

**Town of Medway
Zoning Board of Appeals Meeting
School Committee Presentation Room
Medway Middle School
45 Holliston St, Medway MA**

MINUTES OF MEETING

November 16, 2016

Present: Chairman David Cole; Clerk Carol Gould; Committee Members: Eric Arbeene, William Kennedy and Brian White; and Associate Member Rori Stumpf.

Also present: Mackenzie Leahy, Administrative Assistant, Community & Economic Development; Ezra Glenn, Public Planning Research & Implementation, Inc.; Steve Bouley, Tetra Tech; Barbara Saint Andre, KP Law, Town Counsel; Tom Holder, Director of DPS

Chairman Cole called the meeting to order at 7:38 PM.

Citizen Comments: There were no members of the public that wished to make comments on items other than those already on the agenda.

Discussion:

7:40 P.M. – Continuing Care Management, LLC, 261 & 263 Village Street, requests a six month extension of the Zoning Board’s variance decision, dated December 2, 2015

Paul Kenney, of Kenney & Kenney Attorneys at Law, was present on behalf of Continuing Care Management. Mr. Kenney explained that the Board had granted the variance for the construction of two signs at the entrance of the development in December 2015. Continuing Care Management had been delayed in the closing of the property and was scheduled to close at the end of the month, which puts the construction schedule to starting at the beginning of the spring. The Board has the discretion to grant an extension of the variance and then the applicant will be able to apply for a sign permit for construction to be underway.

Chairman Cole asked Mr. Kenney if he believed Continuing Care Management expect they may need any further extension. Mr. Kenney stated that he did not believe Continuing Care Management would need any extension once construction was underway and they applied for a sign permit from the Building Department. Chairman Cole asked if Continuing Care Management would need any modification to the variance; Mr. Kenney stated that they would not.

No members of the public had any comments regarding the extension request. No members of the public spoke in favor or in opposition of the request.

A motion was made to grant to Continuing Care Management, LLC the extension of the existing variance for six months from the December 2, 2016 action date expiration to June 2, 2017 by Chairman Cole, seconded by Mr. White, and approved unanimously.

Correspondence:

Ms. Leahy brought before the Board the application request for a variance for 21 Tulip Way. The applicant requested to be on the December 7, 2016 agenda, however, Ms. Leahy noted that the Board already has a special permit application as well as the Timber Crest hearing scheduled for the December 7, 2016 meeting date. Ms. Leahy stated that it is up to Board's discretion for the scheduling of the newly received application.

Chairman Cole respectfully suggested that the Board schedule the hearing for 21 Tulip Way to the December 21, 2016 meeting date, and reluctantly expressed that if there was an issue with that scheduling, to schedule the hearing for December 7, 2016.

Any other business that may properly come before the Board:

Approval of 2017 Zoning Board of Appeals Meeting Schedule

Ms. Leahy presented the 2017 ZBA Meeting Schedule.

A motion was made to approve the 2017 ZBA Meeting Schedule by Chairman Cole, seconded by Mr. White, approved unanimously.

Ms. Leahy also noted that she had drafted a supplemental 2017 ZBA Application Filing Deadlines for the 2017 Meeting Dates and recommended that the Board accept the filing deadlines.

A motion was made to approve the 2017 ZBA Application Filing Deadlines by Chairman Cole, seconded by Mr. White, approved unanimously.

Approval of payment of invoice from Tetra Tech re: Timber Crest Peer Review Services

Ms. Leahy stated that the Board had received the invoice from Tetra Tech for peer review services up to October 5, 2016 and that the Board should choose approve the invoice.

A motion was made to approve the invoice from Tetra Tech for \$2,445.30 by Chairman Cole, seconded by Mr. White, approved unanimously.

Approval of Minutes:

Mr. Arbeene stated that he was not in attendance of the last hearing, but noted a change to the minutes.

A motion was made to approve the minutes of October 12, 2016 as amended by Chairman Cole, seconded by Mr. White, and approved 5-0-1.

[The minutes for October 19, 2016 and November 2, 2016 were not prepared for approval.]

