

**January 10, 2009  
Medway Planning & Economic Development Board Meeting  
40 R Workshop  
71 Whitney Street, Holliston, MA**

**Attendees**

Andy Rodenhiser, Planning Board  
Jim Wickis, Open Space Committee  
Glenn Trindade, Board of Selectmen  
Ralph Caton, Affordable Housing Committee  
Bob Tucker, Planning Board  
Dave Kaeli, Master Plan Update Committee  
Larry Ellsworth, Finance Committee  
Phil Giangarra, Finance Committee  
Dennis Crowley, Board of Selectmen  
Karyl Spiller-Walsh, Planning Board and DRC  
Dan Hooper, DRC & Master Plan Update Committee  
Gary Jacob, DRC  
Teresa O'Brien, Affordable Housing Committee  
Mary O'Leary, Affordable Housing Committee  
Andy Espinosa, Board of Selectmen  
John Schroeder, Open Space Committee  
Alison Slack, Affordable Housing Committee  
John Williams, Planning Board

**Concord Square Development**

Angus Jennings  
Karen Cullen  
Adam Duchesneau

**Town Staff**

Susy Affleck-Childs  
Fran Hutton Lee  
Dave D'Amico  
Gino Carlucci & son Nate Carlucci

Chairman Andy Rodenhiser convened the meeting at 8:50 am

**Welcome - Andy Rodenhiser**

Thanks for taking the time to be here. I want you to imagine that you went through an invisible force field that eliminated everything you know about 40R – open to anything being possible – We can learn more about what is happening than what we might otherwise allow – we are looking for a clean slate and these guys will explain – common questions – We are looking for dialogue and feedback. – We want questions and debate – come out with a better base of

knowledge among us as various board members to move forward to Medway's future with a good grasp – serve as beacons of communication –

I would like to introduce Angus Jennings and Karen Cullen and Adam Duchesneau of Concord Square Development – also recognize Gino Carlucci and his son Nate who has done some of his maps. PGC Associates is a consultant to the town, not just the Planning Board; he is a resource to the town, not just the Planning Board. – great person to ask for – Also, Susy Affleck-Childs and Fran Hutton Lee are here from the Planning Board office.

## **Introductions all around**

**Housekeeping details** – bathrooms, etc. please shut off cell phones

Andy Rodenhiser – We met Angus Jennings through the Citizen Planner Training Collaborative. We generally go as a group. – Angus Jennings has presented at those – I have learned a lot at these various workshops – form based codes – we are here to explore today

Angus Jennings – Thanks to all of you for being here on a Saturday – this reflects the kind of involvement the boards have in the town – proactive – a little background – I now work for Concord Square Planning and Development. Prior to that I was town planner in Marshfield, Karen Cullen was town planner in Spencer, Massachusetts. Adam Duchesneau is a trained planner – our colleague Ted Carman is a developer – lot of historic preservation work – strong sense of preservation – Ted Carman had the founding concept for 40R – he was frustrated by housing situation in the state and the consequences on state's economy and the housing prices and what that was going on - much of the dialogue at the time was on affordable housing – He rode the commuter rail a lot and saw all this vacant land around the train stops – he had written an overlay district in Westford in 2000 and he thought, let's see how to do this across the Commonwealth and try to get economy moving again in Massachusetts – As he looked further, there are a lot of good reasons why towns have not zoned for higher density higher – impacts on infrastructure and fiscal – He came to the conclusion that the only solution was to develop something voluntarily – get community and public interest with state need to have more affordable housing production – That is where the idea of some incentives – he put together a working paper that was developed and presented to Commonwealth Housing Task Force – 2003 – We like that idea – 8 page paper turned into a full study – June 2004 40R statute was passed – It was different than what I had seen from the traditional legislative process – While I was in Marshfield I was on the committee to help write the regs for 40R – Then I went to work with Ted Carman. We have been doing consulting with 20 communities – 9 different 40R districts – spent a lot of time working with the 40R policy in cities, towns and small communities – full range – That is the perspective we are coming from here today – 40R is not going to work everywhere. – The first step is to look at the situation. – What are the objectives? What are the options to get there? And what is the best option; and that is what you bring to town meeting. In one town, in Wrentham, we were hired to do a 40R district. We spent 4-5 months on the planning side and recommended that 40R was not the best fit for the site in question

There are two study areas – Oak Grove and Route 109 areas

Andy Rodenhiser – Angus, could this presentation be available as a CD?

Angus Jennings – Yes.

Attach presentation to the notes

### **Key elements**

Broad Consensus - The town sets out a vision for growth and development.

Use private investment to generate public community benefits – how to improve the town

In some cases, this technique can have town wide use.

Establish design standards – what would it look like? The advantage of 40R with design standards – you have explicit clear legal authority within the statute to regulate design in a 40R district. There is nothing comparable to the 40R language elsewhere in Mass General Laws that would apply to regular development projects

We spent time talking with Andy Rodenhiser, Susy Affleck-Childs, and Gino Carlucci about some of the questions and concerns we wanted to put out there first. We will come back to them at the end of the workshop.

First – Does benefit of 40R outweigh the loss of special permit authority?

Can this have an affect on a town wide growth strategy?

Would 40R be revenue positive? – critical threshold

How stable is the state's funding commitment to 40R?

Does it allow for mitigation?

### **Big Picture**

The rate of development has occurred at 6 times the rate of population growth. – more land is being developed per household vs. 20-30 years ago – When you look at some of the reports that have come out – there is broad agreement from the development and environmental community what the problem is -

Solution – channel development investment to areas with existing infrastructure

Greenfields are presently undeveloped areas

There are a lot more developers who are open to mixed use development. To be effective and get the results it is not just a matter of saying you can build here and not there, but to align the public and private interests. Create a profit motive for someone to invest in the downtown area. They are going to do what is in their economic interest. Only at that point will you start to see a shift in development patterns

John Schroeder – That implies some sort of education for developers. Is there a similar session we could invite developers to?

Angus Jennings – There are groups like the Urban Land Institute and the Congress for New Urbanism. In my opinion it is still a pretty small niche. I don't think there has been a whole lot

of this kind of thing for the development community. That might be a good place to put time and energy to get the development community engaged. If they see it is in their financial interest, as well as the public interest, everyone pulling in the same direction. How to align the interests and have money going into architecture and design and solving problems instead of into litigation and fighting. We have to get past that.

Karyl Spiller-Walsh – The incentive and instigation comes from within a community to enlighten, present and entice prospective developers – that is our burden and responsibility

Angus Jennings – 3 ways that a 40R zoning change –

- a. town says this is what we like to see
- b. town reaches out to the existing land owners – and that can be the most challenging thing – they may not really be developers, but just landlords - no easy answer to that . . .
- c. developer comes to a town and says here is what we want to do. . that is the clearest way to get something to happen on the ground – if someone comes to town, they have capital,

Karyl Spiller-Walsh – as a town, we are at a workshop and some visioning step

Angus Jennings – Karen Cullen and I are impressed on the amount of planning that has already been done - you have done a lot of zoning changes and there are more in the works – the next step is to turn it into getting some investment – that is where we see you are now

Karyl Spiller-Walsh – does business or development come to us or do we come up first with a clear vision?

Angus Jennings – if you have a developer knock on the door, that is always a great opportunity.

John Schroeder - that sounds like a developer from outside who is familiar with this type of development who comes to town from somewhere else – I am suggesting we have a bunch of local developers who have built in town who are very comfortable with the same old thing – I would like to see some education of our local developers - educate those folks on these possibilities

Angus Jennings – The Builders Association of greater Boston might never lobby for laws to push development toward central areas – homebuilders are small, 6-8 lot subdivisions – the associations cannot do anything that will jeopardize their livelihood – I think the way to tackle it is on a town or small regional basis – that type of education – I don't see it on a statewide scale –

Chan Rogers – the developers have a far more responsive lobby than we will ever have – they will follow the money

Andy Rodenhiser – we have to recognize that individual property owners are the ones who decide what to do – they might bring in a developer - the opportunity here in Commercial I – will be driven by a profit motive – developers are starting to look at a 40B (Paul Zonghi) – 40B may start to become the vehicle of choice – we need to get the DRC involved – what is classic New England architecture?

Mary O’Leary – are the builders not jumping on 40R – why?

Angus Jennings – for a developer who wants to build at high densities – there are a small number of land parcels that are zoned for higher density/multi families – in Medway, the only option would be 40B for a developer who is interested in multi family – the concern about 40R is that there has to be broad public support – major public process involving the community and you have design ideas that people like and zoning that is clear – somebody has to put in a lot of resources on design and mitigation – sometimes there is a development agreement that is in place even before town meeting even votes on the overlay – there are some developers who have made some major investments – they put enormous amount of capital at risk because they felt good enough about the town policies and direction – most developers are going to be pretty reluctant to put up money ahead of a vote.

Angus Jennings – once 40R is in place, it is the clearest permitting program available

Andy Rodenhiser – and we get to say what it looks like

Gary Jacob – are we only talking about these two parcels?

Angus Jennings – when you adopt 40R, is it a district

Glenn Trindade – it isn’t just a money issue for developers, it is the TIME it takes . . . this is so important here – our job is going to be to sell it to the community – I think we will find that there will be some developers coming to us where they know what the rules are. .

Angus Jennings – turn over to Karen Cullen – we are a little behind –coffee break at 10 am

Karen Cullen – You guys have already done an amazing amount of work already – if 40R is the right concept for Medway . . . you could put additional 40R districts

Question - Workforce housing? It means people who work in your community and also means the folks working in the local service businesses – people who are doing a lot of the work of the community

Dennis Crowley – where did you get the workforce number from?

Angus Jennings – that came from the UMASS study – it is a metro Boston number

Chan Rogers – in the 495 corridor, Medway has a marginally higher number of residents who work in town

Phil Giangarra – per acre, the number of kids would be much higher with a 40R –

Glenn Trindade – that is an assumption that a lot of us have - developers told us that it is a fallacy to assume that all these units will have kids - This idea that we are going to have an influx of kids is a fallacy – we need to educate the community

Andy Rodenhiser- just think about your own kids - where are they going to live?

Gary Jacob – you have to balance the dense areas with open space

John Williams – you get good taxes from the units that don't have kids

Andy Rodenhiser – these are renters by choice – we need to create opportunities for alternatives - mixed use commercial/residential

Mary O'Leary – on the last 40B that went in, there were only 2 bedrooms – we only added 2-3 kids to the school system – I get upset when we talk about kids as being a bad thing

Dan Hooper – we are all sort of talking about 1-2 bedroom stuff - there is still a need for 3 and 4 bedroom homes for workforce housing – if you don't address this, then you are not fulfilling one of the needs

Karen Cullen – you have the market that is driving the development

Gino Carlucci – housing stock already exists for the 3-4 bedrooms – nationwide, we have already built enough housing units for families for 2025 - Medway has a stock of smaller houses – those people are going to age

Andy Espinosa – economic adjustment – what we are experiencing now – the opportunity for us to make decisions for where density housing should be located is a very smart move for us – gives us some control over where it is going to be placed, the market will be there – Medway is in a very good position right now and even better if we can control where we want these units to be

Karen Cullen – the best time to do planning is when the economy is down

Dennis Crowley – tell me how 40R helps us

Karen Cullen – the affordable units count toward the town's 10% affordable housing goal

John Williams – I don't see how 40R is going to take care of the greenfield spaces – we haven't really talked about how to reduce active pressure on the greenfields – I don't see greenfield development going away and I don't see a counterweight

Karen Cullen – you will still have greenfields development - you can look at transfer of development rights as an option – that is one of the ways you can do that – I don't think 40R in and of itself will reduce greenfields development but it does provide you with a chance to direct the growth to where you want it

Phil Giangarra – only 5% of Medway's land is deeded open space, we need to make that bigger and make it deeded

John Williams – we have talked about the economics of where they go, what concerns me is that we are making a high density area by choice but we have to be careful to address the greenfields areas and those ongoing pressures of development

John Schroeder – that is what we precisely what we are working on in the open space committee – we do need to protect those greenfields – we are producing an plan and inventory and getting to know those properties – that brings me back to the developers who are accustomed to the greenfields development - we need to encourage them to look at this type of development – the only way we can protect those areas is to own them or to own development rights

Andy Rodenhiser – the Daniels Village ARCPUD has been remanded back to the Planning Board by the court - we are now going to start over –

Dave D’Amico – 40R provides for open space and affordable housing - is there any possibility to leverage CPA monies to make this a more attractive solution?

Andy Rodenhiser – for mitigation

Angus Jennings – yes. . if you have a development agreement

### **Basics of 40R**

Questions – who is the permitting authority?

Angus Jennings – the town can decide – existing board or a new board that would be created??  
More often than not, it is the planning board

Dave D’Amico – any relaxation of conservation rules

Angus Jennings – no

Dan Hooper – 120 days decision period?

Angus Jennings – that can be extended by mutual agreement; also assumes a complete application . . .

Andy Rodenhiser – we also have the Development Coordinating Council and we would get everybody together to do that and we would use Gino to look at the applications to make sure they are complete

Angus Jennings – one of the bases for denial for 40R is that the developer has not provided a complete application with all info

Angus Jennings – there are 10 basic subject headings for design standards – very comprehensive – we have some samples – they cover all the issues you would want to see – the only thing they aren’t required to have now is sustainability – you can have that in as a guiding principles but can’t require

Angus Jennings – sustainability – just an oversight

Larry Ellsworth – or you could use it as an incentive program . . .

Gary Jacob – how do the standards work?

Angus Jennings – town establishes its own standards for design

Dave D’Amico – what about stormwater standards?

Angus Jennings – YES - you have an option with 40R to design new or reference existing standards/regs – we have always written new standards but where there are existing standards, you can use them or incorporate them – 40R is subject to stormwater bylaw

Angus Jennings – design standards must be approved by DHCD – they cannot be unduly restrictive . . .

Karyl Spiller-Walsh – isn’t that grey and fuzzy?

Angus Jennings – there are two ways we have seen the state enforce this. .

Angus Jennings – if you have a developer involved and you have an agreement and they sign a letter and they sign off on the design standards, the state will take this as evidence that the design standards are not unduly restrictive

Angus Jennings – Kingston had a huge set of design guidelines – developer was committed to new urban design – who will decide if the standards are unduly restrictive . . . if you are zoning the area and you don’t have the developer, our advice is to make them very specific –

Karyl Spiller-Walsh – aside from the commercial success of a project, what the town of Medway will end up with is something constructed within its parameters that is permanent – how insightful will its groups and organizations be in designing each individual element and placements and setbacks and architectural details . . in discussing the validity of this, it is important to understand that it is a visual thing and that we need a vision first, and then decide if that is adequate enough to decide whether 40R is good – those standards are going to be very high and be expensive – in this economy that can place a burden on developers – we may have to look at things we haven’t looked at yet. . in DRC, in this whole room of people, it could take all of us a year to come up with a formulation of the design standards –

Angus Jennings – I have a whole section – let the design lead the regulation

Andy Rodenhiser – is that something that the time curve could be shortened or be made less steep by using a consultant

Angus Jennings - yes, you already have some design concepts

Andy Rodenhiser – if we were to facilitate that through a consultant in partnership with some of the landowners – we have received interest from developers about the oak grove area – we could work with them

Angus Jennings – that is how it would be successful, especially in bottle cap area – there is going to be some challenges if you don't have an owner to make some commitments

Gary Jacob – in Kingston, the vote you were talking about a 40R overlay vote but all the design work was done upfront

Phil Giangarra – what are reasonable or unreasonable standards?? Could Medway was to pass a bylaw requiring water stay on site? If we approved a 40R, could the developer come back in and say that complying with stormwater is unreasonable . . .

Angus Jennings – hasn't happened yet . . . not case law yet – if you require a stormwater bylaw, there is an expectation that that would be required

Andy Rodenhiser – at present, we already have that requirement

Angus Jennings – those requirements are clear, the applicant knew that when he came in and filed – clearly crafted – . . . you are going to be better off if you can show that you did some meaningful feasibility analysis – think this is a reasonable package of design standards

Karen Cullen – DHCD is going to be reviewing all this stuff

Angus Jennings – that adds to presumption of reasonability and validity

Gino Carlucci – it is an overlay district – it is an option for a developer, not a requirement

Dave – as soon as you allow some board to be able to grant waivers . . .

Angus Jennings – you don't have to – the Lynnfield bylaw, - it was such a precarious balance – we wrote a provision into the bylaw that there were to be no waivers . . . I do think waivers are a good idea but sometimes with the political reality, they may not work

Karen Cullen – you can limit the waivers for just certain things

Angus Jennings – prior to the town's 40 R zoning vote, the town has to receive letter of eligibility from DHCD –

Angus Jennings – you have to look at existing zoning capability and then look at future zoned units –the difference is the number of incentive units

Angus Jennings – major public process –

Angus Jennings – we believe there is a strong recognition that 40R will be funded – but you should talk to your delegation

## **Case studies –**

Lynnfield – off /Route 95 North Shore – goal was to achieve their 40B 10%

Karyl Spiller-Walsh – could we get visuals of the residential buildings for Lynnfield

Elkus Manfredi Design Group . . . hired by the developer

Design standards are very visual –

Karyl Spiller-Walsh – can you explain what form based codes are and how they are linked to the bylaw –

Angus Jennings – I have slides on that in a little bit

Angus Jennings – BELMONT 1.5 acre site – church property

Karyl Spiller-Walsh – is there a minimum size area required?

Angus Jennings – no, the case law looks at whether the process is arbitrary – by the time you get to this level of zoning, there is a clear rationale why you are doing it

Angus Jennings – development agreement is binder on future owners

## **FACTORS**

Number of owners

Developer on hand or not up front to help pay \$\$

Design standards is where you really get people involved

Sub-districts where you can get specific to densities

Zoning cannot prescribe rental vs. ownership

Development agreement can prescribe that the form of ownership does not change

Gino Carlucci presented GOOGLE SKETCH UP to depict the Commercial I plan

In the Commercial I district, there are only 7-8 owners

Andy Espinosa – we have some major investments that will occur over the next few years – route 109 – we need to really understand what the future of this corridor will be and ensure that 40R and the route 109 stuff complement each other

Dennis Crowley – we have to have the foresight to look at capacity – Charles river Pollution Control – with the new sewage line and industrial park and 110 homes we will pick up – we have to address the capacity matter

Angus Jennings – thanks to Gino Carlucci and Nate for Google sketch and all the base maps, etc.

## **Form Based Codes**

How do you turn design concept into regulations – form based codes

Form based codes – in pure terms, regulation has to do with the form of the building/massing, setbacks and bulk vs. use - typical zoning is very use based

With form based, we use images to help convey regulatory intent –

Define uses very generally . . . retail vs. very specific types of retail

Tend to favor mixed use, walkability, compact development principles

Rural to urban hierarchy – vary form based codes for type of districts for infill development applicable to Massachusetts - legally we have zoning and subdivision separate

Community visioning

Prescriptive about what you can do

Idea to create a place and relationships between lots and open space and overall pattern

Look at district scale, then down to site scale and then down to building design

Angus Jennings – with your design guidelines, with the addition of some graphics, you are already a long way toward what you need

You can write your form based zoning to index new construction to what the height is of the area surrounding -

Have design standards – can help with consensus building prior to adoption of 40R zoning – contributes to a cleaning permitting

Legal authority for design standards is strong with 40R

A key challenge is getting the resources/\$\$\$ for upfront design assistance – typically a public cost – not likely to get a developer to put up the money up front -

Karyl Spiller-Walsh – it does encourage you to establish exceptionally high level standards . . .

