands that the Board will not release this agreement until the ways and municipal services have been deemed by the Board to be constructed and installed in accordance with this agreement, which shall include demonstration of adequate construction and installation for six months prior to said release. This agreement does not expire until released in full by the Board.

7. If a court of competent jurisdiction determines that any provision of this agreement is unenforceable, such determination shall not affect the remaining provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF we have hereunto set our hands and seals this \_\_\_\_\_ day of December, 2010.

**TOWN OF MEDWAY**  
**Planning and Economic Development Board**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, before me, the undersigned  
notary public, personally appeared the following Members of the Medway Planning and  
Economic Development Board: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

proved to me through satisfactory evidence of identification, which was (personal  
knowledge) (Massachusetts driver's license), to be the persons whose names are signed  
on the preceding document, and acknowledged to me that it was signed voluntarily for its  
stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

By:

NORFOLK, SS

My commission expires: \_\_\_\_\_



Bond Value Estimate			
Fox Run Farm		Planning Bd	Planning Bd Control
Comprehensive Permit	TTR #	Control	Mujeeb
Medway, Massachusetts		With TTR #	Contract #'s
2-Dec-10			
(Roadway) 125 TON \$100.00	\$ 12,500.00	\$ 12,500.00	\$ 12,500.00
HMA Top Course - 1 1/4" Depth			
(Sidewalk) 23 TON \$100.00	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00
HMA Binder Course - 1 3/4" Depth			
(Sidewalk) 32 TON \$85.00 \$2,720	\$ 2,720.00	\$ 2,720.00	\$ 2,720.00
HMA Berm - Modified 402 LF \$5.00 \$2,010	\$ 2,010.00	\$ 2,010.00	\$ 2,010.00
HMA Binder Repair 2 1 LS \$1,700.00 \$1,700	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00
Gravel Borrow (Sidewalk) 110 CY \$57.50 \$6,325	\$ 6,325.00	\$ 6,325.00	\$ 1,870.00
Vertical Concrete Curb 333 LF \$40.00 \$13,320	\$ 13,320.00	\$ 13,320.00	\$ 6,660.00
Vertical Granite Curb 125 LF \$39.00 \$4,875	\$ 4,875.00	\$ 4,875.00	\$ 2,500.00
Concrete Wheelchair Ramp 30 SY \$78.00 \$2,340	\$ 2,340.00	\$ 2,340.00	\$ 2,340.00
Drain Structure Adjustments 5 EA \$280.00 \$1,400	\$ 1,400.00		
Sanitary Structure Adjustments 3 EA \$290.00 \$870	\$ 870.00		
Landscaping/Playground 3 1 LS \$8,000.00 \$8,000	\$ 8,000.00	\$ 2,000.00	
Screening Trees 3 36 EA \$200.00 \$7,200	\$ 7,200.00		
Stockade Fence 3 80 LF \$20.00 \$1,600	\$ 1,600.00		
Loam 4 214 CY \$40.00 \$8,560	\$ 8,560.00	\$ 8,560.00	\$ 4,280.00
Seeding 4 1,947 SY \$1.50 \$2,921	\$ 2,921.00	\$ 2,921.00	\$ 2,921.00
Singage 2 EA \$300.00 \$600	\$ 600.00		
Light Poles 3 EA \$10,000.00 \$30,000	\$ 30,000.00	???	\$ 3,000.00
Pavement Markings 1 LS \$500.00 \$500	\$ 500.00	\$ 500.00	\$ 250.00
2 year Snow Plowing 515 LF/YR \$2.50 \$2,575	\$ 2,575.00	\$ 2,575.00	\$ 2,575.00
2 year Road Maintenance 515 LF/YR \$2.00 \$2,060	\$ 2,060.00	\$ 2,060.00	\$ 2,060.00
2 year Drainage Maintenance 515 LF/YR \$2.00 \$2,060	\$ 2,060.00	\$ 2,060.00	\$ 2,060.00
As-built Plans 515 LF \$5.00 \$2,575	\$ 2,575.00	\$ 2,575.00	\$ 2,575.00
Total	\$ 119,011.00	\$ 71,341.00	\$ 54,321.00
Contingency	\$ 29,752.75	\$ 17,835.25	\$ 13,580.25
Total with Contingency	\$ 148,763.75	<b><u>\$ 89,176.25</u></b>	\$ 67,901.25
<b><u>Bond Amount should not be more then \$89,176.00</u></b>			
<b><i>Prepared by Jim Pavlik, Outback Engineering</i></b>			