Public Hearings:

8:00 P.M. – The Applicant, Timber Crest, LLC, seeks a Comprehensive Permit under MGL c. 40B, Sections 20-23 as amended, to allow construction of 157 unit development to be called “Timber Crest Estates” containing 25% affordable units on 170.36 acres which is comprised of the properties located at 143 Holliston Street, 153R Holliston Street, 177A Holliston Street, 21R Fairway Lane, 13 Ohlson Circle, 102 Winthrop Street, 11 Woodland Road, 0R Woodland Road, and 165 Holliston Street Medway, MA.

[Focus areas: Sewer & Water, Access]

The Board is in receipt of the following documents:

- PEDB Revised Comment Letter, received 11/4/16
- DPS Supplemental Comment Letter on Water & Sewer, received 11/14/16
- Timber Crest Revised Waiver List, received 11/16/16
- Resident Comments concerning Water, submitted by Dave Dahlheimer, received 11/16/16

The developer, Mounir Tayara; the developer’s engineer, Jim Pavlik of Outback Engineering; and the developer’s attorney, Christopher Agostino of RIW were in attendance for the hearing.

Mr. Agostino stated that the applicant had done the calculations for the water demand the development would require and is asking the Board to grant approval at the local level that may be necessary for the extension [to connect] for both the water and the sewer system. The applicant presented those calculations to the Board and received comments from both DPS and the Charles River Pollution Control District (CRPCD) regarding what their capacities are relative to the requested demand. The applicant is prepared to respond to why they are entitled to the requested capacity; at the end of the day the applicant is asking that the Board grant all local permits and approvals.

Mr. Pavlik explained that on the west side of the development there is an existing sewer manhole at the intersection of Lovering Street and Buttercup Lane to the south. The applicant is proposing to run gravity sewer through Ohlson Circle and through the property at 13 Ohlson Circle where they are proposing the emergency access road. The gravity sewer would wind through the roads of the west side almost up to the proposed intersection at Holliston Street. The last 5 or 6 homes would be on a pump system with individual pumps tied to the last manhole near Winthrop Street.

Chairman Cole asked if the applicant had secured the necessary easements for the connections. Mr. Pavlik explained that the connection would be made by obtaining a roadway opening permit; the applicant has the necessary easements for 13 Ohlson Circle.

Mr. Pavlik explained that the east side has the looped roadway from Fairway Lane to Holliston Street as well as the cul-de-sac on Fern Path. The last gravity manhole on Fern Path is about 100 feet from the end of the property line; there is always gravity sewer on Holliston Street [past the most south-eastern part of the property]. The applicant is proposing gravity sewer throughout the portion of the east side development connected from Fairway Lane and Holliston Street that would flow to a pump station [above Woodland Road]. There would also be a force main that ran through the upland into Fern Path to tie into Fern Path. Another option would be for the applicant to run the force main across the uplands to the west side of the development and connect to the gravity sewer on the west side, to all flow out to Buttercup Lane.

Mr. Pavlik explained that for the water, the applicant is proposing connections from Fairway Lane, Holliston Street, Fern Path, and depending on the water flow, there could also be a connection from the east side of the development down to Fern Path; the east side would have at least two connections. The west side would have a connection to Winthrop Street and Ohlson Circle. The applicant is providing looped waterways.

Mr. Pavlik stated that the applicant is proposing 157 homes with an average of 3 bedrooms; Title 5 flow rates are 110 gallons per day per bedroom for water capacity, which works out to be 51, 810 gallons per day for the proposal. The flow rates will be added in over a course of time; depending on the market rates the build out could extend for 5 years or more.

In looking at the information from DPS, the applicants noted that CRPCD provided a detailed summary of the sewage flow rates between 2011 and 2015. In 2011, the flow exceeded the Town's allotment and by 2015 the rates have been reduced to 82% of its allotted capacity. Mr. Pavlik said that he understood that the rates have decreased due to a number of leaks that have been fixed. CRPCD determined that there was capacity for the proposed development, including the capacity of other developments that have already been approved in town, and based on 2015 calculations. Mr. Pavlik stated that the town would be at 98% capacity; he stated that the Town has the ability to purchase capacity from other surrounding towns. Based on the information provided by DEP, the withdrawal rates from 2014 show that the Town exceeded its capacity of 0.92 million gallons per day and had 34% unaccounted for water, however the Town has taken measures to detect and repair leaks and those numbers have been significantly reduced to less than 10% unaccounted for water.