Pros and cons of doing these as regs vs. within zoning itself

Can be a challenge to calibrate form based standards with density based zoning standard

Be specific for building location criteria including setbacks and design treatment - this is a HUGE ISSUE – building footprint locations

Engaging the neighbors

**VISUAL PREFERENCES exercise –**

Unit size will be a key variable in all this – square footage – not sure if it can be done within 40R – angus will check with the state . . .

What do we want to look like – Brookline?? Old Medway?? Can we reproduce those elements?

Gather photos of what is already here and gather photos of older Medway buildings and include those in the visual preference analysis

Very specific design standards for various areas . . . - different design standards apply to different sub districts

Funding for next steps

Priority Development Grant – that you used to get us to this point – the amount you have received is far below what is possible – try to get some more money to complete and move on. .

Angus Jennings – we track that program very closely – there are still plenty of funds available

Karyl Spiller-Walsh – is it possible to get Angus Jennings and Karen Cullen in to a smaller group like the DRC?

Angus Jennings – We are showing you what is possible and that there is a desire of what to work with – next step is to work on design standards

Karyl Spiller-Walsh – design standards and envisioning are going to be the fundamental launching pad or not for this

Andy Rodenhiser - the resources these guys can bring to the table – Angus, Susy and Gino – the body of work that already exists out there – we can build on that

Angus Jennings – the first 40R we did in Plymouth vs. what it takes now - we can do it much more efficiently – can go into more detail on design and site issues –

Andy Rodenhiser – can you imagine us all sitting in a room with some of the neighbors like behind Medway shopping center – neat technology and voting on design standards we like?

Andy Rodenhiser – imagine them being there and seeing what the residents like – we have to do this collectively as a community

Dennis Crowley - what kind of time frame are we on for this??

Susy Affleck-Childs – soonest would be fall of 2009 – more likely it will take longer – May 2010

Karyl Spiller-Walsh – we have two very different potential areas – not talking about the same thing – right now there are not too many things in common – I can see one zooming ahead and the other one taking a long time - I see Oak Grove moving more quickly

Dennis Crowley – does it make sense to look at what area first?? Oak grove?

Karyl Spiller-Walsh – I see oak grove being mechanically much easier

Chan Rogers – Oak grove should go first

Angus Jennings – on the other hand, because the CI has some smaller areas, you could have a subset

Angus Jennings – a concern about oak grove is the scale necessary to work and the title issues and the mitigation – I think it would be tough to take on oak grove if you didn't have a private sector developer in place – key issue in infrastructure certification

Angus Jennings – In Randolph, the state allowed the town to go ahead without certifying infrastructure – letter said that town could not get incentive payment until the infrastructure is in place

Angus Jennings – the one takeaway from all this with 40R – what we have learned with working on 9 of these is that there is a lot of flexibility – if the regs don't say you can't do something, you can be very innovative

Karyl Spiller-Walsh – do you think that possibly that we may be missing some area where it could be effective

Angus Jennings – I can't speak to that at all – but the two areas you are looking at have some background in planning – you are a lot better off in these two areas than you are with starting fresh

Gary Jacobs – form based codes?

Angus Jennings – can be used big style or small scale

Dave Kaeli – if you were making a decision between these two projects, how would you order these or break them down if you were doing them in pieces

Angus Jennings

1. Oak Grove site – you control a substantial share of the property – that is a huge benefit – you could do an RFP process – you are looking for proposals for this and that – generally consistent with – and you test the waters and see who would be interested? or even something less formal –

Andy Rodenhiser – we are working with Mass Development to secure a big grant to help us – the selectmen are going to work with Williams on a development agreement -

Angus Jennings – the second part of my answer – on the commercial I site – I would put out some feelers to the land owners and say to them – say there is interest on the part of the town – would you meet us halfway? Have some conversations and have some internal idea of how much land – what is the threshold amount of land you need to move forward in some fashion – what justifies the time – you need some real engagement of the landowners

Andy Rodenhiser – maybe a similar meeting like this with the owners and developers

Angus Jennings – and the neighbors too . . .

Karyl Spiller-Walsh – I think it would be good to start with some thumbnails of roof lines and visualize some concepts and have somebody sketch some and then have a meeting where we could show some visual - some sketch elevations

Chan Rogers – this is a great beginning, but with this economy, this country needs a year

Andy Espinosa – if ever there was an opportune time to get some money from the government, it would be now

Chan Rogers – that is for shovel ready work – these projects are not

angus Jennings – having the private sector buy in and landowners that are actively engaged will help you at every level with state grants – state wants to know that their investment is going to stimulate private investment

Dave D’Amico – if you are going to do something with developers, give them some info on what the potential could be for them. .

Dennis Crowley - what is additional potential tax revenue that the town could generate? that is essential info

Angus Jennings – fiscal impact analysis is a necessary component of planning

The meeting concluded around 1:00 p.m.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

**January 13, 2009**  
**Medway Planning & Economic Development Board Meeting**  
**Sanford Hall – 155 Village Street**

PRESENT: Andy Rodenhiser, Tom Gay, Chan Rogers, John Williams, Karyl Spiller-Walsh

ABSENT: Bob Tucker

ALSO PRESENT: Susan Affleck-Childs, Planning Board Assistant  
Gino Carlucci, PGC Associates  
Phil Giangarra, FinCom

Chairman Rodenhiser called the meeting to order at 7:05 pm

**Presentation of 2009 Goals/Priorities for the Medway Design Review Committee**

Gary Jacob, DRC Chairman

Gwen Hendry, DRC Vice-Chairman

Gary Jacob – Basically, we have gone through a lot of changes over the past couple of years – doing mostly signs – major milestone taken care of was the design guidelines – Susy Affleck-Childs and I were talking about putting into writing some goals and directions for the DRC – How could we contribute and be proactive and not just reactive? – This is a combination of ideas generated by a variety of DRC members. We want to let other committees know that we are here, and we can help them.

The draft DRC Goals and Objectives are attached.

Gary Jacob – One matter is our visual identity – the town seal includes images that don't exist in town – We think it may be time for an update – trees were once in Medway, but no longer –

Andy Rodenhiser – So how are you going to do that?

Gary Jacob – I want to put together an implementation plan for all of these things on our list. We might just start by us going around to other boards and see how people feel – maybe do something with the school system

Gwen Hendry – Open Space Committee came to us to explore the idea of a logo for them. – led to the idea to update town seal – One idea was a contest or we could hire a graphic designer to update the logo and have all of the paperwork from the town have a new fresh look – 300<sup>th</sup> anniversary is coming up in 2013 – This would probably not come from DRC –

Andy Rodenhiser – I am meeting with Susanne Kennedy, and will broach the subject with her, and see if there is a way or method she would want to do it – I will let you know

Andy Rodenhiser –How does board feel about DRC getting involved?

Karyl Spiller-Walsh – We had also some discussion and we took a look at our bylaw, - take a look at whether we have that kind of work in our purview – I just handed it out to you – bylaw that created us – section D – does this idea (visual identify) and other things we will bring up come in suitably under the bylaw - maybe we need to revise it

Gary Jacob – Perhaps we need some language in the bylaw that might broaden our scope. We could put it in under #7 –

Andy Rodenhiser – This seems to make sense. You are design professionals. We wouldn't ask ConCom to design a seal. I just thinking we would talk to the Town Administrator first. Let me run it up the flagpole there and then come back

Dan Hooper, DRC member - May I suggest we come up with reasons why you would engage the Town Administrator in this discussion. It is more than the seal. It could pertain to a scheme of colors. This might be something to look at a system of font usage in the town – identity system – the town seal is a centerpiece

Andy Rodenhiser – Formatting of logos too - I am meeting with her next week

Dan Hooper – This is something I am been mumbling about for 5-6 years – perhaps see it evolve a bit –

Phil Giangarra – Would this cost the town?

Gary Jacob – It might.

Gwen Hendry – We aren't going to do it ourselves.

Dan Hooper – This is the type of thing to implement on an as needed basis – we wouldn't suggest you start ripping things down

Phil Giangarra – Don't want to throw out things, but when things run out it could be updated

Andy Rodenhiser – Is there sufficient horsepower in the DRC to do this.

Gwen Hendry – An RFP we could come up with.

Gary Jacob – If we had support from other boards, etc. we would solicit ideas from people – this is not something that would be turned over in a month – I don't think we have the people now –

Andy Rodenhiser – With the budget cuts we are going to be facing, the public would view this as frivolous and unnecessary

Gwen Hendry – Isn't there a tricentennial committee?

Gary Jacob – Possible grants or community support

Chan Rogers – First, I couldn't think of a more important mission for the DRC than to undertake this – the seal certainly doesn't look appropriate for 2013 – other committees would benefit – I don't see it as frivolous – I think it could be a very important symbol for the town – trying to catch up – I would be enthusiastic about this project – I have not been a supporter of DRC in subdivisions but with this I would be

Phil Giangarra – Let me give you the FinCom's perspective. If you would put this in as part of your budget, we would vote it down.

Chan Rogers – You are speaking out of turn.

Phil Giangarra – If you weigh this against a teacher, fireman, policeman . . . I agree that the seal is ugly, it looks like a 5<sup>th</sup> grader designed it – If we could get a graphic designer for free I would be all for it . .

Karyl Spiller-Walsh – There could be a lot of things conceptually we could work out – and then hand off concepts to a designer, much much less money

Tom Gay – I think we are getting too far into the nuts and bolts.

Andy Rodenhiser – Let's keep moving through the list

Gary Jacob – We would like to be able to present visual information during meetings. We would like to be able to do more graphic presentation. We had hoped that the Senior Center would have the wiring set up – so if we could find some computer projection equipment – present stuff on screen and access the Town's web site and bring up pictures that are stored – good and not so good images – We are hoping to do more in terms of electronics

Andy Rodenhiser – Do you have an image library today?

Gwen Hendry – We are working on it

Gary Jacob – I have several hundred photos

Gwen Hendry – We have no home for our stuff.

Andy Rodenhiser – Could we talk to the IT guy to being able to upload the images to the Town's web site and then getting Gary Jacob access to the wireless network?

Gary Jacob – There is a beautiful little meeting room off to the side (in the new addition at the senior center) – it is their library – I will talk to Missy Dziczek about using that space.

Chan Rogers – I am on the Council on Aging and we had a discussion today, and town boards and committees are welcome to meet, as to what room, I don't know

Gwen Hendry – Right now, we meet at the bingo tables – not a very effective presentation when you have a giant drawing on a round table

Gary Jacob – Re: the Design Guidelines – We are trying to get people to take a look at the Design Guidelines before they actually start their project. – all sorts of examples of images that could be helpful

#6 – encouraging towns to look at energy issues – point is to save money – audit type business –

Andy Rodenhiser - Schools have just undertaken that -

#7 – helping the PB with zoning ideas/issues

#8 - Administrative stuff – do better at getting things out more quickly . . . we still need one or two hard core architects on the committee.

Gwen Hendry – I would like to say one thing, the DRC has been a reactionary group, and that was how it was designed, and we have become more proactive. That is why we need to re-look at our bylaw. I think we may be overstepping a bit without some changes – I think we are pushing an envelope of what we can do as a committee. We have no authority –

Andy Rodenhiser – What do you want?

Gwen Hendry – I guess if we look at the bylaw we could come up with something

Karyl Spiller-Walsh – Match the bylaw to what the PB expects

Gwen Hendry – It is more than we signed up for. I would feel more comfortable if the bylaw was revised

Chan Rogers – I don't understand the concern - give us your recommendations

Gary Jacob – I think we can tweak the bylaw a bit to allow us to be a bit more proactive, and suggesting changes where they can be improved. – appearance and vision of the town

Chan Rogers – I feel your responsibilities are very broad in actuality, perhaps not as written

Karyl Spiller-Walsh – We would like to be in that position – more creative and visionary input – but there are a couple of small things in the bylaw that are questionable that limit our purview to just reviewing applications

Gary Jacob – Give us a couple of days to give you some text

Andy Rodenhiser – I think you will find our board supportive of you; if there are recommendations you think we should do, then make them – I can hear where Karyl Spiller-Walsh is coming from –

Karyl Spiller-Walsh – going to #7 specifically, we need to consider the clarity coming from the bylaw – I want you to know that the DRC has had many lengthy discussions on buffer zones. There has been some discussion that a consultant might be needed to help us.

Gwen Hendry – We have ideas but we can't write –

Karyl Spiller-Walsh – The seminar we had this weekend had almost nothing on form based codes – it was almost non existent.

Gary Jacob – I am hoping the Web pages that they mentioned would be helpful. They did reference several web links –

Andy Rodenhiser – There is a whole world of knowledge on form based codes – there is plenty of stuff out there that needs to be researched and developed.

Karyl Spiller-Walsh – I am thinking the DRC is asking the PB for input. What do you suggest?

Andy Rodenhiser – We ask you to give us some images. You say you can't do it. Tell us what you need, and give us a proposal. We can't blue sky here and tell you what to do. Tell us what we need -

Gwen Hendry – Every situation needs its own review –

Andy Rodenhiser – Do you feel that you don't have clear instruction?

Gwen Hendry – We don't feel that any one set of standards can apply to all situations.

Gary Jacob – Do you guys require developers to provide SWMP's? You can require a fairly detailed mitigation plan – anything over one acre – You could require that they submit it before construction. You could probably require an operating version of a SWMP. It may well be possible it could be addressed in a new site. DEP is moving very fast on this.

Andy Rodenhiser – Then what you can come up with is a regulation that you feel would be good

Gary Jacob – The buffer thing – there is more control you can take through SWP – that is one thing you can do –

Andy Rodenhiser – Give us some recommendations - nice work on this draft

Gary Jacob – Our next step is an implementation plan – we will give that to you.

Andy Rodenhiser – I will get back to you through Susy Affleck-Childs re: meeting with Suzanne Kennedy on the seal discussion

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**Public Hearing Continuation - Williamsburg Condo**

Paul Yorkis, Patriot Real Estate

David Faist, Faist Engineering  
Greg and Marylou Whelan

Paul Yorkis - We would like to go over the actual plan with you, and then go over the house plans, and then respond to the letter from the DRC.

David Faist – We have presented this to you before. Since then we have met with the DRC. Some improvements have been made – pretty much the same as we saw before – We have added a community mailbox with a turnaround area to pick up the mail. This will maintain 3 parallel parking spaces for the open space area. – we changed the traffic flow – there is an existing stone wall – We have pushed the open space to line up with the edge of that stone wall. With that, right now, we have done a little bit on the preliminary drainage. There are some restraints with the vernal pool. There is also a riverfront area at the rear of the site. We did substantial testing. There will be some infiltration systems on the back and along with a small detention basin to fit into the topography. Soils at the rear of the property are very good sands. Now, with the new OSRD option, and the sewer coming through West Street, that will allow us to connect

Andy Rodenhiser – In Gino Carlucci’s comments under #11 – at least a portion of the units are not set back – how are you going to handle that

Paul Yorkis – we never got a copy of that

The January 8, 2009 review letter from Gino Carlucci is attached.

Paul Yorkis – When we talk about the house designs, I think I will be able to answer that question. I don’t think we will be in violation

David Faist – to try to keep this as compact as possible with this layout to have the front loaded garages – better for all site design

The January 8, 2009 review letter from the Design Review Committee is attached.

David Faist – We contacted the Conservation Commission. We received a response. The ConCom will not respond to preliminary requests. It has to be a specific proposal. We will need to file a formal notice of intent with the definitive stage of this. They just don’t want to do informals -

Karyl Spiller-Walsh – Any surface rip rap?

David Faist – Not determined yet. That would be during the storm water design. If we can avoid that, we will. It all depends on what the final drainage design looks like.

David Faist – The landscape architect prepared a colored rendering of a proposed landscaping plan. There is a natural drainage pathway. There is an existing catch basin. One of the requests about the entrance road – there is an existing driveway into the site – buffer area between the roadway and the house – we will carry the landscaping along the rear of the adjacent

Andy Rodenhiser – what does the neighbor say?

Neighbor – We are OK.

Karyl Spiller-Walsh – I would recommend that if they need surface rip rap, that they have some additional landscape screening

Paul Yorkis – The DRC recommended as part of the landscape plan to have a landscape design around the detention pond - go to Village at Pine Ridge and see the grass detention basin with landscaping around it –

Karyl Spiller-Walsh – It also has surface rip rap which is unfortunate.

Paul Yorkis – With all do respect, we are required to comply 100% the state storm water management act, and in some cases, in order to comply, rip rap is needed.

Karyl Spiller-Walsh – There is a lot of that over there. Screen it if you have to use rip rap.

Chan Rogers – I have a question about double width driveways?

David Faist – I live in a neighborhood like that – it provides parking in proximity to the units – There is only a 14-16 foot roadway/driveway. The idea is for the driveway to the units to provide parking.

Chan Rogers – Does the plan represent double width driveways to the extent Gino Carlucci says?

Andy Rodenhiser – What Gino is pointing out is that the front loading garages don't comply -

Paul Yorkis – Let me try and address this. At the recent DRC meeting, we explained to the committee that we have various house designs. Those house designs are not dedicated to a particular location. I would suggest that the Planning Board, in its decision, specify that no more than x number of units can have a garage facing the street

Andy Rodenhiser – We want to maintain design flexibility

Paul Yorkis – We will be in compliance

Andy Rodenhiser – In that scenario, how are you going to present drainage with square footage that may change? How tight is the drainage?

David Faist – We aren't there yet.

Andy Rodenhiser – So you aren't worried or concerned -

David Faist – We will have to meet 2008 storm water regs. We have taken a preliminary look at this - that is as much as we can tell you now.

Paul Yorkis – We emailed a set of the building elevations to the Planning Board. This is the good color set. Units A – F. There are several different plans here. The intention is to utilize the different plans. The buildings are different colors. That is the intent, so it doesn't look like each building is the exact same. If you look at type A unit, and then look at type B unit . . . type B could be a one car garage or no garage.

Andy Rodenhiser - Optional upgrade?

Paul Yorkis – We are more price sensitive. We are trying to have good design. A lot of the changes you see before you were the result of some really good give and take between the DRC and the applicant's representatives. We are looking for some flexibility - We are well aware of the bylaw requirements. If I had received Gino Carlucci's review letter, I would have addressed it for you tonight.

Gino Carlucci – Every single one is in compliance except type F . . .

Paul Yorkis - Design F is a one floor unit with a possible bedroom upstairs. It may not be right now. We know we need to be in compliance.

Andy Rodenhiser – We may just need to say that these have to be refined. .

Paul Yorkis – We are trying to be flexible and trying to have a condo project where not everything looks the same - we are planning to use low impact development. It will have a good feel about it

Paul Yorkis – I would like to respond to the DRC letter.

Karyl Spiller-Walsh – If, in fact, this becomes a side loaded unit, it will affect your driveways.

Andy Rodenhiser – You feel you have enough drainage there?

David Faist – At this point, I am fairly confident we can make it work, as I have looked at the drainage design before with the 40B proposal.

Paul Yorkis – I am distributing a response letter dated 1-13-09 to the DRC's review letter - As I said earlier, the interaction between the applicant and its representative and the DRC I thought was very helpful to both of us. The comments from the DRC are not numbered comments, so I will just walk you through.

We disagree with the recommendation of the DRC to specify materials in the definitive plan. Pricing, etc. changes. Don't tie our hands. We may make a decision at some point in time. The developer may say he wants to use a yellow, and a supplier says that I have a different product but not in a different color. We could go with some cost savings. We disagree with that recommendation.