## Susan Affleck-Childs

---

**From:** Mujeeb Ahmed [mujeebahmed58@yahoo.com]  
**Sent:** Thursday, December 09, 2010 10:43 PM  
**To:** Susan Affleck-Childs  
**Cc:** Pellegri, David  
**Subject:** Re: Fox Run Farm Bond Estimate  
**Attachments:** Stop\_Street-Signs.pdf

Susan,

Attach is the Invoice for street & stop signs, The second pole I came to know on dec1st at ZBA meeting, So I ordered it and its expected to be delivered next week, but its all paid. meanwhile, before Dec 14th I am going to install one pole with stop and street sign till the next pole arrives. So can we take out these items from the Bond estimate?

Mujeebuddin Ahmed  
Office:508-328-2377  
Fax:508-507-3349  
Email: [mujeebahmed58@yahoo.com](mailto:mujeebahmed58@yahoo.com)

---

**From:** Susan Affleck-Childs <[saffleckchilds@townofmedway.org](mailto:saffleckchilds@townofmedway.org)>  
**To:** Mujeeb Ahmed <[mujeebahmed58@yahoo.com](mailto:mujeebahmed58@yahoo.com)>  
**Cc:** "Pellegri, David" <[david.pellegri@tetrattech.com](mailto:david.pellegri@tetrattech.com)>  
**Sent:** Tue, December 7, 2010 10:38:54 AM  
**Subject:** Fox Run Farm Bond Estimate

Hi Mujeeb,

Attached is the bond estimate prepared by Tetra Tech Rizzo. I will provide this estimate to the Medway Planning and Economic Development Board for consideration at its meeting on 12/14/2010.

Please contact me if you have any questions.

Susy

**Susan E. Affleck-Childs**  
Medway Planning and Economic Development Coordinator  
155 Village Street  
Medway, MA 02053  
508-533-3291  
[saffleckchilds@townofmedway.org](mailto:saffleckchilds@townofmedway.org)

---

**From:** Pellegri, David [<mailto:david.pellegri@tetrattech.com>]  
**Sent:** Monday, December 06, 2010 3:54 PM  
**To:** Susan Affleck-Childs  
**Subject:** FW: Fox Run Farm Bond Estimate

Susy,  
Attached is the bond estimate for the Fox Run Farm project. Let me know if you have any questions/issues.  
Thanks,  
Dave

**INVOICE No.**

126523

(508) 586-6240  
(508) 587-0617**PERMA-LINE CORP. OF NEW ENGLAND**

www.perma-line.com

FAX (508) 587-2110

P.O. BOX 4515 — 132 COURT STREET — BROCKTON, MASS. 02303

HOURS 7:00-4:00 MON.—FRI.

- STREET & TRAFFIC SIGNS
- SPECIALTY SIGNS
- CHANNEL POSTS
- ALUMINUM & GALV. POSTS
- SIGN BRACKETS & FIXTURES
- AVERY REFLECTIVE MATERIAL
- ALUMINUM SIGN BLANKS
- FOUL WEATHER GEAR
- WORK GLOVES & BOOTS
- SQUARE POSTS
- LINE STRIPING MACHINES
- TRAFFIC PAINT & STENCILS
- TRAFFIC CONES
- BARRICADES & BARRELS
- SNOWPLOW BLADES