Chairman Cole stated that the two alternative proposals for the water and sewer have substantial wetlands crossings; he asked how large those disturbances would be. Mr. Agostino replied that the crossings would be temporary crossings, not permanent, so the disturbances would be reduced.

Chairman Cole asked how the sewer would extend to Holliston Street if there was a pump right before it. Mr. Pavlik explained that the furthest connection along Holliston Street is near the end of Fern Path, there is no close connection [to the proposed roadway at Holliston Street].

Mr. White asked if there was a reason that the applicant was avoiding Holliston Street. Mr. Pavlik replied that there would be a tremendous amount of work required to make the connection to Holliston Street and the applicant would lie to keep the work where disturbances would already be made. Mr. Tayara stated that it would be less destructive to have the work on-site.

Mr. White asked if there was a difference in capacity from the Holliston Street line and the Fern Path line, as well as Ohlson Circle. Mr. Reardon stated that he had not yet seen any plans or information on that yet. Mr. Pavlik stated that they had not yet looked at those specific capacities but they were planning on working with DPS. Mr. White asked if there would be three tie-ins on the eastern half; Mr. Pavlik replied yes.

Mr. Stumpf asked why the sewer capacity was based on a one-year snapshot. Mr. Stumpf stated that the year that the applicant had looked at may have been the most favorable year out of the last five. Mr. Stumpf asked if one-year was a normal time period, and realistic period, to base calculations on. Mr. Pavlik answered that Mr. Holder would be best to answer that. Mr. Pavlik re-stated that the Town had been making detections and repairs for leaks, and he believed that the current numbers may be

more realistic than previous years. Mr. Stumpf asked what may impact those numbers; Mr. Pavlik answered that new projects, increased water usage, and other variables in terms of leaks may impact those numbers. Mr. Reardon stated that every town has numbers for inflow and infiltration (I & I); when coming out of a drought year, like the past year, the ground water is depressed so sewer mains that are sitting in ground water most years are dry so there is a potential component of I & I that is missing. The flows of the sewer district from the past year are low, but if you were to look at a wet year, the water table would be high and high flows to the treatment plant. Mr. Reardon suggested looking at a five-year history and to look at trends.

Chairman Cole asked if it was ultimately determined that Fern Path was private, would the applicant have the ability to tie into the sewer line there. Mr. Agostino responded that the applicant believed that they have enough evidence that they have access to Fern Path and are therefore proposing the connection. Whether or not the applicant has access will not be determined during the proceedings [of the ZBA hearings] but ultimately the Board could condition that before the applicant moves forward with the development, the applicant must provide proof of access, if that is the connection that the applicant ultimately decides on. Chairman Cole asked if the connection from the eastern to the western portion of the development was free of any question of access; Mr. Agostino replied yes.

Mr. White stated that it seems that it “puts the car before the horse” to not look to see what the capacity is of the tie-in points of the sewer systems before deciding on any number of houses or decide on the roadway. Mr. White asked Mr. Pavlik and Mr. Reardon when a project would typically look at that. Mr. White asked if that information was available or if [the Town] needed to get that information to Mr. Pavlik. Mr. Pavlik stated that the applicant had preliminary discussion with Mr. Holder and no capacity issues had been noted. Mr. White asked if the applicant was referring to the system or the [individual] pipes; Mr. Pavlik replied regarding the pipes.

Mr. Glenn stated that it seems like there is a Town concern regarding even tying into the sewer and water. He asked that assuming the applicant could tie in, is it typical to assume there is capacity at the manholes, or are those “deal breakers.” Mr. Pavlik stated that there is a possibility that there may not be capacity in some lines. Mr. Pavlik stated that if there was an issue with the lines, that he would hope that information be brought out. Mr. Reardon stated that the pipes are below the ground and below water; the Town is never going to know if there is a problem unless they meter them and see if the water goes above, or if the water goes above the sewer manhole cover. The standard is that Mr. Reardon would expect is that the new flow would not surcharge the lines, having the water flow above the lines. Mr. Reardon stated that he assumed the work was going to be done to determine the sewer line capacity now that theoretically the treatment plant can take it [the requested capacity]. Mr. Glenn stated that was the important thing to resolve soon—is [the Town] comfortable that the project can tie in.