Andy Rodenhiser – Would you consider a referenced color palette?

Paul Yorkis – No. We don't want to specify a brand x . . . If it is the board's recommendation, we do not agree.

Andy Rodenhiser – Why would you be opposed to saying that? You don't want to be hemmed into to a specific product and color. you would be OK with a percentage of mix

Paul Yorkis – Sure

Andy Rodenhiser – Karyl Spiller-Walsh, would that achieve what you are trying to achieve? The DRC was especially sensitive to his desire to be flexible. We don't expect to control what colors – the whole intent is to prevent color disasters –

Paul Yorkis – I can't disagree with the goal of having a good palette. But the way the DRC recommendation is written is a problem.

Unit F – The architect has plantings there already. The term courtyard is vague.

Andy Rodenhiser – I think that problem goes away if you move the façade forward and set back the garages.

Paul Yorkis – We will be able to address that in terms of the bylaw. But we don't want to propose a courtyard. We do agree a landscape plan is needed.

#4 – We believe the color scheme is outside the scope of the Planning Board. This is a condo project. The condo association will have certain rights and responsibilities and I don't think those should be usurped. I am not defending or endorsing the colors shown in the renderings. I believe this is outside the scope of what this is all about.

#5 –Roof structure by or around the postal boxes – this was never discussed at any DRC meeting that David Faist or I attended. There is a cost to design, build, maintain and pay taxes. These are unnecessary costs - the applicant sees no benefit to this suggestion. There was a suggestion made that there be landscaping around the area. But building a structure, we see no benefit.

RE use of pervious surfaces – We don't believe it is practical at any location – it is not an appropriate goal in this setting - not practical for maintenance purposes

Then final comment that we disagree with the establishment of a unified signage plan. Each unit will be numbered. There will be no permanent entry sign. The location where the DRC proposes a sign makes no sense.

Paul Yorkis – The only sign we are proposing that is permanent would be the street sign, - Williamsburg Way, maybe. The philosophy we have tried to implement is that we are trying to be cost sensitive, not just from a developer's perspective, but from the buyer's perspective. We are trying to make it “affordable” for on-going maintenance.

Chan Rogers - The question is the plan represents something that is going to be modified. It does show double width driveways where there are double door garages. Are you going to modify this?

Paul Yorkis – We need some guidance and direction from the Planning Board. You see the different building types. With the exception of Unit F the other buildings can be at any other location. Unit F is a wide footprint and can only be in one location. If you want to give us some direction on this . . .

Karyl Spiller-Walsh – They are kind of interchangeable with all units A – E. It is very tight, if you start talking about side loading, that could be difficult –

Andy Rodenhiser – It doesn't seem like there is room

Andy Rodenhiser –What about using a common driveway between two units

Paul Yorkis - We didn't feel there is a distinct market for 1 story units. We will comply.

Andy Rodenhiser – Based on what you hear from us, you will come back in at the definitive stage that would show a more appropriate driveway so that the bylaw was being met –

David Faist – when we get into the definitive, we will get into the grading-

Gino Carlucci – I would like to elaborate on the comment expressing concern on the double width driveways – it was partly to reduce impervious surfaces – they break up the sidewalk –one remedy is to maintain the plane of the sidewalk with the driveway –

Paul Yorkis – If that was a recommendation of the decision, we wouldn't have a problem with that

Andy Rodenhiser – Maintain sidewalk

Paul Yorkis – This Planning Board has adopted a policy as has Department of Public Services: when you have Cape Cod style berm, the driveway meets the top of the berm. This issue is the same principle, and it is easy to do.

Karyl Spiller-Walsh – OK

Susy Affleck-Childs – I have a letter for you from the Open Space Committee. I apologize for the delay in getting this to you. We had received an early draft from the Open Space Committee in late October which they then refined, but it had not been formally transmitted.

Andy Rodenhiser – Jim Wickis is here. He is on the Open Space committee.

Jim Wickis– I am just here as an observer. I am an abutter. I had to recuse myself from the Open Space Committee discussions on this . . .

Andy Rodenhiser read the Open Space Committee letter dated 10-29-08. It is attached.

Paul Yorkis – We just have a couple of comments in response – in the letter which we are in general agreement – they talk about action being taken in terms of mowing – We hope it is not directed to the applicant

Andy Rodenhiser –

Susy Affleck-Childs – We need to pin down how we are going to handle the open space.

Greg Whelan – They are talking about it being hayed once a year. I don't see a problem with that. I think that is a good idea.

Paul Yorkis – We do have a problem with their recommendation on the location of the open space parking. That is not possible. There is a 200 foot outer riparian zone line. There are no dwellings built in that area. All are outside the zone and that is why the parking works up there because we can't shift the buildings around - we cannot accommodate that change – I am concerned about the maintenance expense for the developer initially and then to the condo association – The more that is expected to be done, the higher the fee becomes.

Andy Rodenhiser – Any other questions on open space?

Andy Rodenhiser- Any comments from the audience or questions?

None –

Karyl Spiller-Walsh – I think we are almost there. – the biggest issue is the driveways and layouts

Greg Whelan – And Paul Yorkis is guaranteeing it will all comply

Andy Rodenhiser – A decision needs to be written to deal with colors, and garages. We heard responses to DRC comments – anybody

Karyl Spiller-Walsh – I object to a few things he said he didn't want to do

Susy Affleck-Childs – Re: the community mailbox – I suggest finding something in between the standard mailbox the post office requires and a big formal structure. Here is a handout of photos showing the standard and a photo of a shelter type around the metal box

Andy Rodenhiser – Does anybody feel strongly about the mailbox?

Karyl Spiller-Walsh – It is their project.

Tom Gay – I don't see the benefit to the town that it needs to have the roof over it – I agree it is chintzy.

Karyl Spiller-Walsh – I am OK with that.

Andy Rodenhiser – We are pretty much in agreement then. The only issue is the access to the open space, and then building F.

Paul Yorkis – I am confident that there is away we can make that work and comply with the bylaw. –

Andy Rodenhiser – Can you come back in with a drawing for Building F having a garage that complies and driveways?

Paul Yorkis – By the 27<sup>th</sup>, yes, we can. – just for the F design . . .

Marylou Whelan – Why couldn't each unit have an individual mailbox?

Paul Yorkis – The post office no longer allows delivery at your dwelling, and in all subdivisions that will not be allowed.

Karyl Spiller-Walsh – What is the real difference in doing a little something to cover it up?

Paul Yorkis – Building permit, maintenance, taxes, not worth it. Do you know what the tax rate is in Medway right now?

Karyl Spiller-Walsh – I would like to see you look at this.

Paul Yorkis – Look at the amount of landscaping that is going on, and the cost of maintaining it is sizeable.

Chan Rogers – Standard subdivisions don't have any landscaping.

Karyl Spiller-Walsh – This is a special permit.

Paul Yorkis – We are comfortable with doing a good job with landscape and we understand the costs of maintaining landscaping. And you make a decision to say yes, we can do that, and we try to. We want to keep all those expenses as low as practical – Look at the town's budget today as it looks at snow removal. How will the condo association pay for the expenses? Part of what people look at is the cost of the condo, the tax rate and the condo fee, and that is why I am being cautious on behalf of the applicant as I am. If we save money in taxes and maintenance costs so the owners of those units don't have a burden, it is worth it today.

Karyl Spiller-Walsh – I think with your landscaping and the things you are doing so nicely, that to consider doing something with the mailboxes is not a big deal – the PB is being very flexible with this – for something that small and to improve the overall polish of the development - I think you did such a nice job with the little turnaround

Paul Yorkis – That was a suggestion that was made by the DRC, and we listened and they were pleased when we presented the implementation of that suggestion.

Karyl Spiller-Walsh – You told us the post office commanded that a specific structure was required –

Paul Yorkis – They, the US Post Office, furnishes the mailboxes.

Karyl Spiller-Walsh – The DRC was a little taken back. Is this our only option? We were under the impression that the box was the only option. We didn't realize there could be a little structure around it.

Karyl Spiller-Walsh – We, the DRC, were confused as to what was dogma. We thought that the box was the only option –

Paul Yorkis – We indicate to the post office the number of units. They order it, and they own the mailboxes.

Phil Giangarra – Does the person in the truck have to be able to get to the back of the mailbox?

Paul Yorkis – I will see.

The public hearing was continued to January 27<sup>th</sup> at 7:15 pm.

Paul Yorkis – Would it be possible to get a draft decision beforehand?

Andy Rodenhiser – We may not be able to circulate draft decisions and share drafts with the applicant.

Paul Yorkis – Town Counsel should not be running Medway. How can an applicant provide input?

Andy Rodenhiser – There is no collection of evidence after the public hearing closes –The public doesn't have an opportunity to provide input.

Paul Yorkis – May I clarify my comment? I would request to see a copy of a draft so we may present comments at a public meeting, so we can be prepared to present information. I am not asking for an informal or out of meeting opportunity to discuss with the board. I am asking to receive the draft so that we can review it and gather info and make presentations – While the public hearing is still open, if the PB has a draft decision, if we could please have a copy of that so we can present comments to the PB publicly

Andy Rodenhiser – Let me ask the Board a question. Given the recent court case with Barberry Homes, are you OK releasing drafts? In the judge's decision she made a point of saying that we had collaborated with the applicant in framing the decision, that the Planning Board gave up some rights . . .

Karyl Spiller-Walsh – Damned if you do, and damned if you don't. Mutual parallel progression

–

Tom Gay- What we have to be careful of is that before sharing a draft of a decision that we have covered every potential area that we have concern about. That decision Andy Rodenhiser is referring to the conflict evolved. I would be comfortable sharing a final draft.

Paul Yorkis – I am representing the applicant. I want to give the best feedback possible

Andy Rodenhiser- We have a case that has been remanded back to us. We have yet to figure out how to deal with these situations.

Susy Affleck-Childs – We don't do a draft and work on it among ourselves. – We have a meeting with the master plan committee on the 27<sup>th</sup> at 8 pm. Could we start earlier that night for this?

The board agreed to convene at 6:30 pm on January 27<sup>th</sup>.

The public hearing was continued to 6:30 pm on January 27<sup>th</sup> . . . –

Susy Affleck-Childs, - Gino Carlucci and I need to start working on a decision.

Susy Affleck-Childs – Paul, please get the Blanchette drawings to be specified with source and date.

Paul Yorkis – We will have a sheet that Faist Engineering will prepare –

Thanks very much.

NOTE - Karyl Spiller-Walsh departs – 9:10 pm

### **Discussion on PB fees**

Andy Rodenhiser – I am meeting with Suzanne Kennedy re: edits –

Chan Rogers – I would rather get some input from her. Tom Gay and I weren't necessarily on the same page when we discussed this last week.

Tom Gay – We did meet, Chan Rogers, Susy Affleck-Childs and myself, to review the existing fee schedule and look at the way it was laid out. We had a philosophical discussion as to how the fees were arrived at and what they cover. We started to look at – whether there is a better way to explain fees and cover our costs and apply those fairly across all kinds of projects and sizes – and that was the gist of what we talked - We have a little differing opinion on approach to that – that bears some more discussion in an expanded group -

Andy Rodenhiser - What Susy Affleck-Childs had relayed to me was the need for a practical explanation of what is trying to be achieved from the executive branch of government, and what is allowed by law in terms of what can be charged and what you can recover. That is part of what I will discuss with Suzanne Kennedy –

Chan Rogers – if the Town Administrator, with the backing of the Board of Selectmen – if they want to fiddle with fees, I am OK with that.

Andy Rodenhiser – It has to be in compliance with law.

Chan Rogers – If they set the policy, I am not going to object to the policy.

Andy Rodenhiser – It is loosely defined now to cover our costs. We need some better definitions – cost of what – so we can have that discussion from a more intelligent perspective

Tom Gay – It is hard to put a price on something if you don't know what it costs.

Chan Rogers – policy of recovering costs should be articulated to us if that is the intent.

### **Approval of Meeting Minutes**

A motion was made by Chan Rogers, seconded by Tom Gay to approve the minutes of the 12-22-08 meeting. Approved.

### **Appointment to the Design Review Committee**

Susy Affleck-Childs – I have a recommendation to appoint Mary Weafer to the Design Review Committee. She has been attending already for several months. She has training and experience in interior design.

A motion was made by Chan Rogers, seconded by Tom Gay to appoint Mary Weafer to the Design Review committee. Approved.

### **OTHER BUSINESS**

#### **Swenson Granite Site Plan**

Tom Gay – In the ongoing review of Swenson Granite I had the opportunity to speak with Rick Merrikin of Merrikin Engineering. We talked about the conditions down there, and what the decision was about, and how it was impossible to see what was going on. He had an explanation. They went ahead and staked the property lines on the site. On Jan 6<sup>th</sup> I went down there, and measured, and took some notes. There is a new line of storage. They have realigned it so it is not jagged. Certainly all along the property line on the Main Street side they are well within the limits of the buffer that was requested. In fact, along Route 109 they do not get closer than 20 feet. At a point about halfway between the entrance and the start of the car lot the property line goes off on an angle away from Route 109, the parallel of the line of storage is 12 feet back. The issue at hand, however, from the curb cut for the car dealer, is that there is a little area of diminishing return where the pavement of the car dealer has encroached onto the Swenson property for 6-8 feet. Swenson is between a rock and a hard place. The Swenson property is already paved by the abutter.

Andy Rodenhiser – any impact to car dealer?

Tom Gay – Are we going to sit here and make those two bad neighbors by having Swenson go after them?

Andy Rodenhiser – We knowingly have a zoning violation -

Tom Gay – The building inspector cannot issue an occupancy permit because the buffer issue has not been resolved. The challenge became the neighbor had encroached . . .

Andy Rodenhiser – So knowing – at some point in time, the neighbor encroached on Swenson Granite

Tom Gay – There is supposed to be a 10 feet green space buffer

Andy Rodenhiser – The neighbor has caused Swenson to be in violation.

Tom Gay – What do we want? It is an area of less than 100 sq., ft of grass –

Chan Rogers – At that particular location . . . .

Tom Gay – I don't see the value in creating a big fight over less than 100 sq. ft of grass in a situation that was not created by the applicant.

Phil Giangarra – Can you put the green spot somewhere else?

Tom Gay – They have the proper buffer around the entire rest of the area

Andy Rodenhiser – Seems pretty petty on our part to push this

Andy Rodenhiser – What obligation do we have to the ZBA on this?

Susy Affleck-Childs – You do not have any obligation to the ZBA.

Tom Gay – The applicant has made every effort to make reasonable accommodation to fulfill the decision –

Andy Rodenhiser – Swenson just hasn't policed the property line

A motion was made by Tom Gay, seconded by Chan Rogers to say this is OK that the PB believes the site plan has been completed and to send a note to the Building Inspector that the occupancy permit should be issued.

Tom Gay – Rick Merrikin asked to be informed of what needs to happen next.

Phil Giangarra – Isn't this a case of the Town trying to be more friendly to businesses? I approve of what you are doing. – don't want to make neighbors fight

Tom Gay – 30 feet in length by 2-4 feet in width –

#### **40 R Workshop**

Andy Rodenhiser – I would like report we had a really good meeting on 40R workshop with Concord Square – education on 40R and form based code, and Gino Carlucci participated and provided a 3D rendering of what that area might look like. Thank you for that good work and to Susy Affleck-Childs for the logistical support.

Next steps – Put Gino Carlucci and Angus Jennings together to go for a bigger PDF grant. We can go for more money, expand the grant to the maximum amount of \$50,000, and use that to continue the education process and development. The visual preference survey was well received . . .

Tom Gay – I bet people are good at defining what they don't want . . . it is harder to say what you do want

Andy Rodenhiser – People see different things – depending on their backgrounds . . .

Phil Giangarra – She also asked, “Does this architecture appeal to you?” vs. “What would you like in Medway?”

#### **Change in Paying Invoices**

Susy Affleck-Childs – The Town Administrator wants to make sure that the Town pays its bills in a timely fashion and has authorized staff to approve bills that once were approved by the various boards.

It was agreed to provide a monthly financial update to the Planning Board.

Phil Giangarra – If an emergency comes up, you come to FINCOM – something completely unforeseen and absolutely necessary –

#### **Adult Uses Zoning**

Gino Carlucci – The idea is to remove the existing language. Right now the eligible districts are CI, IV and VI. I also prepared a map that I have tonight. 250 feet leaves a large area that would be an eligible location, and maintains a 250' area. This map has multiple setbacks shown on here. We could make it larger which would eliminate the sites near the cul-de-sac, and just the middle section would be eligible. What should those setbacks be?

Phil Giangarra – The other alternative has 500 feet everywhere. It seems like there is no consistency between proposal 1 and 2. I am confused.

Gino Carlucci – My thinking on the first option – it is most similar to what we have now. It is not a dramatic change. The second option would be a multi-page section added to the industrial I zone

Andy Rodenhiser – I almost do not see option #2. It would need to be tweaked to fit Medway. Until that is tweaked to fit there, it is too generic. Town Counsel advised us that if you don't provide for it you can be at risk. Certainly what we have today is challengeable and would create a circumstance, that you could put it anywhere in town.

Phil Giangarra - The courts have made it very clear that you have to have an area.

Andy Rodenhiser – We had town counsel look at this.

Tom Gay – The notion of 250' and the 1000' allows for some flexibility of placement based on what the existing condition around it is.

Gino Carlucci – Another rationale is to keep the 1000 foot distance between two uses. That would make it so only the middle of the district is eligible

Andy Rodenhiser – If I own a gentlemen's club, locating off 495 might be attractive to me, because I have a large pool of vehicles everyday and they would know where I am.

Gino Carlucci – It is not totally unreasonable, because it is off of Route 109, but it can't be right on route 109.

Phil Giangarra – To make it undesirable but still legal

Tom Gay – Looking at that as a conceptual, it makes sense.

Gino Carlucci – Unfortunately there is that row of 4 houses (on Coffee Street) and that is why I put in an option. To make it within 250 of a residential building, that is an option.

Phil Giangarra – Plus you said 500 feet away.

Gino Carlucci - It is permitted now near Drybridge and near the car wash, and the Post Office in the middle of Route 109.

Gino Carlucci – In Commercial 3 and 4 it is listed, but it could not possibly have anything

Tom Gay – Medway could be challenged

Gino Carlucci – These are destination type businesses –

Tom Gay – I think with options of 500 feet in this condition and 250 feet in this condition, I think that does make sense . . .

Gino Carlucci – We could have distance from residence, and another from a residential district

Gino Carlucci – I will tweak a bit for the next meeting

Susy Affleck-Childs – I am concerned about having enough time to review warrant articles for the 2009 town meeting by the 2-9-09 submittal deadline.

Andy Rodenhiser – Let's craft an additional meeting to work on this.

Board decided to hold a special meeting on Tuesday, January 20, 2009. FIND a location.

A motion was made by Chan Rogers, seconded by Tom Gay to adjourn the meeting. Approved.