BILL TO •

Mujeeb Construction Co.  
11 W. Butterfly Way  
Lincoln, RI 02865

SHIP TO •

Call When Ready  
Mujeeb 1-508-328-2377

Ship Via    Customer Pickup    Work Order #    95714

PURCHASE ORDER #		SHIP DATE	TERMS	DATE	
		12/8/2010	Credit Card	12/8/2010	
QUANTITY SHIPPED	B/O	ITEM	DESCRIPTION	UNIT PRICE	AMOUNT
1	0	MEDWAY MA	FINISHED STREET SIGNS 9" Extruded Blue E.C. w/White Prismatic D.S. w/Town Seal	0.00	0.00T
1	0	48x9-X	48x9-X (seal) MORNINGSIDE DR	91.55	91.55T
1	0	NEX-12X	NEX-12X 12" Brackets for Nex Tube Posts for Extruded Street Sign Blades	27.55	27.55T
			FINISHED TRAFFIC SIGNS		
1	0	FTPRR1-1-30x30	PRR1-1-30x30 PRISMATIC Stop Sign	88.50	88.50T
2	1/0	10-NEX-BLUE	10' Blue Nex Tube Post BO (1)	105.00	210.00T
2	0	3-2 1/4-SQUARE	3"x2 1/4"x 2 1/4" Square Posts 12 Ga	13.95	27.90T
2	0	WEDGES	Wedges for Square Posts	2.50	5.00T
2	0	FM200	FM 200 Front Mount Brackets for 2" Nex Tubes	6.95	13.90T
2	0	DRIVE PINS	Drive Pins	1.45	2.90T
PAID IN FULL VISA \$496.51 *					
HAPPY HOLIDAYS!					
Subtotal					\$467.30
Sales Tax (6.25%)					\$29.21
Payments/Credits					\$-496.51
Balance Due					\$0.00

All claims for errors and deficiencies must be made  
within fifteen (15) days after receipt of goods.1 1/2% per month on invoices not paid in 30 days  
Federal Identification - #042-235-825

REPRINT

SALES DRAFT

PERMA LINE CORP OF NE  
132 COURT ST  
BROCKTON, MA 024030000  
TERMINAL 0263826

902203978991  
11/24/2010 15:57:36

VISA  
XXXXXXXXXXXX3486  
AUTH. TRANS. ID. 080328719023813  
INVOICE 17001 002  
AUTH. CODE 035822

SALE TOTAL	\$367.47
TAX	\$0.00
TOTAL	\$367.47

CUSTOMER COPY

SALES DRAFT

PERMA LINE CORP OF NE  
132 COURT ST  
BROCKTON, MA 024030000  
TERMINAL 0263826

902203978991  
12/02/2010 09:55:18

VISA  
XXXXXXXXXXXX3486  
AUTH. TRANS. ID. 080336501944374  
INVOICE 20001 002  
AUTH. CODE 075535

SALE TOTAL	\$129.04
TAX	\$0.00
TOTAL	\$129.04

CUSTOMER COPY

↓  
Second Pole Order  
after ZBA Meeting.

7 Independence Lane  
Medway, MA 02053

December 8, 2010

Ms. Mary Jane White  
Town Clerk  
Town of Medway  
155 Village Street  
Medway, MA 02053

RECEIVED  
DEC 03 2010

TOWN OF MEDWAY  
PLANNING BOARD

RECEIVED

DEC - 8 2010

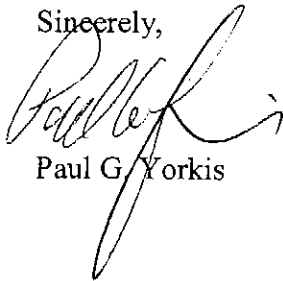
TOWN CLERK

Dear Ms. White:

Please accept this letter of resignation from the Economic Development Committee effective immediately.

Thank you in advance for your assistance.

Sincerely,



Paul G. Yorkis