Mr. White asked if there was an alternative plan or design if the Town or CRPCD determines that the applicant can't tie in; I.E. private sewer. Mr. Agostino stated that there was not; and the applicant believed that they had the ability to tie in. The Town is approaching capacity issues anyways; the applicant is expediting the limit, but the Town had to make efforts to be proactive and mitigate the issues anyways. Mr. Agostino stated that at the end of the day, there is no compelling local concern that the applicant sees that would prevent the applicant from legally going forward with the 40B development.

Ms. Leahy clarified that the letters from CRPCD and MassDEP were not received in October, that they were sent with Mr. Holder's letter on sewer and water. Mr. Agostino stated that the applicant had not received the letter until November 14.

Mr. Arbeene quoted the letter from CRPCD, "Given the recent Town flow data, the District approves the Timber Crest development anticipated flow. This additional flow will bring the Town to its reserved capacity at the plant, therefore the Town will need to significantly reduce infiltration and inflow in their sewer system or purchase reserved capacity from another Town discharging to the District if the Town plans any significant future developments." In summation, this will make the Town reduce its I & I, but this will bring the Town to its capacity. Mr. Arbeene would like to know how much I & I is possibly left.

Mr. Agostino stated that the "spigot will not be turned on all at once," and the development will be built out over time, so the worst possible scenario is that even if it wasn't there [the capacity], the applicant would be next in line when it does become available.

Mr. White stated that he was concerned that not being able to tie in would have a significant impact on the project and environmental impact if the applicant needed private sewer. Mr. Agostino stated that the planning and re-design that would go into an on-site waste water treatment plan would be an extraordinary undertaking and a complete redesign of the site. The applicant would anticipate that it [a permit] would be conditioned upon final approval of connection to the sewer system. If the tie-in didn't happen, then the applicant would come back to the Board for a project change, but it doesn't make sense to design that at this point as a fall back.

Mr. Glenn stated that the applicant has come to this Board for the comprehensive permit, and part of that allows the Board the right to grant the tie-in for sewer and water. What the Board is trying to determine is if there is capacity. The Board got information back from experts that said there is "sort of" capacity, but they request that Timber Crest provide alternatives that would express sewer conveyance and treatment on-site and provisions on drinking water from on-site sources. Mr. Glenn stated that conditioning everything on-site may be a major deal-breaker and the applicant would go straight to Housing Appeals Committee (HAC) that might decide it would make the project uneconomic. Mr. Glenn asked the applicant if they could not contemplate this project without tying into sewer and water or is there a possibility that the applicant could see that happening and it is something that the Board and applicant needs to explore. Mr. Agostino stated that the applicant hadn't considered it because it was not feasible for the development. Mr. Glenn stated that it was up to the Board to decide if they wanted to believe that and consult with its Attorney. Given that, are there any practices or modifications to help mitigate the water and sewer demands—from low flow toilets to water heads, collecting roof run-off on-site, anything like that that would make the Board feel comfortable going up to that edge [of capacity].

Mr. Glenn also noted that the applicant's primary concern is on-site, but then there are issues that the Town is concerned with off-site, including I & I. If there's anything that the applicant is willing to help with, understanding that they are not responsible for the Town's overall capacity, the applicant should present that. Mr. Agostino stated both BRPCD and MassDEP raised the issues of mitigation measures. There are a slew of mitigation measures that the applicant can do. There is going to be a work session and communication with DPS and those are things the applicant can discuss. The applicant will go back to the drawing board in terms of what they can do to mitigate some of the issues—leak issues, additional studies, all of these issues are on the table.

Mr. Tayara stated that although the applicant needs to take into account Title 5 requirements to determine gallons of usage, the actual requirement may be much less. The average Medway home uses 8,000 cubic feet annually, which translates to 59,800 gallons per year. If you use that as a model for the applicant, multiplied by 157 homes, then divide that by 365 days, you would have 25,700 gallons per day. Mr. Reardon warned Mr. Tayara to be careful making those assumptions because Title 5 includes 100% escalation to account for peaks and flow.