The meeting was adjourned at 10:05 PM

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant



Town of Medway  
**DESIGN REVIEW COMMITTEE**  
155 Village Street  
Medway MA 02053  
508-533-3291  
[drc@townofmedway.org](mailto:drc@townofmedway.org)

## **Medway Design Review Committee 2009 Goals & Objectives**

1. To continue to improve and build on the DRC's varied design skills and community perspectives to provide sound, design-based recommendations, and to actively reach out to the various boards, committees and departments in the Town of Medway, to better inform them of what the DRC does and how it can be a resource to help them improve the design components of all significant development projects – municipal and private – whenever possible. The Route 109 Project, for example, would be a suitable effort to have significant and multi-member involvement.
2. To initiate a framework for renewing the “visual identity system” for the Town Of Medway, particularly the town seal and any related logos used by the Town:
  - The town seal, and therefore an important component of the Town’s identity, is based out-of-date symbols and images – i.e. site of the cluster of trees at the top of the seal (an historic location used during the King Phillip’s War) is no longer located within the boundaries of the Town, and the boots and bonnets depicted in the lower right hand corner of the seal have not been manufactured in town for over a century,
  - An important component of such an identity change would be to provide the rationale and the validation for an identity change. This would impact on how townspeople project their town’s image when interacting with others beyond Medway’s borders,
  - In order to provide for a cost effective and non-disruptive transition, the approach would be to implement the image over time and through normal turnover and capital improvement purchases;
3. To become better equipped to receive and relay graphic information in the course of DRC reviews without increasing the budget significantly (or at all) through creative acquisition and/or use of computers and electronic presentation tools;
4. To further evolve the Medway DRC Design Guidelines by incorporating suitable images and graphics along with more refined guidelines/copy;
5. To encourage applicants to review and make use of the Design Guidelines and other resources, before they begin the siting and design of propose activities in town. This is intended

to ensure that all development efforts have design and community friendliness at the onset of their conceptual and engineering stage;

6. To develop recommendations (for Town meeting approval) promoting consistent energy efficiency practices for all existing municipal buildings and “Leadership in Energy & Environmental Design” (LEED) design of all future municipal structures and development efforts;

7. To assist the Planning Board in the development of zoning bylaws and regulatory changes and innovations:

- To continue discussions and prepare recommended language suggestions to come up with some specific recommendations on how to improve the language in the zoning bylaw re: buffer areas (especially between business and residential uses),
- To develop a working knowledge of Form Based codes and other new building and planning concepts, and to consider this information when developing recommendations during the design review process;

8. Administrative:

- Timeliness of preparing DRC recommendations after its review is complete – to produce letters of recommendation in a timely fashion (within 5 days of the meeting) particularly for sign design reviews.
- Consistent use of the new tracking forms,
- Using/referencing the approved Design Guidelines as the basis for the DRC’s feedback and recommendations,
- Continue efforts to recruit and nurture prospective members – people with interest/experience in design matters.

*Approved January 5, 2009*

**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
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pgca@comcast.net

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January 8, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

Re: **Williamsburg Condominiums OSRD Special Permit**

Dear Mr. Rodenhiser:

I have reviewed the revised Williamsburg Condominiums OSRD special permit application and plan. The owner/applicant is Broad Acres Management Trust of Millis, and the plan was prepared by Faist Engineering, Inc. of Southbridge and ToDesign, LLC of New Britain, CT. The plan is dated August 20, 2008, with revision dates of September 15, 2008 and October 14, 2008. The proposal is to develop a townhouse condominium project of 18 units, of which three are proposed to be affordable.

The relevant comments from my September 18, 2008 letter are repeated, with comments from my October 24, 2008 letter in **bold**. New comments are in ***bold italics*** as follows:

**General Comments**

10. Section T.6 c) requires that the Concept Plan 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 was prepared solely by the engineer. The RLA should at least review and stamp that Concept Plan. I suggest that the RLA recommend landscape buffer areas within the site, make recommendations as to relocating stone walls (perhaps around the perimeter of the open parcel with the vernal pool), identify any significant trees to be saved, etc. **The RLA has now stamped the concept plan. There are still no design recommendations as suggested in my original comment. There could be a condition in the special permit that these be addressed as part of the definitive plan.**

*A “Schematic Planting Plan,” dated December 17, 2008 by a Landscape Architect has now been submitted. While details can be determined during the definitive plan stage, the schematic plan appears to adequately address buffering and moving stone walls.*

11. The conceptual elevation plans submitted with the application do not match the footprints depicted on the Concept Plan. While three types of units are presented, none of the elevations include garages as shown on the footprints. The elevations should match the footprints. **The applicant explained at the first hearing that the elevations were intended to be representative of the type of units to be built, not the exact units.**

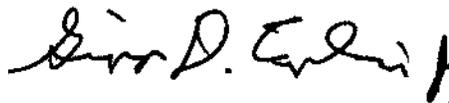
*No new elevations have been submitted and the footprints depicted on the plan do not comply with the OSRD requirements. Section T.8 (f) of the Zoning Bylaw requires that no more than 50% of the garage doors within an OSRD may face the street and that those that do must be set back 5' from the front wall of the principle building.*

*The project includes 16 garages. Fourteen of the 16 (87.5%) face the street and at least four of these are not set back five feet further than the front wall of the principle building.*

14. I would suggest that the double width driveways be reduced to single width at the intersection with the access way and then widen out to 2 cars rather than maintain the double width their entire length.

*The double width driveways remain. There is no prohibition against double width driveways, but they result in significantly more breaks in the sidewalk and wider curb cuts, reducing the pedestrian friendliness of the project. Perhaps as the garages are reconfigured to comply with the Bylaw, the driveways can be addressed as part of that. At a minimum, I would suggest that the sidewalks be designed as a continuous plane across the driveway openings with the driveways meeting the grades of the sidewalks, rather than the sidewalks simply ending at each driveway break.*

Sincerely,



Gino D. Carlucci, Jr.



Town of Medway  
**DESIGN REVIEW COMMITTEE**  
155 Village Street  
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January 8, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning and Economic Development Board  
155 Village Street  
Medway, MA 02053

RE: Williamsburg Condominiums OSRD Special Permit Application

Dear Andy,

Thank you for referring the proposed site design and architectural renderings for the *Williamsburg Condominiums Open Space Residential Development* Concept to the Medway Design Review Committee (DRC). The DRC has reviewed several variations of this concept, and we commend this final design, a Low Impact Development, as the best so far.

The proposal is for an 18 unit condominium community on 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 in the ARII zoning district. The development would be comprised of nine (9) duplex buildings including three (3) affordable dwelling units; stormwater drainage facilities which include low impact features, sub-surface infiltration systems and surface storm water basins; 8.7 acres of dedicated open space to be publicly accessible; and a 16 foot wide U-shaped one-way private driveway running approximately 1,134 linear feet.

Pursuant to the Medway Zoning By-Law, SECTION V. Use Regulations, Sub-Section T. Open Space Residential Development, Paragraph 6. (e), this letter serves as the DRC's recommendation to the Planning and Economic Development Board regarding the proposed site design and architectural renderings.

On November 17, December 1, and again on December 15, 2008, the DRC met with the applicant and his representatives to review the proposed site plan and architectural renderings. The reviewed plans include:

- OSRD- Concept 18 Unit Site Plan Williamsburg Condominiums West Street , Medway, Massachusetts dated 8/20/08, last revised 11/24/08, prepared by Faist Engineering and O'Driscoll Land Surveying.

- Architectural Renderings for Units A, B, C, D, E and F, undated but received 12-15-08, prepared by Michael Blanchette, R.A, of Medway, MA.

This project has incorporated many of the changes the DRC recommended back in May of 2007 when we had the opportunity to informally review the developer's preliminary design concept. The DRC appreciates all the hard work put into this project since then. The DRC understands that the duplex units accommodate 1 or 2 car garages. There are decks or patios for all units. Roof drain drywells are to be used for all stormwater recharge, and low impact site drainage utilizing surface swales and subsurface infiltration measures for pavement areas are planned. There will be 3 affordable units. There are 6 duplex designs. In the interest of flexibility, some of the duplex halves are interchangeable, and the garage option is to be built on an as needed basis. While Unit F can only be located in the two spots at the end of the U-shaped one-way drive, the other units are to be placed within the building envelopes as dictated by the individual buyers to a certain extent.

Based on the proposed designs, the DRC offers the following comments and recommendations on the architecture and site plans for the Williamsburg Condominium OSRD.

**Architecture:**

- The architecture has an informal posture appropriate to Medway. New England in feeling due to its gable roofs, farmer's porches and covered entries, these welcoming home designs offer protection from the elements to residents and visitors.
- While roofing materials, exterior cladding, and window details are not specified yet, the drawings show references to Shingle Style architecture, which is appropriate to New England, and Greek Revival Style which is appropriate to Medway. In particular, Units B and E show dormers with "broken pediments", all units are depicted with 6 over 6 windows, and the renderings show a mixture of clapboard and shingle cladding. The DRC recommends the materials be specified on the OSRD Definitive Plan.
- Garage doors are set back from the main entrance in Units B, C, D and E, giving the homes front doors visual priority. This is not the case in Unit type F. DRC recommends that for each unit F, a courtyard should be created to emphasize the front doors and to mitigate the intimidating domination of the garage doors.
- A paint color scheme should be included in the OSRD Definitive Plan.
- The placement of the duplex units within the parcel makes good use of the topography, existing stonewalls, and scenic vistas. The DRC recommends that stonewalls not be disturbed. In a case where a road or path must to go through a stone wall care should be taken to rebuild with these stones in the same style and/or use the removed stone elsewhere on site.
- The bump-out in the roadway for Open-Space visitor parking and community mailboxes about 300 feet up the drive is a nice touch. The DRC recommends a roofed structure be

placed by or around the postal boxes to give residents shelter, and a place to gather and catch up on local news.

- As the development takes shape, care should be given to building orientation to the sun as certain configurations may block all sun on north facing units. Passive solar can help keep heating bills lower, moods lighter, and enhance home values as well.

### **Site Design and Landscaping**

- DRC recommends that a Landscape Plan should be provided to show:
  1. existing important trees
  2. planting plan for the entire community
  3. a plan for a courtyard in front of units F
  4. a plan for the circumference of the stormwater basin directly behind the house at 68 West Street and
  5. a plan for all areas where cars are to be parked on a regular basis.
- Pervious surfaces (pavement, block or other appropriate material) are recommended wherever practical.
- The well considered lamppost design (*Adjusta-Post Lighting – Post #C8P2 and Post Head C84TC-BK*) and lighting plan contribute to a comfortable and safe community feeling.
- The addition of a play area is recommended.
- DRC recommends the establishment of a unified signage plan with any directional signs, unit numbers, etc. coordinating with the community entry sign.
- The DRC recommends that the community entry sign be located near the postal boxes.

Thank you for the opportunity to review the proposed Williamsburg Condominium OSRD Concept Plan. We look forward to working with the applicant on this enterprise.

Sincerely,

Gwendolyn Hendry, Vice-Chairperson

cc: Greg Whelan, Broad Acres Management Trust  
Michael H. Blanchette, Architect  
Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering



**Town Of Medway**  
**Open Space Committee**  
155 Village Street  
Medway, Massachusetts 02053

John Schroeder, Chairman  
Jim Wickis, Vice Chairman & Clerk  
Bruce Hamblin  
Patrick McHallam  
Glenn Murphy  
Dawn Rice-Norton  
Tina Wright

October 29, 2008

Mr. Andy Rodenhiser, Chairman  
Medway Planning and Economic Development Board  
155 Village Street  
Medway, MA 02053

RE: Williamsburg Condo OSRD

Dear Andy,

As requested, the Open Space Committee has reviewed the proposed Williamsburg Condominium Open Space Residential Development. We established a sub committee to study the plans, walk the site and prepare comments for our review. The plans reviewed were entitled *Williamsburg Condominiums Open Space Residential Development Special Permit Concept Plan* dated August 20, 2008, prepared by Faist Engineering of Southbridge, MA. This review letter was approved by the Open Space Committee at its October 28, 2008 meeting.

We were overall pleased by the current proposal but would like to offer some input into this project as outlined below.

Our first impression upon walking the parcel on October 2, 2008-a posted public meeting-was that it is beautiful, with a wide variety of habitat and a mix of lands, including a vernal pool, a grove of old pines, brook and wetlands with nearby beaver dam, lengthy tree line of very large trees beginning their fall splendor, several lengths of old stone walls and an upland meadow. There does appear to be a potential for future use of this property as part of a trail system. This would be in the far future and would depend upon the town's ability to acquire other pieces of land but it does impact the location of the proposed Open Space.

In regards to the **Vernal Pool**: There obviously should be neither further encroachment nor disturbance in any way of this area

As to the **Roadway and sidewalk** as proposed: The roadway would be best as narrow as is determined to be safe by the Planning Board and their safety advisors The road with the separate

sidewalk divided by a swale as proposed is acceptable. The possibility of the sidewalk meandering is attractive where possible with minimal additional impact on the site.

As to the preservation and condition of the **Stone walls**: There is a prominent stone wall on the southern border of the property that should be preserved and repaired or enhanced wherever needed with stone from the walls that must be removed if any. The builder's agent suggested matching that wall on the opposite side of the roadway and doing the same on the entrance roadway as well. That idea is appealing as long as every effort is made to duplicate the condition of the existing walls that are in the best condition.

As for the **Meadows**: Much of the area that is to remain **Open Space** is currently a very attractive upland meadow. In order to maintain that area, the decision should state that some work will have to be done on a regular basis. One suggestion would be to mow or "hay" those meadows once a year in the fall when the birds have finished nesting.

**Access to the Open Space**: We prefer that access to the open space be from the northwest corner of the site. We further suggest use of a mowed, packed path that would be accessible to a person with disabilities to the stand of trees in the center of the northwest meadow where a bench should be provided for resting and viewing. Parking for that path should be at the beginning of that path where it meets the roadway, i.e. at the area close to the pine grove/exit road vs. the end of the (as revised) entrance road. We would like signage indicating "**Parking for Open Space Use Only**" or similar so as to keep parking reserved for access to the area-as opposed to being used by residents or their visitors.

Regarding the **Forest/Treed areas**: We recommend that any areas of mature trees be left alone as much as possible except for the periodic removal of underbrush that might be detrimental to the health of those forests. The grove of pines would be especially important to keep as intact as possible.

**Tree Line**: The border between the meadows and the treed areas should receive periodic maintenance so as to remove invasive species and to facilitate the viewing through the trees as much as possible. It is recommended that this could be accomplished on an annual schedule similar to the meadows.

**Trails**: Where the ownership of the Open Space is to be conveyed to the Town of Medway under the supervision of the Conservation Commission it is our recommendation that the only trail currently necessary is the one from the Open Space parking to the viewing bench. The meadows provide walking and viewing access to the remainder of the Open Space. As already stated; in the future an additional trail might be possible as a portion of a larger trail system that follows the Hopping Brook from the south through to Main Street. This would require the cooperation of several abutting residents and the location of that trail may be determined by factors outside of this site. We therefore recommend that any other trails be considered by the Town Of Medway, the Conservation Commission and the Open Space Committee at that time.

**Parking for Residents**: We would like to see as few paved areas as is possible. We had hoped for parallel parking along the access road but it appears that this has a safety implication. In the interest of minimizing impervious pavement, it is our recommendation that front loading garages

with shorter driveways may be preferable on this site. The number of additional parking spaces should be as limited as possible.

Respectfully submitted,

John C. Schroeder, Chairman

Attachments: Map of site with Trail and Parking recommendations

**January 20, 2009**  
**Medway Planning & Economic Development Board Meeting**  
**Medway Senior Center**

PRESENT: Bob Tucker, Karyl Spiller-Walsh, Tom Gay, John Williams, Andy Rodenhiser  
ABSENT: Chan Rogers  
ALSO PRESENT: Susy Affleck-Childs  
Gino Carlucci  
John Schroeder, OSC Chairman

Chairman Rodenhiser called the meeting to order at 7:20 pm

No comments from the public – no public in attendance

Andy Rodenhiser – we will need further education/training on 40R – Gino Carlucci may need 2 months to work on a new grant. What is the low hanging fruit for spring town meeting?

**List of items to discuss for 2009 annual town meeting**

OSRD tweaks  
Adult entertainment  
Affordable Housing – Infill Special Permit  
Master Plan adoption

Karyl Spiller-Walsh – I see conflict in ideologies – density issues, open space, maybe something could be done to connect OSRD open space – conflict – by counting waterways, we are really reducing the amount of open space we get

Andy Rodenhiser – Isn't the idea that you gain open space by putting more into this?

John Williams – Let's go through the open space thing as a whole, and then take a crack at issues. – I have a PowerPoint presentation – what do we like and what don't we like?

Tom Gay – I think I am struggling with the difference between open space and OSRD

Karyl Spiller-Walsh – I was relating only to the open space in an OSRD

Andy Rodenhiser – I see philosophically – OSRD is a dance or tradeoff – quid pro quo for not developing the whole site, and concentrating development

John Schroeder – We want to encourage it for the purpose of protecting open space -

Susy Affleck-Childs – And to connect open spaces to each other.

NOTE – John Williams went thru his PowerPoint presentation on Medway's OSRD bylaw and his comments on sections that should be revised

John Williams – I went thru the info Susy Affleck-Childs had given me about OSRD in general. I went through our bylaw, and then I looked at OSRD in other SWAP towns, and then some topics for improvements, and then some suggestions at text changes. Issues – minimum parcel size, contiguous, yield plan/formula,

John Williams – I suggest we look to establish some criteria for location. – There are some significant wetlands and riparian zone is already untouchable. What about net gain? We have ability to not approve the maximum number of units per the formula.

Karyl Spiller-Walsh – We have now added the requirement for affordables.

Gino Carlucci – One wrinkle with the Affordable Housing requirement – it provides for a bonus, and if you are trying to reduce the number of units. . .

Andy Rodenhiser – The conflict is in the bylaws. You have a bonus density with Affordable Housing. Within the realm of the negotiation – we need an SOP for how we do this . . . we need to sustain an appeal – they choose how to get into the dance –

John Williams – It is not necessarily that the developer wouldn't want to do this – not a forgone conclusion that they would go to court – I want to understand what leverage we have. Perhaps we need to tweak the formula.

Karyl Spiller-Walsh – The type of storm water design can impact the quality of the open space.

Andy Rodenhiser – We need to write decisions with more findings –

Gino Carlucci – You could put in more criteria about the impact of storm water on open space

Andy Rodenhiser – I want to make decisions defensible. You lay out why you found it necessary, why is it in the best interest of the town. We have a tendency to rush through findings. We don't see the sense in doing it – we brush over – This guy may sell this project (Williamsburg Condos). Greg Whelan is not building this –

John Williams – There are dimensional requirements. The open space has got to be truly usable.

Gino Carlucci – It is the minimum amount of required open space. Those acres cannot have a higher percentage of wetlands than the entire parcel has

Tom Gay – Word it in such a way to make it simpler – ten acre site. . one quarter 2.5 acres is wetlands - so you have 7.5 acres -

Bob Tucker – We were trying to decrease our reliance on wetlands to meet open space requirement

Gino Carlucci – If open space exceeds 50% of the parcel – think of it as two parcels – one is the amount needed to meet the minimum and the other is extra

Andy Rodenhiser – What are you suggesting?

John Williams – How do we calculate the quality of the open space?

Bob Tucker – The intent was to force people to provide quality land for open space - when we did this, we were adapting what we did before . . .

John Williams – I think we need to write it so we can understand it.

John Schroeder – Keep in mind, the area under utility easements does have some value as a wildlife corridor –

John Williams – So how do we write this?

John Schroeder – Maybe focus on the uplands

Bob Tucker – We might want to look at the original text that was there and see how we modified it.

John Williams – Take a look at parcels that are potentially developable by our bylaws and determine whether regular subdivision is proper or OSRD is proper.

Andy Rodenhiser – How do you textually change?

John Williams – Establish a minimum

John Schroeder – We were looking at a zoning map at what could be done. Let's change this zoning map. These two districts were chosen a long time ago. Is it possible to have an AR5 zone with large lot zoning and then give higher densities in the village zones? Essentially allow for the same overall number of units?

John Williams – Change the minimum lot sizes. – I think in Millis they allow for very small lots, and then they have 1.5 acres –

Gino Carlucci – Part of Sherborn has 3 acre –

John Williams – Raise the lot sizes to reduce the residential growth and that way we take care of all the extra houses that will be created by the increased affordable housing

Andy Rodenhiser – Want to have better land uses

John Williams – One way to do this is to be more restrictive to the number of people allowed to move into town which puts a burden on all of our services and infrastructure we need to provide. Who are our customers? The people of Medway. If you read the surveys, they are worried about traffic, quality education, population growth, and all of the financial problems that resulted from increased demands and services. If we were a little more restrictive, we could eliminate some of the problems

Karyl Spiller-Walsh – OSRD is an attempt is to do just that to give larger lot – when the Affordable Housing overlayed, we ended up with minimal open space – and it is sketchy

John Williams – Reduce overall density by increasing lot size to offset increase in # of units required by affordability requirements

John Schroeder – I don't care whether it goes away one or two acres at a time – please think about ways to make other pieces more attractive for higher density, and then reduce density elsewhere

Andy Rodenhiser – How much is it going to take to buy all that land? How much can CPC money be leveraged? What is it going to take to buy Briggs development rights?

John Schroeder – Find a way to compensate the landowners

Andy Rodenhiser – We could transfer the development rights from Briggs to Cassidy – I don't see how we can function as a stopping board – smart growth encourages development in the right places

John Schroeder – If we decrease lots sizes in ar2??

John Williams – Why is increasing lot sizes bad?

Andy Rodenhiser – Because you up the cost of construction/ you will cut the yield -

Andy Rodenhiser – John is saying he wants to have estates every 500 feet – that would change the character of town.

Bob Tucker – That would promote McMansions

John Williams – Are we running away?

Karyl Spiller-Walsh – John Schroeder is saying we in Medway are enjoying the character of combinations of workforce housing and estate type living/large lot areas, not unlike Lincoln that has village. But we don't have identified open space areas. What percentage of our town is open space?

Andy Rodenhiser – There is a lot of money in those other towns

Karyl Spiller-Walsh – They are closer to the city. I watched this town become what Wayland and Lincoln was 50 years ago

John Williams – The only SWAP town that has more people per acre is Milford –

Karyl Spiller-Walsh – The intent of open space subdivision – way of doing better development than a conventional –

Susy Affleck-Childs – OSRD preserves open space and allows for more diverse housing type

John Williams– The Planning Board does have a lot of leeway in making its decisions. My point with the whole experience – we do have a strong bylaw, we have areas where we can enforce, and we do have ability to change the shape of open space. I think we have in the bylaw the right to negotiate with the developer more. I think being new to the process I wasn't involved in the early discussions. Negotiate more. Make sure there is a common area included. I think we should point out more to the developer. We have the right to discuss more items with them. We should have done more of that at the beginning – and not compare it to a 40B – We have to respect the integrity of the process. – four step process needs to be more focused – I would have liked to see common areas – I want to maintain property values –

John Williams' recommendations –

Require OSRD in certain areas of town – because the land is of a higher quality . . .

Gino Carlucci – remember we had the memo from Town Counsel Barbara Saint Andre about the Westwood case with “major residential development” projects needing a special permit. The court ruled that if somebody complies with the subdivision control law, they can go ahead, no special permit needed.

Gino Carlucci – Some towns do have the requirement to provide two options – conventional and OSRD –

John Schroeder – By right OSRD by form based code

Karyl Spiller-Walsh – Open space is many things – wild, big expanses – also small pocket parks – a small relief within a bigger development – within subdivisions . . .

John Williams – I would also like to limit the type of housing to 50% of what is comparable in the surrounding neighborhood –

John Williams – Why have we placed such a priority on this type of housing? I think it is free wheeling. I think this pushes the edge of what is acceptable?

John Schroeder – We are looking at the zoning. I think we should break this town up into little pieces. There are areas that are different. Gino Carlucci presented a traditional neighborhood design option. We could overlay a zoning district that would create that option. I don't think we should apply OSRD across the board. Look at the town's parts

Andy Rodenhiser – Let's go with that. Let's say we passed that next week. Nothing is going to happen,

John Schroeder – One OSRD formula works very well in one part of town and might not work very well in another

Andy Rodenhiser – Possibly OSRD 1, 2 and 3 for various parts of town, with varied criteria depending on the area.

John Williams – that gets back to the predominant housing stock within the area – I think it is neighborhood changing to go with different housing stock. I think 50% is a good compromise.

Andy Rodenhiser – What about neighborhood conservation districts –

John Williams – I would like us to increase setbacks between structures from 15 feet to 40 feet to provide some privacy and setback from public access ways.

Go thru John William’s list of recommendations on OSRD –

Bob Tucker – We are enabling, but not defining . . .

Andy Rodenhiser – I want to have Gino Carlucci and Susy Affleck-Childs look at all of these ideas and give us their thoughts on changes

John Williams – Whole issue of contiguous lots is important

### **Adult Entertainment**

Gino Carlucci distributed a revised draft for adult entertainment for industrial zone I

After discussion, the board agreed to change the distance from 1000 feet to 500 feet

### **Other**

Susy Affleck-Childs distributed RFPs for organic farm, 9 Walker Street, draft job description – letter from Barbara St. Andre to Board of Selectmen re: street acceptance issues.

Andy Rodenhiser – Thanks for the efforts –

Bob Tucker – It is good to go back to revisit –

John Williams – I would be interested in the lawfulness. – I think for closure, instead of leaving things open, let’s look at it and decide. Put it on the table. If it doesn’t work for you, let the chips fall where they may - Thanks for listening –

A motion was made by Bob Tucker, seconded by Tom Gay to close the meeting. APPROVED.

The meeting was adjourned at 10:30 pm

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

## January 27, 2009 Medway Planning and Economic Development Board

**Location:** Sanford Hall, Medway Town Hall, 155 Village Street

**PRESENT:** Bob Tucker, Chan Rogers, Karyl Spiller-Walsh, John Williams, Andy Rodenhiser

**ABSENT with NOTICE:** Tom Gay

**ALSO PRESENT:** Susy Affleck-Childs, Planning Board Assistant  
Gino Carlucci, PGC Associates (consulting planner)  
Eric Alexander, chairman of the Affordable Housing Committee

The meeting was called to order at 6:38 p.m.

**CITIZEN COMMENTS - None**

### **Public Hearing Continuation – Williamsburg Condo OSRD**

Susy Affleck-Childs – Because Tom Gay cannot attend tonight, we need to reschedule this public hearing. I would suggest February 10<sup>th</sup> at 7:15 p.m.

A motion was made by Chan Rogers, seconded by Bob Tucker to continue the public hearing on the Williamsburg Condo OSRD to Feb 10<sup>th</sup> at 7:15 pm. APPROVED.

Andy Rodenhiser – We will be meeting with folks from the Medway Master Plan Update Committee at 8 pm.

### **Discussion on articles for 2009 Annual Town Meeting**

#### **Infill Housing**

Eric Alexander – I am here pertaining to an article the AHC is working on – the article we are looking at is a proposed infill housing bylaw - as we hope folks will soon know, we are becoming a little bit more active – we are taking a look at bylaws and try to identify opportunities – what you have before you is an infill bylaw that would pertain to existing nonconforming lots in the ARII – primarily targeting some of the older neighborhoods in Medway with predominantly smaller houses and provide opportunities to construct affordable housing on those nonconforming lots

Chan Rogers – How is the word *infill* used in this context?

Eric Alexander – One of the things we have done, we have looked at some of the open lots in town to see if there are opportunities. We started to see some existing but nonconforming lots under ARII zoning that might be appropriate. We thought it might present an opportunity for more affordable units. We have the infill language – single family for rental or ownership capped at 3 bedrooms. Any proposals that came in would have to have approval of the Design

Review Committee (design) and Planning Board for a special permit – this is not a by right – single unit only per lot

Bob Tucker – What kind of percentage of cover on the property would be required?

Eric Alexander – That would be determined by what the neighborhood has – in terms of area, lot coverage – sensitive to

Bob Tucker - What is the lot coverage requirement now for an existing lot?

Susy Affleck-Childs – There is no lot coverage standard for residential zones.

Karyl Spiller-Walsh – Are there any legal ramifications? – Hypothetically – perhaps there was a disgruntled neighbor – Could there be any ramifications because of the original existing zoning? If we create an infill zoning we would be creating – suddenly you have a house on a lot that wasn't buildable

Andy Rodenhiser – If it is voted on at a town meeting, it is OK.

John Williams – Whether or not it met those thresholds –

Andy Rodenhiser – general premise of a zoning change as long as it is adopted at town meeting, it doesn't change the underlying use – Everything would be grandfathered. If there is a significant enough of a negative that somebody was denied the use of their property because of a zoning change, they can appeal the vote.

John Williams - You might go in the opposite direction. You could argue for the land owner that perhaps – there are current zoning restrictions now; perhaps a homeowner could have a case

Andy Rodenhiser – If town meeting approves

Chan Rogers – I think the case Karyl Spiller-Walsh is mentioning is more apt in a variance hearing

Gino Carlucci – If it is adopted at town meeting, the issue is the impact on the abutters.

Andy Rodenhiser – The fairness comes thru the granting of a special permit.

Bob Tucker – couple of questions – define *similar* as it pertains to item 9 d 2

Eric Alexander – It would be determined by the Design Review Committee and the Planning Board.

Bob Tucker – The Design Review Committee is not a decision making body but an advisory body to the Planning Board. Are you planning on revising their

Eric Alexander – The way we worded it is that it needs to be affirmatively recommended by the Design Review Committee to the Planning Board.

Susy Affleck-Childs – There is a companion article from the Design Review Committee to tweak their bylaw.

Andy Rodenhiser – The Design Review Committee is asking for their scope of responsibilities to be expanded. We asked them to come up with what – we knew they would be coming back before us

Bob Tucker – How can we review this without that to consider?

Eric Alexander – We wanted to craft this in a way to provide maximum protection for abutters and gave the town the most control over the development of non-conforming parcels.

Chan Rogers – Is this something that has been adopted elsewhere? It seems like it might be an ideal approach.

Karyl Spiller-Walsh – great concept – here is another hypothetical

Andy Rodenhiser – I have another question – similar in size and shape – in that scenario, is a rectangle similar in size and shape to a square – that seems subjective – perhaps we should use a lot shape factor –

Eric Alexander – We hoped to have some input from the Design Review Committee in making that determination.

Andy Rodenhiser – In looking at the inventory of infill lots, how many are similar in size and shape to adjacent lots.

Eric Alexander – We have looked at the overall number, but not yet individual lots in terms of similarity to adjacent lots.

Andy Rodenhiser – Is it likely we are writing something that can't be used?

Eric Alexander – I don't believe this would be useless bylaw

John Williams – Are we talking about people who live in ARII who could subdivide their land?

Chan Rogers – No, just existing nonconforming.

Bob Tucker – There is another option (as written in the draft) - If you had a large enough lot, you could subdivide it under ANR and make one of the lots an infill lot.

Eric Alexander – There are so many questions about similarity aspect. The intent is not for folks to create lots that are not compatible with the existing neighborhood. We are looking at creating units that are consistent

Karyl Spiller-Walsh – By definition is there a minimum size for an affordable house?

Eric Alexander – No. One of the barriers to affordable housing is the cost of land and the cost of construction. When you look around town, we wanted to look at possibilities. We wanted to craft a bylaw that took advantage of those circumstances.

Chan Rogers – The impediment is the high price of land, and this creates a piece of land that now becomes buildable.

Bob Tucker – under applicability, item #2 – lots/parcels that may be created – what criteria?

Eric Alexander – minimum of 6,000 sq. ft.

Bob Tucker – What would be required of the (remaining) base lot (once an infill lot was split off)? I would expect it would have to meet the minimum. That should be specifically identified in the bylaw. My concern is the (land where) the initial house exists. That area would have to meet the underlying zoning for the area.

Eric Alexander – I would disagree with that. We are talking about a lot in an existing neighborhood. Another example is a 12,000 sq. ft lot with a house on it. It does not comply with zoning – by creating two 6,000 sq. ft lots I would think that was OK as long as it was in a neighborhood that had similar size lots

Chan Rogers – I wouldn't think you would want to create two nonconforming lots.

Eric Alexander – You are not creating any more of an adverse impact.

Chan Rogers – I think you are by creating 2 nonconforming lots.

Karyl Spiller-Walsh – If a lot had 30,000 sq. ft., you can subdivide that into a conforming lot and the remaining land would then does qualify as an infill lot under this description

Andy Rodenhiser – I think what you are saying is that you don't think there is an adverse impact on the neighborhood.

Chan Rogers – I thought this would apply only to the non-conforming lots that already exist.

Eric Alexander – But we also thought it could apply to potential new lots as well.

Karyl Spiller-Walsh – Then you need another layer of zoning – an overlay that would call out – you are trying to make them all conforming – you need to do an overlay

Bob Tucker – I know there are some. I wonder if you wouldn't be better off with an overlay that is specific to certain neighborhoods. With this, you are creating a wholesale wherever there is AR2.

Eric Alexander – We want to avoid the premise of directing affordable housing to specific neighborhoods.

Andy Rodenhiser – I think you can do it in AR2, but if you are going to allow for it by ANRs, then in should only be in certain neighborhoods. – further delineation and specifications

Gino Carlucci – Maybe a way to accomplish everybody’s goals and Eric Alexander’s hope is to just add more standards. Like you can only do it if x number of lots within a certain radius are . . .

Eric Alexander – It seems like Bob and Karyl are concerned about increasing nonconformity.

Chan Rogers – I think you expanded your case by saying there could be two nonconforming lots.

Gino Carlucci – It would technically be legally nonconforming under zoning, but conforming to the standards of the neighborhood.

Bob Tucker – I don’t have an issue with that, but I am concerned about having a negative impact. If we are not careful, then we would get that rammed right down our throats.

Karyl Spiller-Walsh – By default it is directing affordable to smaller neighborhoods, as opposed to Bob Tucker’s neighborhood. What about areas where there would be an overage?

Eric Alexander – We want to make sure that we are not losing out on open space options either.

Eric Alexander – I think what I am hearing is that it might be cleaner to not include ANR lots in this.

Bob Tucker – I don’t think we want to allow people to make their existing residence nonconforming.

Andy Rodenhiser – Perhaps some look back provision

Eric Alexander – I am hearing it would be better to just eliminate the ANR piece.

John Williams – It would be good to understand the impact of the proposed law. as far as a comfort level with any new lots . . . if we applied a map – are we talking about 5 or 50 – a visual or a count – but we can do some additional homework?

John Williams – There are other ideas that I think we could do to increase affordable housing without going the new development route. Has your committee talked about using existing housing stock that is inching more and more close to becoming “affordable”?

Eric Alexander – We are trying to look at a variety of different approaches and that is one of the things we are examining. One of the silver linings of the drop in housing prices is that things are more affordable overall. Mass DHCD will absolutely have to adjust its pricing downward.

Eric Alexander – One of the things we are talking about – we have the new affordable housing trust and looking for opportunities to purchase the existing units and then do a buy down. There might be some need to rehab up to certain standards. That is definitely one of the options we are looking at.

John Williams – Are there any property or deed restrictions for maintaining affordability? I am still struggling with 30 years or perpetuity. I am concerned about that.

Eric Alexander – There are two things that affect the term of affordability. The financing program usually has its own standards for 30 years. Usually perpetuity is because a town puts that in place. We do need to discuss that in terms of what a homeowner can do in terms of building equity. Usually deed restrictions provide a cap. That is a discussion that we are going to be having as an affordable housing committee this year.

John Williams – Why limit this to ARII and not include it in ARI zone? There is an equity question,

Eric Alexander – I am perfectly willing to open it up town wide.

Chan Rogers – It is a land cost issue.

John Williams - There is pain and concern about developing additional density within an already dense area. I just wonder as we look over the master plan summary, I think the second priority here is to preserve rural character and keep population down. Did you guys have any conversations with the Master Plan Committee?

Eric Alexander – I would be happy to open this up to AR1. Restricting it to AR2 is a nod to the efforts to preserve open space. This is a way to direct new development to where density is already present.

John Williams – How much density is enough and how much is too much? Will this be a burden on AR2?

Andy Rodenhiser – Why is this a burden?

John Williams – character change – extent and number of units – is this allowing my neighbor who has a half acre to put another house up – I think it can hurt a neighborhood

Chan Rogers- that is more likely to happen if you go to AR1

Karyl Spiller-Walsh – reference to the town of Taunton, and they were changing their zoning bylaw and changing zoning from ½ acre to 1 acre – people would come in and hundreds of people to file preliminary plans to protect

Eric Alexander – If folks like this –

Andy Rodenhiser – Could you have a look back date?

Karyl Spiller-Walsh – Is that legal?

Gino Carlucci – I have seen it done, but I have seen it questioned as being arbitrary. But the date it is passed is somehow more acceptable. That would be a question for Barbara Saint Andre

Chan Rogers – What is he suggesting?

Andy Rodenhiser – Karyl is saying, if this provision gets out, there could be a bunch of people who would come in and file ANR plans to create nonconforming prior to the town meeting when this would be considered.

Bob Tucker – People aren't going split off lots if they are going to be limited in what they can build.

Andy Rodenhiser – Who might buy one of these lots? Perhaps a contractor who suddenly has an obligation to provide affordable housing in a development, and could use one of these to meet his affordable housing obligation. Some of the densities you're trying to paint a picture of are not what we are talking about it.

Andy Rodenhiser – Does anybody want 3 deckers like Boston?

No

Susy Affleck-Childs – There are limitations on the total number of infill units – tied to 1% of the single family housing stock in town.

John Williams – I am leery on potential impacts on town. How dense is too dense? It does affect abutting properties. It is specific to one part of town.

Bob Tucker – I want to ask you about parking. You spell out some worthwhile things on parking. What is different between that and what is allowed for current zoning?

Susy Affleck-Childs – There are no parking requirements in either of the AR zones.

Bob Tucker – Why add provisions when there are none in the underlying district?

Eric Alexander – To minimize impact on abutters. The last thing we want to do – acknowledge that there are restrictions placed on these units – to minimize adverse impacts on neighbors –

Bob Tucker – I certainly agree with the idea of parking restrictions - I bet we have some parking restrictions somewhere. Wouldn't some of this be better off as guidance to the reviewing bodies vs. specific?

Eric Alexander – We did want hard and fast rules in some respects, parking being one of them.

Susy Affleck-Childs – In the AR2 zone – special permits for 2 families have parking requirements of 2 off-street spaces cars per unit

Bob Tucker – Okay, so there is some precedent.

Chan Rogers – Given the town is deficient in affordable housing I think you are looking at a good idea. I think you are on your way. I think the idea of creating two nonconforming is not

good. Also, as a committee, I wanted to ask you as a committee, how many affordable housing lots would you like to see created in the next 5 years?

Eric Alexander – In terms of number, I can't tell you. We are trying to get a handle on opportunities in terms of existing lots and possible opportunities to convert. If we increase affordable housing stock by one half a percent per year, we can hold off 40B units. But our resources as a town are very limited.

Andy Rodenhiser – You will probably hit a 2 year wall.