Mr. Reardon stated that it would be helpful to have one plan rather than multiple options and a plan that proves that the demands can safely be met—meaning where is everything going downstream and how are those areas going to be taxed—that would mean including a water impact analysis. Mr. Reardon stated that he agreed with the applicant that on-site sewer seemed impossible based on where [the land] sits at the water table, but one of the biggest things talked about is I & I and every one of the [proposed] sewer lines would most likely be sitting within the water table. Mr. Reardon stated that he would like the application to start at a much higher benchmark then “at the bottom.”

Mr. Arbeene asked if the table from CRPCD included previously approved projects in Town; Mr. Holder replied that it did.

Mr. Holder came before the Board. Mr. Holder reiterated that his general message for both sewer and water was that the Town was at a breaking point with CRPCD and the Water Management Act permit; the Town needs to be able to consider its future capacities to be able to provide sewer and water safely. Looking at CRPCD letter, some points were accurately made: the Town is working to reduce its I & I, but the Town is in year two of a severe drought, so by only using 2015 without wet years, the data may be inaccurate. Regarding the water permit, considering some of the progress already made finding and repairing leaks, this development will put the Town beyond the Water Management Act threshold and the Town does not have the ability to make adjustments. Medway is at a point where it needs to seek alternatives.

Mr. Reardon noted that “unaccounted water” can mean unpaid for water and is not necessarily an available source of water unaccounted for.

Mr. Arbeene asked how much work was left for repair to water and sewer. Mr. Holder said that there is about 2/3 left of I & I repairs but may have lesser impacts. Mr. Holder said that the Town is striving for 10% unaccounted for water but the Town hasn’t reached it yet.

Mr. Kennedy asked how much of a Capital Improvement investment has been made towards the repairs and what is the amount for the remaining 2/3. Mr. Holder said that it is \$75,000 for one year for investigation, and \$200,000 the following year to pay for that repair and the town has already gone through two rounds. Mr. Kennedy summarized that it was \$550,000 for 1/3 of the work completed, and about \$1.5 - \$2 million to finish the project. Mr. Reardon stated that it’s a curve, so the early money has more return.

Mr. Holder said that it may be more achievable to have private water more so than sewer.

Mr. Glenn stated that there was one major issue that Mr. Holder had outlined which was the sewage pumps and force mains in the ROW, which is not normally allowed but . Mr. Holder answered that the Town does not allow them within the ROW. Mr. Glenn asked if it was a disaster if allowed or if there were clear conditions that Mr. Holder could give the Board. Mr. Holder stated that the applicant could

adhere to the regulations by having the force main on private property. Mr. Glenn stated that homeowner's association would still own and maintain that and asked if the applicant was fine with that. Mr. Tayara stated that the pump station would be maintained by a homeowner's association was not a problem, but the sewer pipe ownership could be resolved. Mr. Holder explained that for the Town to take ownership of the roadway, the force pump and main would need to be on private property. Mr. Reardon stated that a gravity line is easy to maintain, but a pump station requires emergency power requirements, maintenance requirements, oversight requirements, and a force main takes more to own and maintain—any of those elements put a tax on DPS. Mr. Reardon noted that force mains carry more of a public safety hazard as well and the length of the force main would be a concern as well.

Mr. Holder also noted the Town Moratorium on any sewer extensions; Mr. Pavlik stated that it was a local bylaw that could be waived.

Mr. Reardon asked if it was the applicant's intention to have all water and sewer within the ROW accepted by the Town. Mr. Agostino stated that the local concern was raised for force mains and pump stations and the Town has a local bylaw—the jurisdiction could be owned by the Homeowner's Association or an agreement could be worked out. Mr. Reardon stated that there would be nuances relative to metering. Mr. Reardon asked if there had not been any evaluation of downstream infrastructure and sanitary sewer overflows and those items were pending; Mr. Pavlik answered that was correct. Mr. Reardon restated that the pump station and maintenance would need to be owned by the Homeowner's Association.

Mr. Reardon asked how much of the sewer line was within the water table. Mr. Pavlik stated that it would be 50% or more, probably. Mr. Reardon stated that MassDEP typically mandates a 2 to 1 I & I for new connections and asked if the applicants had any plans to meet that requirement. Mr. Pavlik stated that it was the applicant's intent to talk with the Town to consider those issues.