Mark Cerel – There will be a recalculation based on 2020 census so that will push up the number of units needed (and reduce your percentage) – When you approve a 40B project, there is a limited amount of time by which they have to be constructed for them to count. If they don't start building in a year, they come off the SHI – moving target

Andy Rodenhiser – The inventory that we presently have of 227, that probably includes the new 40Bs?

Susy Affleck-Childs – It does not.

Mark Cerel – Wellesley court case . . . re: affordability provisions . . . – to be safe you would want to state in any decision . . .

Bob Tucker – When you come back, please have an update that will blend in what the role of Design Review committee is.

Eric Alexander – We will be prepared to speak to that more definitely.

Andy Rodenhiser – Who did the work on the lot shape factor?

Susy Affleck-Childs – It predates me . . .

Gino Carlucci – A lot of towns have it . . .

Andy Rodenhiser – Try to look at something more on lot shape, please.

### **Proposal to revise Design Review committee bylaw. .**

Gary Jacob – Design Review Committee Chairman

Gary Jacob – The Planning Board had asked us to look at our bylaw. We are trying to take on some additional design support. Based on the bylaw as written, perhaps we should not be advocating for some activities. As we have become more mature as a committee and gotten more people on that have more experience, it has evolved. This is part of that process. One of the things we were talking about several weeks ago, one of the ideas we spoke about with you, was to consider updating the town seal. Perhaps that was beyond our scope as the Design Review Committee is presently authorized. These changes allow us to be an advocate for change and look to the future and see where improvements – we would still be advisory

The verbiage here is what is proposed to change – really only one big change is “d. 5” to add “advocate for good designing municipal programs and capital projects” - the first four items in “d” say what we have been doing - the primary change is to allow us to advocate for changes – whatever other board we might go to – they can still

Gino Carlucci – The first line of “e” is crossed out. I would put that back in.

Bob Tucker – Expand on that to lead into this section. Add “e” to the beginning of the new “d”.

Eric Alexander – Would it be helpful for Gary to hear what we are proposing? Clearly there needs to be some better communication between us. We have been looking at a bylaw to allow for development of infill lots in existing traditional neighborhoods. We have language in it to require an affirmative recommendation from the Design Review Committee.

Gary Jacob – That is definitely a change for us.

Andy Rodenhiser – expect then there is a conflicting bylaw to the contrary

Chan Rogers – I don’t think you neuter them

Bob Tucker – I agree. There have been some cases where we have not agreed with the Design Review Committee’s recommendations.

Mark Cerel – If you make Design Review Committee positive recommendation a requirement

Eric Alexander – I think we can craft better language that accomplishes – The intent was never to take away authority but to make sure there is some positive input from the Design Review Committee.

Gary – You have text about meeting design guidelines. Those are mostly for new construction. We talked about having special neighborhood guidelines for 40R. We might have to modify the design guidelines –

Susy Affleck-Childs – some additional text to add to the design guidelines

Gary – The Design Review Committee is to be advisory unless except as stated otherwise in town bylaw . . .

Bob Tucker – If you start listing specific sections of the zoning bylaw, that will become a nightmare logistically in the future.

Mark Cerel – The authority shall be advisory in the following specific -

Chan Rogers – We should not abdicate our responsibility. The original concept is that we were going to

Eric – We were try to communicate in our bylaw is a very high degree of agreement. We don't want to overlook

Andy Rodenhiser – generally OK with the changes –

Yes . . .

Gary – would we need to have a hearing?

Susy Affleck-Childs – no

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8:10 pm –

Jim Wieler, Dan Hooper, Bill Wright, Mark Cerel

Jim Wieler – Good evening. Master Plan is the second committee most of my members sit on. some had conflicts tonight. A couple of weekends ago we compiled the first draft of the Master Plan. The plan moving forward is to publish the full plan for Master Plan Committee members' comments, and I hope to get that out to Master Plan committee and to Gino Carlucci for review. And perhaps to the Planning Board, too, and have Susy Affleck-Childs coordinate the compilation of comments back to us. We would then incorporate those comments and prepare a copy for review by Mark Racicot at MAPC and any other outside reviewers. at some point we are going to have a public hearing, and you will folks will vote to accept it, and then publish it, and go to town meeting for a ratification vote. That is the plan over the next couple of months. There are some bits of data we have to get right. we have had great success putting the document together – pretty much concurrence on all the goals. we have had teams of authors. most everybody has read most of the sections. What you have before you is a list of implementing actions. We have over 250 different actions – a lot for the Planning Board. What isn't on this chart is the last column which was a date for implementation.

Jim Wieler – there are some acronyms –  
CPC – Community Preservation Committee  
OSC – Open Space Committee  
EDC – Economic Development Committee  
OGTF – Oak Grove Task Force

Bob Tucker – So you will have some consistently in how you refer to various groups

Jim Wieler – So, what would you like to do?

Andy Rodenhiser – How did you come up with the goals?

Jim Wieler – In the process, we looked at what the survey said, the current state of the town, and then based on that info we came up with overriding objectives.

Our moderator, Mark Cerel, has suggested clearer language throughout

Andy Rodenhiser – If I could bring you backwards . . . Can you just go through the genesis of the formation of the committee and how the surveys went out, for people at home's edification, for how we got there, how many people participated, and how it has evolved into this list of things?

Jim Wieler – This Planning Board asked a group of us to form a Master Plan Update Committee – we looked at the 1999 plan with people who had been involved. One of the things we did in 1999 is that we did a citizen survey. – Great idea – So the first thing this committee did, we came up with a survey. we got it out in January 2008 with the town census. We compiled the data. We got 39% of all surveys back. We had far fewer with the on-line survey. it was more cumbersome – statistically significant – we did very well with response rate – We had a great response and we have used the survey results

Results - One was that people are very concerned about water quality and quantity. – Also, that Medway is a very proud town. People like the rural nature and community feel. They are concerned about schools, and concerned about growth and taxes. A lot of concern about town management –

Based on that survey, we started writing. There are 7 sections. We assigned two authors to each section. Those authors went to their various committees. We have representatives of many boards on the Master Plan Update Committee. They went back to their boards and pulled together data on the current state, and we looked at survey data and discussed where do we have to go. So that was the genesis for the writing of the goals and actions.

Each section has a background, a discussion on what we did relative to 1999 plan, what the 2008 survey tells us, and then a list of recommendations.

There are some that are repeats. There may be an action item in the land use section that is repeated in another section. Should we keep those repeats in for emphasis purposes?

Bob Tucker – Wouldn't some of the goals be slightly different?

Susy Affleck-Childs – The same strategy may accomplish multiple goals.

Jim Wieler – Boards may have a slightly different take on them.

Bill Wright – At least none of the goals are contradictory.

Jim Wieler – One of the items that was repeated ad infinitum in various sections of the 1999 plan was to hire professional planning help.

Mark Cerel – We need to be careful in how we talk about managing growth.

Dan Hooper - I think manage is an appropriate word; control, NO.

Andy Rodenhiser - I prefer looking at something like this and then establishing our priorities around the list.

Jim Wieler – I will say, one thing you could do for us is to look at relative priorities. The priorities we established are not rooted in workload sensitivities of various boards/departments.

John Williams – If you are looking at the survey results, there are some that are more important to Medway citizens than others. Maybe what you do is take your best shot at looking. We could look at your guidance.

Jim Wieler – But a lot of these are at such a level of detail. Generally these are a level or two down from the survey input.

John Williams – Is there a synopsis in the text of what the general opinions were?

Jim Wieler – you may find – the survey is a high level and these recommendations are pretty detailed

Andy Rodenhiser – I expect if things are on this list, they are a priority.

Jim Wieler – What is achievable?

Mark Cerel – Some of it is being imposed on towns from without – stormwater, water, federal and state mandates.

Dan Hooper – In that same vein, some of the actions are in response to feedback from the specific committees and staff at town hall and boards. We are represented by so many committees on the Master Plan Update Committee. The survey provides an overall direction. We tried to get down to implementing actions.

Mark Cerel – People were experiencing negative water quality at the time of the survey (winter 2008).

Chan Rogers – What you are discussing is the basic reason for having a Master Plan.

Jim Wieler – For example, there is an open space recommendation to establish a maintenance schedule for open space areas. That wasn't specifically asked about in the survey.

John Williams – I am trying to use this material and info as a guide for decisions we make – do the people really want x or y or z.

Mark Cerel – committee takes into account all the input from the survey and committees, also some consensus –

John Williams – So these actions are not necessarily all from the residents?

Bill Wright – Sometimes priorities have to be sequential to meet the goal – example - identify parcels before purchasing

Dan Hooper – I would also add – these implementing actions have evolved over meetings. The priorities frankly could be construed as very individualist. I have not read other sections' priority

listing to see what they viewed. In each section, we authors established the priorities. If you have comments on priorities, I hope you will let us know your thoughts. But if you have questions, feel free to ask. Overall, the priority ratings are a very low priority for us.

Andy Rodenhiser – need to look at what is achievable, and the time frame, and what is cost to the community or the availability of resources

Dan Hooper – Right now, these are the Master Plan Committee’s priorities.

John Williams - With the survey data behind you, don’t be afraid to explain what it says.

Jim Wieler – This is a Planning Board document. Almost all the other boards have seen the list. we need your input. I think we have done a decent job in terms of presenting it. please funnel your comments through Susy Affleck-Childs. There are a couple of things I included last minute . . . things that happened since we started the process. I added in working with Bellingham. I had a great conversation with the Bellingham Planning Board. Things like that if there are things you know you are working on, things that we ought to put in here that support a goal.

John Williams- I would like to go back and refer to the raw data that the 38% of the citizens filled out, and come up with some sort of ranking. I think it is our duty to fulfill the input from the residents of Medway. If we could peel away some of the special interests, and focus on just the quantitative lists, that might give me that priority.

Jim Wieler – I think I gave you the raw data. it is on the web site, and I had a briefing package that I gave to the Board of Selectmen with the strong signals. We left the data to the authors of each section. You may want to look at the survey data as you do this.

Jim Wieler – In the package the online survey was very interesting. – some clear signals –

John Williams – I know the surveys that went out in the email. Is there any way to merge the two?

Jim Wieler – We have. The mail-in was a list of what people consider important and what are they satisfied with. The on-line version was about priorities of action items.

Jim Wieler – We also compiled the write-in comments. Dan Hooper did that. You learn a lot from those – across – taxes, water, schools, financials, rural character, pride

Dan Hooper – Also, people feeling safe . . .

Karyl Spiller-Walsh – Where did rural character rank?

Jim Wieler – Very high. Also people feel very safe.

Andy Rodenhiser – Let Chief Tingley know. That is good.

Jim Wieler – WE asked about importance and satisfaction . . .

Jim Wieler – Important but not satisfied is the library.

Susy Affleck-Childs – I would like to talk about an implementation strategy – how to get the buy in from the various boards and committees? Some towns have a master plan implementation committee.

Andy Rodenhiser – Don't a lot of things that are happening in here have standing in the court?

Mark Cerel – Points for state grants and funding. There has been some deference from DHCD to a town's Master Plan.

Jim Wieler – Many items were given to the Planning Board in 1999 by sheer force of momentum. This is a Planning Board document, but we give actions to the Board of Selectmen.

Bob Tucker – Is town meeting approval required?

NO

Mark Cerel – A board can attempt to do something

Andy Rodenhiser – Do you think that we need some language within the charter to reference this for all boards to take direction or guidance from the master plan?

Mark Cerel – I don't think you need to do that. The problem is that each board has its area of responsibilities to begin with. There is the classic example of planning boards across the state that were so busy responding to development pressures that they didn't have time to plan – the Board of Selectmen have been responding to fiscal crises - I don't know what the answer is.

Jim Wieler – We haven't gone to the Board of Selectmen yet on their actions . . .

Mark Cerel – There are many that fall under the planning board.

Phil Giangarra – How do we get the individual members of the town to study the proposal that the Master Plan Committee comes up with so that somebody doesn't stand up at the town meeting? Are we going to publish it and promote it so that people will read it ahead of time?

Mark Cerel – It is not a legal requirement that town meeting vote. It is something statutorily that the Planning Board votes on. That being said, you can publicize it and makes copies available. It is up to individual people whether they want to get involved or not. We can make it as easy as possible for them.

Jim Wieler - There will be a public hearing with the Planning Board.

Karyl Spiller-Walsh – I don't see why it has to be adopted.

Chan Rogers – It gives weight if the town meeting adopts it.

Karyl Spiller-Walsh – What does adopt mean? Is it a promise?

Karyl Spiller-Walsh – It is roadmap. Is it a document that becomes dogma –?

Mark Cerel – It is a guideline

Andy Rodenhiser – Going to town meeting with the plan is also a way to share the Herculean effort of those involved.

Mark Cerel – Maybe that provides an impetus to people to step up.

Dan Hooper – In 1998 it was what got me involved. Jim Wieler was my daughter's soccer coach. I was involved in nothing at that point. I went to meetings for 1.5 years.

Andy Rodenhiser – I would like to see us develop a newsprint book of the plan

Andy Rodenhiser –How much did it cost when we did it in 1999?

Jim Wieler - \$900 – Milford Daily News printed it for us

Andy Rodenhiser – What about doing the same thing this time, and have them print it for us?

Jim Wieler – I think it was an insert in the Gazette.

John Williams – I am having trouble distinguishing between what is here as a result of the actual resident surveys and what may be special interests and important to individual board members – I remember in the 1999 plan there was a goal for Oak Grove area to be used for industrial area and now we looking at it being used for housing.

Jim Wieler – The only part that came from the public was the goal to diversify the tax base.

John Williams – If we are going to adopt and use this, there is what we think is good for the town. What were the responses from the actual citizens?

Jim Wieler - We got a C with how we are doing in commercial development.

Mark Cerel – This is not a mandate.

Chan Rogers – It is a guideline.

John Williams – I am looking for some comfort that this is what the town wants.

Mark Cerel – I look at the survey as taking the pulse of the town, to give us a framework, to be guided by how people feel. The fact of the matter we can probably differ on various items – but there are some mandates that we have to address one way or another and we need to try to get control of them

Dan Hooper – In the same light, if the survey came out and commercial/industrial development was a high priority, and we did not address those goals, then we wouldn't be doing our job.

Mark Cerel – People fill out a survey largely based on their perceptions. People think in terms of self interest. People think commercial industrial is good for tax base.

Karyl Spiller-Walsh – Isn't there a conflict?

Mark Cerel – It can't be driven by only what the survey says – The committee takes into account what people have said, but that is just one element

Dan Hooper – Yes, but it is the primary driver. So we are involving the citizens at large

Mark Cerel – It ties in now . . . this is the ultimate opportunity that is living in a small town – all kinds of opportunities – and responsibility to get involved and make things happen and if you don't, you have nobody

Karyl Spiller-Walsh – John Williams' question is what trumps what?

Chan Rogers – It is a planning document . . .

Jim Wieler – Economic development –

Andy Rodenhiser – People don't care.

Jim Wieler – We make it hard. We need to celebrate some victories. Get more involved is the message.

Jim Wieler – We still have a little more work to do.

Andy Rodenhiser – Amazing work. You guys should all be commended. The town owes you a huge debt of gratitude.

Mark Cerel – We need 100 more people like Jim Wieler.

Jim Wieler – It has been a great committee . . .

Jim Wieler – There needs to be a public hearing or a series – do we somehow put it up on the web site – solicit comments –

Gary Jacob – You were asking how to get this out to the public. Maybe we could have out by the clerk's office – and have it on the Planning Board web site –

Andy Rodenhiser – I would like to mail it to every resident.

Jim Wieler – We inserted it into the Gazette at that time.

Mark Cerel – They used to own their own presses.

Phil Giangarra – It will cost the FINCOM this year \$2,000 to \$3000 to print the booklet for the annual town meeting – about \$4,500 with postage – it is expensive –

Jim Wieler – How to get a hard copy out to everybody?

Andy Rodenhiser – There has to be a way to piggyback onto something that is already going out.

Mark Cerel – There is an issue of permission to include something with the tax bills

John Williams – We can note that the full text is available on line

Mark Cerel – or prepare an executive summary

Jim Wieler – maybe include a summary in the FINCOM book

Jim Wieler – You have to ask where is the value in mailing it to every household.

Mark Cerel – Issues arose recently about the CPA value to the community, and there was a lot of discussion out there and questions. Yet for as long as there has been a COC, we have included information in the annual report for the town – and yet questions were asked by a range of people which made it clear that people don't

Jim Wieler – executive summary would be

Dan Hooper – we have

Phil Giangarra – If you printed say 50 to 100 copies – distribute around – senior center, town hall, library and maybe the police station – where people might – at least people who don't have computers have – I don't think you need 3,4000 copies in their sleep

Andy Rodenhiser – anything you need –

Jim Wieler – more time in the day – I think we are doing pretty well- great committee

Jim Wieler – if you want to learn about the town, read the Master Plan.

Andy Rodenhiser – I remember when I got the plan in the mail, and I was blown away. It took on a whole new meaning when I first got on the Planning Board.

Mark Cerel – The credit you all need to take is how many action items were accomplished

Jim Wieler – And we need to get the other boards just as engaged as the Planning Board. Inter-board communication is better than it was.

Jim Wieler – I hope to get you a copy of the text by the end of this week, and get it out to you.

9:23 break - . . . back at 9:29 pm

## **Continued Discussion on Annual Town Meeting articles**

Handout an overview of articles for town meeting

Next handout is a calendar

### **Adult Entertainment Draft – revised draft**

Bob Tucker – I thought we had talked about changing it to 1000 feet so there could be more than one establishment in this zone. We don't want to let the courts be able to tell us they could go anywhere.

Gino Carlucci – If one were to open in the middle of the district, it would not be possible to have another one if the separation distance was 1,000 feet.

Change in item #1 – switch to 500 feet

Phil Giangarra – Instead of allowing this use in that zone, could you do it as an overlay for the adult entertainment?

Andy Rodenhiser – What would the impact be?

Gino Carlucci – If the underlying zone were expanded, then the overlay would . . .

Bob Tucker – If there was an increase in size to the district, we would need to revisit those requirements.

Andy Rodenhiser – We could take his recommendation and make it an overlay district now and then never have to deal with it again.

Phil Giangarra – you fix the boundaries of what parcels?

Andy Rodenhiser – Could we do a text based overlay district?

Bob Tucker – I think going this route is best for now, but further down the road if we expand industrial I, we can revisit boundaries then.

Chan Rogers – I think this is a paper exercise that is necessary to prevent courts dictating.

A motion was made by Bob Tucker, seconded by Chan Rogers to file revised adult entertainment bylaw for the 5-11-09 town meeting based on Gino Carlucci's draft dated 1-23-09 with the change to 500 feet. APPROVED

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**Economic development committee bylaw –**

Susy Affleck-Childs – I prepared this draft. It would be helpful to have something to give the new economic development committee while they are getting started.

A motion was made by Chan Rogers, seconded by Bob Tucker to submit an article to establish an economic development committee as written in the 1-26-09 draft for the warrant for the 5-11-09 annual town meeting. APPROVED.

### **Street Acceptance**

Andy Rodenhiser – We have not discussed a floor on the Broad Acres Farm Road bond reduction. Do we want to have a floor on this because of some of the new developments that are being identified by Town Counsel? – In particular that detention basin up there on Streifers' property, and even the public presentation access – the plan did not show these items. The plan may need to be revised. All those lots got sold without the pedestrian pathway noted – That may need to be removed from the plan – simply – Board of Selectmen discussion on February 2 re:

Chan Rogers – My understanding of the easement is that if it has been in use 7 years, you cannot take it away. The old English law applies.

Bob Tucker – If he had sent out notices to the people that were using it . . .

Andy Rodenhiser – My point in all is that Barbara Saint Andre is suggesting a different higher standard for deeds and easements. It is a bigger problem at Broad Acres Farm Road than ICE

Karyl Spiller-Walsh – The level of legal thoroughness we are now employing is a much greater degree than when the subdivisions came in years ago.

Andy Rodenhiser – The Board of Selectmen is the authority for having jurisdiction over streets

Karyl Spiller-Walsh - I don't think the entire burden should be on the developer in these cases at this late date

Andy Rodenhiser – At some point, we need to address whether we are going to accept Broad Acres Farm Road. – need to address this after the policy is determined by the Board of Selectmen

Bob Tucker – It really isn't up to us

Andy Rodenhiser – Once the Board of Selectmen makes its policy, and then he can come to grips with what he can do.

Susy Affleck-Childs – I want to give you a heads up that the neighbors on Kingson Lane (private way) may be coming in with a request for the town to accept the street.

OK to submit street list for the warrant

### **OSRD Changes**

Gino Carlucci – Susy Affleck-Childs and I met on Friday as a follow-up to our meeting last week and discussed many ideas for improvements.

NOTE - Gino Carlucci talked the board thru this new draft of the OSRD bylaw – dated 1/23/09

Gino Carlucci – Text for 2 b re: contiguous parcels was revised

John Williams – it works for me

2 d) – add a minimum lot size of 8 acres as John Williams had recommended last week

4 a)

5. four step design process – to require them to show illustrations of the 4 step process

Bob Tucker – why do we require a Landscape Architect?

Gino Carlucci – more sensitive to land design issues vs. just road engineering perspective

Chan Rogers – I think state law will allow a substitution (of an engineer) even if you specify it. –

Bob Tucker – Anybody that could stamp something like this is somebody who would be considered OK

Chan Rogers – State law trumps it.

Gino Carlucci – That is true for a conventional subdivision.

Bob Tucker – At the conceptual level, engineers don't like to stamp anything in the first place. Very seldom would you get an engineer to do this.

Andy Rodenhiser – What about an existing conditions plan?

Bob Tucker – That is different. A surveyor could prep this.

Andy Rodenhiser – But a surveyor might not be specific on the land features.

Susy Affleck-Childs – You can reasonably expect a landscape architect is prepared to handle this kind of work.

Andy Rodenhiser - Just having a surveyor – I don't want to rely on them to do

Karyl Spiller-Walsh – Don't forget that the Design Review Committee and the Open Space Committee visit the site. You want somebody to locate those items

Bob Tucker – My concern is asking for a concept plan to be stamped.

Bob Tucker – I am not sure if a Landscape Architect is allowed by law to stamp a plan of this nature

Andy Rodenhiser – Don't we want to have it have more weight?

Gino Carlucci – I think the important thing is to document the 4 step process

Bob Tucker – I think we should have Tom Gay have a shot at looking at these. Do it at our next meeting.

John Williams – I like to thank everybody for listening at the meeting, and for Gino Carlucci for his professionalism and workmanship. The question I had was about the housing mix where I suggested 50% single family or a preponderance of the type of housing unit within the area. I had suggested revising 10 f re: mix of housing.

John Williams – I was thinking that in the single family housing units, I think what this law does, it tries to preserve that whatever is built is for the long term, doesn't become an eyesore – one of the things I like about single family homes is that property owner has rights to do what they – when you get too much of one single type of housing, you may run the risk of not having enough diversity and enough single family units to not run down the neighborhood

Andy Rodenhiser – It is interesting that you referenced the property owners' rights. What about the property owner that is coming before us for a permit to develop?

John Williams – I think it is consistent with having a Design Review Committee.

Andy Rodenhiser – Or the Planning Board?

John Williams – I understand there is no support right now; I am OK with moving on. I have made my philosophical points.

Karyl Spiller-Walsh – We still have conventional subdivisions in town.

Andy Rodenhiser - OSRD was adopted to create open space and to do that, the houses have to be clustered.

Andy Rodenhiser – We will revisit this with input from Tom.

It was agreed to go ahead and submit to the BOS, but there may need to be a few more changes after Tom has reviewed.

### **Signage for Business/Industrial zone**

Susy Affleck-Childs – I have prepared something that strikes a balance between the signage allowed in Commercial I and V.

It was suggested to meet with Bob Potheau, one of the owners to review.

Agreed to go ahead.

Andy Rodenhiser – Joe Avellino called me re: Medway Gardens site. He is looking for some direction for increasing the number of pumps in the Commercial V zone. He wants a minimum a 6 pumps for 12 filling locations. He was supposed to provide some information. Has he done that?

Susy Affleck-Childs – He called and said it wouldn't be available for tonight.

Andy Rodenhiser – Right now it allows for 4 pumps for a maximum of 8 filling locations. I think we should preclude above ground tanks or have them buffered –

Chan Rogers - Above ground tanks should be screened.

John Williams – I think it should be allowed to be the same number of pumps as the other locations in town.

Phil Giangarra – I have a comment on the energy station at Holliston and Route 109. It is not a good situation there.

Susy Affleck-Childs and Gino Carlucci to work on text to revise Commercial V to clarify a maximum of 8 filling locations and to require screening.

Consensus was that the PB is not interested in expanding the number of filling locations at this site.

## **MINUTES**

It was agreed to hold over consideration of the minutes of the January 13, 2009 meeting until the February 10<sup>th</sup> PB meeting.

A motion was made by Chan Rogers, seconded by Bob Tucker, to adjourn the meeting.  
Approved.

The meeting was adjourned at 10:58 PM

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

**February 10, 2009**  
**Medway Planning & Economic Development Board Meeting**  
**Sanford Hall – 155 Village Street**

PRESENT: Andy Rodenhiser, Tom Gay, Chan Rogers, John Williams, Bob Tucker, Karyl Spiller-Walsh

ALSO PRESENT: Susan Affleck-Childs, Planning Board Assistant  
Gino Carlucci, PGC Associates

Chairman Rodenhiser called the meeting to order at 7:03 pm

**CITIZEN COMMENTS - None**

**OTHERE BUSINESS**

**2009 Articles for Town Meeting**

Andy Rodenhiser – We had decided last week to hold over any decision on the proposed changes to the OSRD bylaw until Tom Gay had reviewed the draft. Do you have any comments as to clarity and language? What are your thoughts?

Tom Gay – Susy sent me the draft and I have looked through it – nothing there that is giving me any pain

Andy Rodenhiser – So, you are OK with it?

Tom Gay – Yes, I think that this effectively starts to address my concerns – the change in wording that the applicant is not entitled to the maximum number of units is a qualification that is good rather than expecting they can cram in units – I think it is a lot easier to figure out and the wording out about the conservation land is a lot easier to understand

Susy Affleck-Childs – Gino Carlucci did a great job on revising that language.

Andy Rodenhiser – Do you need an official action from us?

Susy Affleck-Childs – Yes.

John Williams – What about the suggestion to establish a different minimum OSRD area size requirement for areas that abut important resource areas?

Susy Affleck-Childs – John Williams had suggested we start to look at ways that areas that abut some significant resource areas be allowed to be smaller in area than the 8 acre minimum. Right now (with this draft) there is a minimum of 8 acres. The thought had been if something abutted a waterway or park, it would make sense to allow it to be an OSRD if it is smaller than 8 acres –

my thought was that we should ask the Open Space Committee to look at areas – to put the language in without constituting the criteria or without having a specific list is not good practice

John Williams – So that would be a follow-up with the Open Space Committee?

Andy Rodenhiser – Yes. Anything else, Tom?

Tom Gay – The things I was concerned about have been addressed, and the minor changes you have added make a lot of sense; and we have clarified what can go into the open space and parking issues – certainly makes sense – I am good.

Andy Rodenhiser – Can I have a motion to accept as amended, and submit to the Board of Selectmen/Town Administrator for the warrant?

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to accept the proposed revisions to the OSRD bylaw as amended and submit to the Board of Selectmen/Town Administrator for the warrant for the May 2009 Annual Town Meeting. The motion was approved unanimously.

Susy Affleck-Childs – I did submit all of the zoning articles to the Town Administrator's office by the deadline on Monday (February 9<sup>th</sup>). I did include this one, and also a compilation of our non-zoning articles as well. As we go thru the next couple of weeks, we can adjust. At least everything is in the hopper.

Gino Carlucci – I spoke with Barbara Saint André today about the Adult Uses article. She is concerned that the criteria we have may result in too small an area. She is worried that we still don't have enough size. With the requirement for 500 feet from any residence, that leaves only 4 lots available. At one point we had talked about making it closer to residences if there was 100 feet of heavily vegetated buffer. That would open it up more to about 8 parcels. She wants to think about it some more.

Susy Affleck-Childs – On Monday when I filed everything with the Tow Administrator's office, I sent it everything along to Barbara as well.

Andy Rodenhiser – Will that be a change at town meeting? Do we have time?

Susy Affleck-Childs – We can deal with these minor text changes directly with the Town Administrator's office before the warrant is finalized.

Andy Rodenhiser – If that were to be an expansion that could be ruled against us – Mark Cerel (Town Moderator) would say it wouldn't be allowed – do we need to take action?

Gino Carlucci – Barbara is also contemplating whether it is even enough with the added change.

Andy Rodenhiser – Let's wait until she comes back with some kind of comment.

Bob Tucker – I hope she is not doing it just based on "I think" kind of basis.

Gino Carlucci – No, she is looking at case law.

Karyl Spiller-Walsh – I am surprised by all this.

Andy Rodenhiser – Just an update to you guys on the FY 10 budget. The format this year is going to be presented to the Board of Selectmen as well as FinCom by Susy Affleck-Childs. That is the way the Town Administrator wants to proceed. Certainly, for this year, I will attend and sit off to the sidelines, and let Susy do it. It is a department budget, not a board budget. That is the way they want to structure it under the new charter.

Chan Rogers – Who is the department?

Andy Rodenhiser - Susy Affleck-Childs and Fran Hutton Lee. So that is the way they want to run the budget hearing. We will do a handoff this year. That is the way it is to be presented going forward.

Bob Tucker – And then next year, they will change the way they do it again.

Andy Rodenhiser – I think they are trying to change the way that it gets presented so it is a single point of contact instead of having a political spin to it. So it is just staff presenting. That is speculation on my part.

Bob Tucker – I think it is a game.

Karyl Spiller-Walsh – It might be nice to have a short statement from Suzanne Kennedy – just a brief explanation as to why they are trying to do it this way.

Andy Rodenhiser - I am trying to get that from her. I am working to have a meeting with her.

### **7:15 p.m. PUBLIC HEARING CONTINUATION – Williamsburg Condos OSRD**

Paul Yorkis, Patriot Real Estate

Paul Yorkis – I have 3 handouts to go over with the Board. The first one relates to comments presented at the last meeting by the Planning Board’s planning consultant (Gino Carlucci) relative to the provisions within the bylaw regarding side load garages vs. front load. I am not sure this has been distributed to you yet. I have a copy of revised plan for Unit model F. Look at the lower corner.

Susy Affleck-Childs – They have it already in their board packet.

Paul Yorkis – You can see we were able to adjust the plan so that 50% of the units have side loaded garages and 40% are front load. And to help you visualize what that would be I have a copy of the new F building elevation which we believe will work.

Karyl Spiller-Walsh – This is much better.

Paul Yorkis – I am just trying to bring consistency so you have a complete package.

Paul Yorkis – With respect to the list of requested waivers (from the subdivision rules and regulations), we reviewed this again today and there is one change that we need to make. New Handout.

Susy Affleck-Childs – If you printed out what I sent you earlier today, I suggest you throw it out. It will look the same as this one.

Paul Yorkis – There is a new date at the bottom. Let me explain. There is only one change from what was emailed to you earlier today. I would like to go over this list of waivers with you so I am as clear as I know how to be. Turn to page 2 and go to item 7.9.7.g. The site driveway which is a private roadway is 14 feet at the entrance increasing to 16 feet (for the rest of the road) with a layout of 18 feet which is less than what is required. This has been reviewed by the Fire Chief. I have a letter for you from him indicating that everything is okay for him. I didn't want there to be any confusion or misunderstanding. The road width increases to 16 feet where it needs to be the widest as that is where the residences are.

Andy Rodenhiser - Why are you requesting a waiver?

Paul Yorkis – Because in your regs, it says to. I felt that because this is a special permit, I would be as specific as I know how. I want to put this into English to tell you what is happening so there is no confusion.

Chan Rogers – The street is not going to be up for acceptance anyways?

Paul Yorkis – Correct.

Bob Tucker – And it is a one way street as well.

Paul Yorkis – Correct. I know at some point in time, somebody might go back and ask why did we do it this way? We need to be able to explain how the waiver reflects on the plan. The two are in concert with each other. The waiver was always on the list of waivers, but it did not clearly address what is on the plan, and we felt it was better to be specific.

Gino Carlucci – I am not sure I understand the concept of having an 18 foot layout with the ownership already existing with the condo association.

Paul Yorkis – At some point in time the road may need to be widened. It is clearly there and everybody will understand. The drainage swales are going to be outside the 18 foot layout. The whole idea is to take into consideration the need to do something different in the future.

Andy Rodenhiser – Why is it starting at 14' and then going to 16' and then leaving provisions to go to 18'?

Paul Yorkis – Because we are trying to be good planners.

Andy Rodenhiser - Is there a reason why it shouldn't be 16'?

Paul Yorkis – There is no reason to. There are sidewalks now. More paving increases the need for drainage which is unnecessary. We are trying to be logical. We are trying to be good planners.

Bob Tucker – It reduces amount of impervious covering you will have.

Chan Rogers – It is more to keep people from parking on the street.

Paul Yorkis – That may be the result, but that was not the intent with the road design.

Karyl Spiller-Walsh – It is just a travel lane.

Paul Yorkis – I have given you all my up-to-date handouts. I am glad to respond to questions.

Andy Rodenhiser – I want to pose a question to the board. In the event the residents who purchase these units decide they want to have the town maintain the street, and they get together the signatures, does the board think it might be wise to make it clear to the residents as they buy through some kind of agreement that it is to be a private way never to be accepted as a public way?

Susy Affleck-Childs – Certainly the language in the decision will say that, and there very well may be a condition that the condo documents be very specific and include that information.

Paul Yorkis – It is a department of redundancy department statement, so it is fine. It is going to be clearly communicated by one realtor (Paul Yorkis) that it is a private way. If the board thinks it is better to include some statement in a future deed, we won't object.

Andy Rodenhiser – The only reason I bring it up is because of some recent activities at Kingson Lane.

Bob Tucker – My concern is how the bond is put forth. How we reconcile the closeout of the bond and whether or not we have sufficient verbiage in our rules without going through great pain and anguish.

Paul Yorkis – The Town currently has a bond on an OSRD (Pine Ridge). The understanding is that when the development is complete, we need to provide as-builts to show it has been built as approved and when that is done, there is no town meeting action needed. It is a Planning Board action to return the bond when the work is completed.

Bob Tucker – I want to make sure that our rules reflect that approach. This is incumbent on us, a housekeeping issue that needs to be in place.

Paul Yorkis – As I said about 2.5 years ago, the OSRD rules work very well for conventional subdivisions and they don't with a multi-family condominium project.

Chan Rogers – What are we requiring a bond for?

Paul Yorkis – To ensure that the applicant and the person who actually builds it, puts in the utilities, and the private way.

Andy Rodenhiser – To do everything they are supposed to do.

Paul Yorkis – I don't see a problem with a modest bond.

Andy Rodenhiser – Do you feel we have the language issue? Certainly we can use Pine Ridge as a model.

Susy Affleck-Childs – When you start to look at the decision you will see some text. I drew from some ARCPUD decisions and an OSRD decision.

Andy Rodenhiser – And possibly we create a “to do” for clean up of the bylaw.

Susy Affleck-Childs – That is a rules and regs thing, not a bylaw change.

Andy Rodenhiser – Is that already on a “to do” list?

Susy Affleck-Childs – Yes.

Bob Tucker – I think it just needs to get moved to the front of the list.

Andy Rodenhiser – We always seem to have problems between our rules and regs and utilities.

Paul Yorkis – In Medway, the lead utility is NSTAR, so all of the other utilities follow NTSAR. If NSTAR says this is where they want the utilities, NSTAR is the lowest in the trench, then Verizon, then Comcast is on top.

Andy Rodenhiser – Do you want to go through these waivers? Any problems?

Tom Gay – I have a couple. No pain on waivers 1-12 On 7.9.1 e – I don't understand what you are asking for.

Paul Yorkis - All of these are here because the subdivision rules and regs limit something, and so the number of dwellings allowed on a private way is less than what we are proposing.

Susy Affleck-Childs – This needs some text to go along with this statement. The regulation says x amount, and we are producing y amount; and we need an explanation like you have done for some of the other waiver requests.

Bob Tucker – I am not ready to go through these. I don't have the regs in front of me right now. I think we need to look at it and make sure that everyone understands what they are asking for. I don't see anything here that is of much concern.

Tom Gay – I am just looking for some clarification on some items.

Chan Rogers – Wouldn't we want waivers here to approve?

Andy Rodenhiser – We have to condition approval of the waivers on findings. We have to find it is OK that we approve.

Susy Affleck-Childs – The waiver section is a piece of the decision that is not done. I held this aside.

Paul Yorkis – With the exception of 7.9.7.g, this is the original list of waivers that we submitted with the original application. There has been one deletion because we are including sidewalks now.

Andy Rodenhiser – I thought the plans always showed sidewalks.

Tom Gay – Not originally, no. 3 quick questions . . . 7.9.7.g – it says “8”; it should say “18”.

Tom Gay – When we start to get into 7.10.2 it talks about road design. It says no curbing is proposed along private driveway. Are we talking about the main road thru the development or the individual building driveways?

Paul Yorkis – Yes, I can clarify that language. I will address that.

Chan Rogers – It should be private way.

Tom Gay – Then on 7.13.3 in the second paragraph, it says no sidewalks are shown on the plan and are not requested for the definitive plan review. What is that about?

Paul Yorkis – We are putting sidewalks in (internally). This relates to the requirement for sidewalks on the frontage (on an existing way) not within the subdivision. I can clarify. We are not proposing sidewalks on West Street.

Tom Gay – The confusion starts to come in with reference to the private driveway. It says here 18’ paved. Up above, it says 16’ paved. We need to make that match, okay?

Paul Yorkis – Yes.

Susy Affleck-Childs – I would like us to come back to this issue of the sidewalks.

Andy Rodenhiser – What I am handing out to you guys is what our subdivision rules and regs say re: what is to be included in a waiver request. As we think about these things and ask these questions, we have to make sure that we address these things that are in 5.5.6. **Insert text of waiver language . . . .**

Andy Rodenhiser – Some of these waiver requests are pretty self evident, like a private way; but in the instance of sidewalks a fuller explanation is required, and due diligence on our part for seeking those answers. The list you prepared is somewhat self evident, and there are some other areas where it is kind of deficient.

Paul Yorkis – Part of that may be addressed after the board is in a position to share a draft of a decision.

Andy Rodenhiser – Do you think in some of these instances it can be addressed like what Tom Gay has pointed out?

Paul Yorkis – Some is very easy to change; it is just language.

Andy Rodenhiser – Why the waiver requested may be obvious, but we need to know why.