Mr. Reardon asked if the Town had done any Fire Flow tests yet and if the applicant planned on doing any; Mr. Pavlik stated that they had not, but they planned to.

Mr. Reardon stated that he would like to get to a point where [everyone] could be solving problems instead of just identifying problems and asking questions.

Chairman Cole asked for comments from Town Counsel regarding the outstanding issue of access. Town Counsel, Barbara Saint Andre, stated that there was an issue raised regarding Fern Path and whether or not there was any access to it. So far there has been no showing that the applicant has any deeded access or any access by right of public possession, it seems to be relying in public access but it is not a public way.

Mr. Agostino asked Mr. Reardon at what stage he was envisioning a level of detail for the sewer impact analysis downstream. Mr. Agostino stated that full impact analysis is something that could be provided in the final approval phase; absence on existing knowledge of insufficient pipe capacity downstream, the applicant's anticipation is that the capacity is there for what they are proposing. Mr. Agostino suggested that a condition is made that prior to final approval, a study is done. Mr. Agostino asked when Mr.

Reardon would envision anything related to water being completed. Mr. Reardon stated that every 40B project that he has assisted with provided Fire Flow tests and the big thing to determine is if the Fire Department opened up a main the surrounding neighborhood pressure is going to drop, and they should know pressure is going to be left to be able to run in their homes. Mr. Reardon stated that the only way the Board can determine in the proposed connection to sewer can be safely accommodated is making sure that the downstream infrastructure isn't going to surcharge and there are going to be sanitary obstructions in the street. It might seem unlikely, but it happens. Mr. Reardon said that it is easy to look at a few sections of the downstream infrastructure, identify which is the shallowest and the smallest, and put the capacity to that. Mr. Agostino stated that Mr. Reardon was not looking for a comprehensive analysis; Mr. Reardon said no, that he was just happy to have anything. He'd rather have something that is short on details but allows him to respond to it so he will leave it up to Mr. Pavlik to determine what to provide, but he needs to be able to make a statement whether there is capacity that can get to and from the site safely.

Mr. White stated that he expected by now that Mr. Pavlik would have known those calculations and stated that he expects the calculations to be available on or after the next working session after communication with DPS and the Town because that is not something that he thinks should be "way down the line." Mr. White stated that the applicant and Board should already know the size of pipes at those manholes and that they couldn't adequately have a discussion on capacity if the applicant couldn't make it into the pipes to begin with. Mr. White asked that Mr. Holder work with Mr. Reardon and Mr. Pavlik to make that happen.

Public Comments:

Dave Johnson, 163 Holliston St – Said it is disappointing that the applicant came with no information once again. He said the hydrant in front of his house is 35 psi. He said they should know the flows and pipe sizes already.

Dan Strachan, 11 Fairway Lane – Stated that he had a letter from the Water & Sewer Commission from February 11, 2015 and the other from the Charles River Pollution Control District dated on February 17, 2015; both letters were recommendations to the Town that a moratorium be put on the sewer system based on capacity. Mr. Strachan asked if the waiver must be voted on by the Town. Mr. Kennedy answered that it would be done at the ZBA. Town Counsel replied that under the stated regulations and state law, this Board has the authority under certain circumstances to waive compliance with local regulations, which includes local bylaws. It depends whether or not a local bylaw is consistent with local needs—that is a "term of art" set forth in the regulations which has two factors: the first factor is the need for affordable housing and where the Town is not yet at 10% that is considered to be a compelling need and then you weigh against that the local needs, in this case it would be issues related to whether or not there is sufficient sewer capacity and those would have to be weighed by this Board. Mr. Strachan had concerns about the credibility of the data provided by the applicant and suggested that the Board consider having a study done on water and sewer capacity.

Kurt Schaefer, 13 Fairway Lane – Had concerns about the 10% available capacity and what that amount really was. Mr. Schaefer said that the water pressure on Fairway Lane is very low and that the pipe on

Fairway Lane is larger than the pipe on Holliston Street; and that moving water into a larger pipe from a smaller pipe can reduce pressure.

Laurie McCurley-MacKay, 106 Winthrop Street – had concerns that she had not heard about any projections of how long the Town's remaining 10% water would last at the Town's current state; and the same for sewer before any development. Mrs. McCurley-MacKay asked if units in the development would still be affordable if there were Homeowner's Association dues. Mrs. McCurley-MacKay also asked how the public would be seeing the answers to their questions.

Scott Lafferty, 2 Woodland Road – Speaking on behalf of himself, as well as 4, 6, and 8 Woodland Road. Mr. Lafferty and his neighbors have concerns about the location of the pump station. The pump station is located behind 6 Woodland Road. Mr. Lafferty and his neighbors don't know what goes into a pump stations, they don't know about noise or about venting and it is a concern of theirs. Mr. Reardon stated that there is a huge range on what pump stations can look like. Mr. Pavlik explained that the pumps can range from simple wet-well installations with a small type of building at the surface with back-up generators but the pumps would be below grade. Mr. Arbeene asked if it would make any noise or smell. Mr. Lafferty stated that the use of back-up generators has the residents concerned that there would be sewage near their properties. Mr. Pavlik stated that there are other means of emergency storage tanks that can be incorporated, but the applicant hasn't gone through the final details yet. Mr. Agostino stated that those concerns were the exact ones that the applicant was looking for and stated that the applicant would propose some detail of what the pump station would look like and that the residents would be able to look at that [proposal] and raise any concerns they may have. Mr. Agostino stated that the applicant was also looking into a more detailed survey of that entrance [165 Holliston Street] based on the discussions from the last hearing, and then the applicant will be able to say with certainty where the pump station will be and also that it will not adversely impact the neighbors in that area. Mr. Reardon suggested to Mr. Pavlik submersible pumps. Mr. Reardon explained that the most un-invasive system would be one where everything is below grade and the things that make noise are actually submerged underwater, so noise won't get out, sound won't get out. Backup generators are a requirement because there are the only way to ensure that during power loss, the flows will keep going. Mr. Reardon continued that the only noise the neighbors would hear would be the bi-weekly exercise of the generator, but the generator could be in a remote location as well. Mr. Glenn asked if the applicant was sold that that location was the only place they could put the pump. Mr. Agostino stated that once the survey was completed, they would have a better understanding of where the pump would be. Mr. Reardon stated that usually land will dictate where the pump will be so there is a limited amount of how much it can be moved geographically on the site. Chairman Cole asked why the applicant had proposed the pump on the south side of the roadway on a rather small parcel instead of the north side further away from any homes. Mr. Pavlik stated that they had intended the north side to have a drainage basin.

Laurie McCurley-MacKay, 106 Winthrop Street – is still concerned that the residents are not seeing their questions being answered and when they would be answered. Mr. Glenn stated that the purpose of the hearings are to work out those issues and that starting tomorrow [November 17] there would be a series of working sessions between the applicant, Town Staff, and consultants. After those working sessions, the applicant should be able to present a higher level of detail. Mr. Glenn summarized a series of issues and stated that it is hard to get into detail, for both the applicant and Town, without having enough information. At some point, there still not be enough detail that the Town or ZBA needs and that is when there will be conditions that certain Town officials will need to review. The ZBA can try to

address the concerns of residents, but for those more technical issues, residents will need to trust Town officials. Mr. Agostino stated that there is a final set of plans that will be presented to the Board and consultants for final approval, so the Comprehensive Permit is a preliminary approval. The final plans need to be consistent to that permit and any conditions.

Chairman Cole asked how projected calculations will be determined once the Town is at capacity. Mr. Holder stated that was his concern. The Timber Crest development will put the Town at or above capacity for water and sewer and he doesn't know what the Town is going to do. The permit on water from DEP does allow incremental increases per year, but it is not significant. Mr. Stumpf said that what Susan Connors from DEP stated is quite clear: "Two future construction projects are permitted locally with proposed water needs of 17,000 and 56,000 gallons per day which could result in a future withdrawal of 0.91 MGD using 2015 as a base volume. The proposed Timber Crest development is seeking 62,040 GPD which would result in a total volume of 0.97 MGD and is greater than Medway's total authorized volume;" the development would exceed the Town's capacity. Mr. Agostino stated that Susan Connor noted that the buffer could be applied with compliance with certain other conditions that the applicant believes the Town can meet; secondly, he stated that this is an issue that the Town would be facing over the next decade, Timber Crest is just the first applicant to make it an imminent concern and this project is unique in that with a 40B development, the local concerns are weighed differently. There is a regulation under 40B developments that a municipality cannot use general concerns of the Town, like infrastructure or school system to deny a 40B project. There has been discussion of helping the Town mitigate this issues. Mr. Stumpf stated that he viewed this as a critical local concern.

Mr. Kennedy asked if the Applicants believed that the need for providing affordable housing was greater than the need to provide water or sewer to the [existing residents in] Town. Mr. Agostino stated that he did not see that there was technical or financial infeasibility for the Town to improve those services.

Mr. Glenn stated that his job is to help the applicant and Town reach an agreement, but also to recognize key issues and to help resolve those issues because those issues may be deal breakers. Mr. Glenn stated if the Board felt that they might not approve the project, even if everything else was done right, because of the capacity, then it is not worth moving on until that issue is resolved.

Mr. Reardon asked Mr. Holder if the Town had the capacity to withdraw the requested amounts outside of permitting capacity. Mr. Holder explained that the Town did have the ability to pump those amounts, but that they become very vulnerable when the Town relies on all four pumps should the Town need to take down a pump for unscheduled or scheduled maintenance. Mr. Holder stated that the Town would need to dramatic actions to provide life necessity water. Mr. White stated that if the applicant couldn't provide water or sewer onsite, he would like to know what the costs for providing that [water and sewer at worst case scenario].

Town Counsel stated that it was a weighing issue. The Town does not have 10% and that needs to be weighed with local concern. Some of those issues have been addressed today—sufficient water and sewer capacity, safety and environmental concerns. Town Counsel stated that she could not tell the Board what the odds were because the Board hasn't heard all evidence, but she did want to say that there is a difference between the infrastructure and capacity. Town Counsel was with the Town when it went for its water withdrawal permit, and it [increasing the water permit] is not an easy thing to do.

Town Counsel also stated that the CRPCD is a district, and the Town was not in control of that either. Town Counsel stated that these are serious concerns and the Board was right to be asking the questions it is asking to determine if the local concerns are enough to outweigh the need for affordable housing.

Mr. Agostino stated that the applicant had anticipated a water and sewer working session to discuss mitigation measures. Mr. Agostino stated that he found it useful having a member of the Board present at the working session. Mr. Agostino stated that the Town needed to think 10, 20, 50 years in the future and if there are things that the applicant can do to assist that planning, the applicant would like to make those kind of offers and compromises at this stage. Ms. Leahy stated that there was a working session scheduled for tomorrow [November 17, 2016], between the applicant, consultants, Conservation Agent, Stephanie Mercandetti and Ms. Leahy and there were no Board members to be present. Chairman Cole ask that Staff try to arrange a working session on water and sewer before the December 7, 2016 meeting date. Chairman Cole stated that it may be more productive to bring the results of the two working sessions to the December 7 meeting rather than architecture and waivers. Town Counsel stated that the decision of who would be present at the working sessions would be up to the Town, not the applicant, and that if the Town wanted to have the working sessions as subcommittee meetings, the Town would need to arrange that. Town Counsel stated that as far as having a working session that is closed to the public with a Board member there, she does not recommend it.

Chairman Cole stated that he would prefer to have the working sessions follow the same precedent as the first session.

Mr. White stated he had one more comment related to waivers. He was glad to see a revised list of waivers—he would like justification of all the waivers.

Chairman Cole moved to continue the hearing of Timber Crest to Wednesday, December 7, 2016 at 8:00 PM, seconded by Mr. White, approved unanimously.

Mr. Arbeene thanked the residents for attending the hearings.

Upcoming Meetings:

No further discussion.

Adjournment

A motion to adjourn was made by Mr. Kennedy, seconded by Mr. White and passed unanimously. The Board adjourned at 10:22 p.m.

Respectfully submitted,

Mackenzie Leahy
Administrative Assistant
Community and Economic Development