Paul Yorkis – I can answer. If you don't grant the waivers, we won't do the project. It is that simple. If we don't do the project, we will go back to a 40B.

John Williams – I beg to differ. A criterion for granting an OSRD is to compare it to a standard subdivision. Linking it back to the 40B implies a little hostage situation with the board. I would like to see an explanation.

Paul Yorkis – You are asking the applicant to match the opportunity with the subdivision rules and regs which are incorrect, outdated and inappropriate.

Andy Rodenhiser – My reason for asking this, in the process of documenting the public hearing, we take in the information and we use the info to do our findings and grant the waivers or deny them. I understand you may not do the project if we don't grant waivers. It is not my intent to try to find ways for you not to do the project, but if you want to present waivers then at least present the info that allows us to make a decision.

Paul Yorkis – If you want people to do OSRD, you should have regs that are relevant to a project that you are trying to promote. It goes both ways. It becomes very expensive every time we have to go back and talk to an engineer to put language down which is unnecessary because of what this board did in having an OSRD bylaw. But then you have to go back and justify it under a totally different set of rules and regs. It becomes very expensive.

John Williams - At any time when we discussed going toward an OSRD option, were sidewalks on West Street bargained away as part of any earlier discussions to get you to do it as an OSRD?

Paul Yorkis – No. At the same time, I have been informed that the Affordable Housing Committee is saying the affordable units need to be 3 bedrooms. You are asking for a lot, and then you are asking the developer for even more. And I, on behalf of my client, am cautious on the total fiscal impact of this. There is a recommendation made to put \$1000 in the fire alarm maintenance account. I understand that. \$1,000 here and there and all of a sudden we are in a position to ask does this make sense. I don't want to go there. The applicant doesn't want to go there honestly.

Andy Rodenhiser – I don't think we are asking you to perform a study or involve your engineers, but to provide some sound reasoning as to why you are requesting the waiver.

Paul Yorkis – Some of it is face value.

Andy Rodenhiser – I agree.

Paul Yorkis – Regarding the comment Mr. Gay shared, technical errors need to be corrected and we will address that. If some of these things start to involve engineers and surveyors and others, it gets expensive. The reason I am here tonight should be obvious to you.

Andy Rodenhiser – I imagine you typed these up.

Paul Yorkis – No, David Faist (engineer) did. I spoke with him this afternoon when I detected an inconsistency, and I tried to correct one and it is my fault

Tom Gay – Clearing those up will make it much cleaner going forward.

Paul Yorkis – I want on behalf of the applicant to the board, to be as clear as I know how to be, so there is no question what did we really mean. Language really means something. I want it to be precise as I can so there is no misunderstanding.

Andy Rodenhiser - So from my perspective the only thing I need to have a reason or an explanation is on the sidewalks.

Paul Yorkis – To the best of my knowledge, we cannot build a sidewalk there on West Street. I will have to check because of the vernal pool.

Andy Rodenhiser – And that becomes a part of the testimony.

Bob Tucker – Along West Street there, how far back is the stone wall from the asphalt?

Paul Yorkis – The stone wall I believe, is the actual edge of layout.

Greg Whelan– That is correct.

Paul Yorkis – In some cases 5-6 feet. The issue isn't just whether there is the physical space. It is also the impact because the sidewalk would be immediately adjacent to the vernal pool.

Bob Tucker – I was just curious.

Paul Yorkis – I will get some kind of small sketch plan or something and attach the info.

Bob Tucker – We don't need a sketch plan, just give us an explanation.

Bob Tucker – Re: 7.10.2 on sloped granite edging. You want a waiver on that.

Paul Yorkis – There is no curbing at all in the subdivision.

Andy Rodenhiser – That is consistent with smart growth principles.

Bob Tucker – I am all in favor of that. Curbing can cause more aggravation than good sometimes.

Paul Yorkis – I think we can do it. We are going to try our best to do it in terms of design and construction.

Bob Tucker – That shows some thinking outside the box when it comes to drainage, and I am glad to finally see that.

Andy Rodenhiser - Any other issues?

Karyl Spiller-Walsh – I have an observation. Building F now has one side load and one front load garage. Is it true that it is inconsistent with the OSRD description?

Gino Carlucci – The side load is okay. The front load has to be 5 feet behind the principal building.

Karyl Spiller-Walsh – It is part of the bylaw, you can't waive it away.

Paul Yorkis – The easiest way is to bring that roof out to the edge of the garage because then it is not relevant anymore.

Andy Rodenhiser – Is it supposed to be set back 5 feet?

Andy Rodenhiser – The garage needs to be offset behind the gable roof by 5 feet.

Karyl Spiller-Walsh – He wants to bring the main building out.

Andy Rodenhiser- He has conceded.

Paul Yorkis – I have not conceded that.

Paul Yorkis – This is about working to the bylaw vs. working to the site. If we bring forward the garage it is part of the main structure.

Andy Rodenhiser – Then there is no offset. Does it require an offset?

Gino Carlucci – Yes.

Greg Whelan– Let's just eliminate Type F. We don't need that floor plan. Just eliminate it.

Tom Gay – What would you put in there instead?

Andy Rodenhiser – Paul, do you want to take a few minutes and confer with Greg?

Susy Affleck-Childs – That is the one floor unit.

Gino Carlucci – Do one F type instead of two.

Paul Yorkis – We will go back and take a look at it. You aren't going to close the hearing tonight, it is obvious.

Bob Tucker – I don't have any other questions. I need to do some homework.

Paul Yorkis – I would like to email the revisions to the waivers so they can be reviewed as soon as possible. Get back to me if more clarification is needed on the waiver list. With respect to the plan for Unit F, I need to talk with David and see what we can do.

Andy Rodenhiser- In the absence of this, just get rid of it. You need to have something in lieu of you can use.

Paul Yorkis – We want to have a one story option. It may be that we eliminate the garage on one side I think.

Karyl Spiller-Walsh – We talked about the tightness of the side loads, and that is why it is going to be tight. We can't waiver this away.

Paul Yorkis – I can understand. The board might want to give more options for design in the bylaw.

Karyl Spiller-Walsh – The reason for including it in the bylaw was to reduce front loads.

Chan Rogers – What was wrong with the original type F building.

Paul Yorkis – It was a front load. F #2 is side load, but there isn't enough room on the lot for both garages to be side loaded. There are many creative solutions. We will come up with something.

Susy Affleck-Childs – We do have a decision you can start to look at. Also Eric Alexander on behalf of the Affordable Housing Committee is here.

Eric Alexander – I will be very brief. Paul Yorkis has already referenced what I want to say. I don't know how far discussions have advanced in terms of unit size for this development. I just want to let you know that the Affordable Housing Committee is of the opinion there is an acute need for 3 bedrooms units in Medway. There is a preponderance of 2 bedroom units in the affordable housing stock. We feel there is some pent up demand. To the extent it is economically feasible and desirable we would like to see 3 bedrooms units for the affordables.

Andy Rodenhiser – For how many?

Eric Alexander – For the 3 affordable units.

Karyl Spiller-Walsh – Is there a way to reduce the square footage if they are providing 3 bedrooms?

Eric Alexander - As long as it is consistent with building health and safety codes we don't have an issue with reducing unit size. We aren't looking to have some onerous burden placed on the

developer when they are building these affordable units, but we want to make sure that 3 bedrooms are acknowledged and included to the extent possible.

Bob Tucker –What was the original plan?

Susy Affleck-Childs – We have not been provided with info on the unit sizes, nor have we asked for it. So far, we just have basic footprints and elevations.

Andy Rodenhiser – Really just boxes at this point.

John Williams – I remember reading the affordable housing bylaw that the afford units have to be in keeping with the regular units.

Karyl Spiller-Walsh – I am having trouble with that.

John Williams – I wondered if that included other units with 3 bedrooms. Should affordable housing have to be the same? What does our bylaw say?

Karyl Spiller-Walsh – At what point does the A unit stop becoming affordable, if they are competing with 2500 square feet?

Eric Alexander – That language could probably stand to be cleared up. The intent is for the affordable units to not be distinguishable on the exterior from the market rate units. The assumption is that there will be some compromise on interior finishes and unit size. We don't want to be egregious on the exterior. There is no expectation to have hard work oak floors in the affordable units.

Karyl Spiller-Walsh – What about the square footage?

Eric Alexander - As long as it is consistent with the building, health and safety codes.

Andy Rodenhiser – Thanks for the testimony. Susy Affleck-Childs has a draft for us. This is something that should just be shared with the board at this point.

Bob Tucker – I would like to take first cut at it.

Andy Rodenhiser – Do we do this during the public hearing phase?

Susy Affleck-Childs – You have to in case there are questions or clarifications or more information needed.

Andy Rodenhiser – Paul, did you hear what Eric said?

Paul Yorkis – Let me answer on a personal level, and then on behalf of my client. This board has heard me speak frequently about the need for affordable housing in Medway. My concern on behalf of the applicant is we need to be in a position to build the most attractive units for the marketplace. My concern is we would like the flexibility to have whatever number of bedrooms we need in the non-affordable market rate units. I don't want to argue against what Eric

Alexander has presented, but I am sensitive to my clients concern, which is the ability to build units that will work in the marketplace. I hope the board understands there is a sensitivity to the topic, but here is reality to being competitive.

Karyl Spiller-Walsh – I don't understand.

Andy Rodenhiser - What I think he is concerned about is their ability to construct the units for the marketplace that exists. When they are built, they need to be saleable.

Paul Yorkis - All the market rates could be 3 bedrooms.

Andy Rodenhiser – They will build what is going to sell.

Susy Affleck-Childs – What I am hearing is that they would prefer not to have any limitations on the market rate units. When we did Pine Ridge, there were limitations.

Paul Yorkis – And we had no affordables there.

Karyl Spiller-Walsh – What difference does it make to us what they do in the market units?

Andy Rodenhiser – We are concerned that it reflects the nature of the surrounding neighborhood or community.

Andy Rodenhiser – At Pine Ridge, we were concerned about propensity about having large families there and number of cars was a huge issue (for the neighborhood). We used some limitations on the # of bedrooms to regulate car traffic through Candlewood.

Susy Affleck-Childs – That was because the traffic had to go thru an established neighborhood. It is very different here.

Andy Rodenhiser – That neighborhood was very militant about the amount of traffic that would be coming into their neighborhood. There was no other outlet.

Karyl Spiller-Walsh – So what was the upshot?

Paul Yorkis – At Pine Ridge, 50% were 2 bedroom units and 50% were 3 bedroom units.

Andy Rodenhiser – This is clearly a different situation. There is not a traffic access issue. To John Williams's point about consistency with surrounding neighborhoods, 3 bedrooms are not inconsistent.

Karyl Spiller-Walsh – I totally agree that it should be driven by the market, except for the affordables. We should have some input into that.

Paul Yorkis – If we can build 2 bedroom units, we will do that.

Andy Rodenhiser - But if the marketplace says 3 bedroom, you don't want to be restricted.

Karyl Spiller-Walsh – Demographics are changing today. People are building a study in a third bedroom.

Paul Yorkis – It is really important when the board says it is 2 bedrooms. The deeds reflect that. How the property is used may be different, but the deed is a legal description. We would prefer to have flexibility.

Karyl Spiller-Walsh – I agree with that.

John Williams – For a general statement when we come to vote, I am looking at the criteria for granting a special permit. I see the plan for the 40B. As to due diligence, could we see what has already been approved, what it looks like, if there was any work done on this to design a conventional subdivision. Were there any plans for a conventional subdivision? What did those plans look like? I want to see if the plan as presented is better or worse, or has more impact than a regular subdivision.

Andy Rodenhiser – I don't know if you can take into consideration stuff from a previous application (40B). You can only consider the info provided in this public hearing.

John Williams – Our charge is to decide whether this OSRD has a less detrimental impact than a conventional subdivision.

Bob Tucker – I know that is how the rules are written. That is not what has been approved for the lot.

John Williams – Do we have a plan?

Susy Affleck-Childs – You have the 40 B decision, but I have not made copies of the plan.

Greg Whelan – I want to make one thing clear. It was approved for 22 units with no sewer, all septic. With West Street getting sewers, we would be looking at 32-36 units if we went back to the 40B option. It is a different animal with sewer availability.

Susy Affleck-Childs – You would need to amend your special permit.

Andy Rodenhiser – It is my understanding that you are willing to forego the 40B approval and give it up essentially if the OSRD is approved.

Greg Whelan – I am not going to commit to that. This is what I want to do.

Andy Rodenhiser – They would have to go to the ZBA. He has an approved project for 22. He would have to redo the permit for 36.

Greg Whelan – In answer to your questions, I would.

Andy Rodenhiser – He needs to make sure that what we approve is something he can market and construct and build and make money. If we load it up with burdensome items or don't grant waivers, then he has got to sell what he can sell.

Karyl Spiller-Walsh – We have come down a lot. It has come down from 18 feet road width. There has been a good communication. Let's keep this crystal clear as to what this thing was . . . we are getting there.

Andy Rodenhiser - All right.

Paul Yorkis - Is the board going to make the decision available so we can review that, and at the next meeting we can be prepared to have an intelligent discussion with the board.

Andy Rodenhiser – At what point do you want to release this draft to the applicant given the circumstances we have faced with another project?

Karyl Spiller-Walsh - After we go over it amongst ourselves.

Andy Rodenhiser – We do that in a meeting, during a public hearing.

Tom Gay – Well, seeing it kind of for the first time, I would like to have some time to read it. I have highlighted a few items already.

John Williams – I need to give it a once over.

Tom Gay – I think we are close. We are not far off here.

Paul Yorkis - The concern I have is the length of time, and I am just trying to figure that out. Is there a mechanism that we can try to obtain a copy of it, and at the next meeting close the hearing and make some progress?

Andy Rodenhiser – What time do we have here now? It is 8:15 and we have the Avellinos here. If you want, we can put this on a side rail for a little bit, talk to the Avellinos, and then come back to this.

Susy Affleck-Childs – We also have 2 ANRs coming in at 8:45.

Bob Tucker – I think we need some time. This is the first time that any of us have seen this.

Andy Rodenhiser – Do you want to read through it on your own and then come back

Bob Tucker – Yes.

Karyl Spiller-Walsh – Yes.

Bob Tucker – I want to make some notes on a few things, highlight some items.

Chan Rogers – Who prepared this?

Andy Rodenhiser- Susy Affleck-Childs and Gino Carlucci.

Bob Tucker – It is not that I have had any major issues, but I would like to be able to read it and know what I am commenting on.

Paul Yorkis – So how should we proceed?

Andy Rodenhiser – When is our next meeting?

Susy Affleck-Childs – The next meeting is Monday, February 23.

Andy Rodenhiser – We don't have a meeting on the 17<sup>th</sup>. WE are meeting soon with the Economic Development Committee.

Susy Affleck-Childs – That is March 3.

Susy Affleck-Childs – I have a meeting on the 17<sup>th</sup> to review organic farm proposals, with Bob Tucker as well.

Bob Tucker – I can review and give comments.

Andy Rodenhiser – I want a public meeting to get together and start discussion and then make a decision to release the draft decision.

Tom Gay – If we had a one item agenda, I could do something next week.

John Williams - I am going to be in New Hampshire for the week.

Andy Rodenhiser – Can you review it and give us comments?

Susy Affleck-Childs – NO. He has to be here for the discussion.

Bob Tucker – What about the 16<sup>th</sup>?

Chan Rogers - There would only be 5 of us.

Tom Gay – I could do the 16<sup>th</sup>.

Susy Affleck-Childs –That it is a holiday. It is a town holiday. Town hall is closed.

Chan Rogers – We only need 5 of us to vote.

Susy Affleck-Childs – Bob Tucker is out. He can't vote on this because he missed two public hearings.

Susy Affleck-Childs – John, are you out all week?

John Williams- Yes, Sunday to Sunday.

Susy Affleck-Childs - Unless you want to do something later this week. We need 48 hours notice to post a meeting.

Andy Rodenhiser – What about this weekend? Oh, I will be gone.

Karyl Spiller-Walsh – If he reviews the decision, he can give us comments.

Susy Affleck-Childs – He has to be here. You can only get one bye for a public hearing.

Chan Rogers – Why isn't Bob involved?

Bob Tucker – I have missed two (sessions) on this hearing.

John Williams – I could do it Saturday morning.

Susy Affleck-Childs – Andy cannot do it Saturday morning.

Karyl Spiller-Walsh – That would be hard for me, too.

Susy Affleck-Childs – What about Friday (2/13)?

Andy Rodenhiser – I could do Friday night. I could do Thursday night after 8:30 pm. I have a wake to attend that night.

Karyl Spiller-Walsh – How about Friday?

Andy Rodenhiser – I would prefer that.

Susy Affleck-Childs – We have to post 48 hours ahead. So we won't be in a position to post for Thursday. But Friday is okay.

Susy Affleck-Childs – How early?

Andy Rodenhiser – 4 or 5 pm. The earlier the better.

Tom Gay – Earlier would be better.

Andy Rodenhiser – Is 5 okay? This Friday, February 13<sup>th</sup>.

John Williams – Are we going to be able to take a look at the other plan (40B) before then?

Susy Affleck-Childs - I don't have it electronically.

Tom Gay – Do you have a paper copy?

Susy Affleck-Childs – Yes.

Tom Gay – If you give it to me I will send it out electronically.

AGREED - We will meet here on this on Friday February 13. We will continue the public hearing.

Andy Rodenhiser – We will tape it. For the abutters, we will begin deliberations on the decision on the 13th and then at that point we will make a decision on releasing it as a draft.

Susy Affleck-Childs - The public hearing is continued to Friday, February 13, 2009 at 5 pm in this room. At that time, the Planning Board will make a decision whether to release the draft decision to the applicant.

**Discussion re: possible revisions to Commercial District 5 zoning**

Joe Avellino, Medway Gardens  
Attorney Paul Kenney

Paul Kenney – We are here to discuss changing the zoning in the Commercial V district. The gas stations say the bylaw as is won't work.

Andy Rodenhiser – Do you have anything in writing?

Joe Avellino – Our potential tenants have not given us anything in writing. They cannot live with the way the bylaw is written.

Andy Rodenhiser – Have they ever put that into writing?

Joe Avellino – They have told us verbally. The realtors we have hired have said it. A couple of gas and convenience stores have said it. We haven't heard back from Extra Mart. So, after we did our due diligence, they won't come here. They are not going to put in the time, effort and the money. They might settle for 5 pumps. They want the opportunity to show you what they can do.

Dunkin Donuts has stopped expansion in New England, so having them as sub-tenants is no longer an option. So they just build a store for themselves, a convenience store – 2,400 to 3,500 sq. ft. They have a formula – population, traffic counts etc. When it is busy, they need the opportunity to make the money. They say they can't make money with 4 pumps. They don't want to build it if it is not profitable. They are all afraid of the ledge. That is what we are getting from these people. They are the only people that are expanding. We need a tenant. We have been in business 30 years. We need to increase our parking area and update our facility, and we cannot do it without a tenant on that corner.

Chan Rogers – My question is what is the minimum size station you want to put there?

Joe Avellino – 6 pumps for 12 vehicles – at least to possibly be able to do that.

Chan Rogers – My concern is that there is one in Millis, one on Route 126 in Bellingham and one in Bellingham (Route 140). Never have I ever seen half of the pumps filled. I don't see why they have to be so big.

Joe Avellino – What I have gotten from these people is that it makes a difference to their bottom line. They are full early in the morning and late in the day. They need the availability during peak times. It is amazing how they come up with the figures. They aren't going to show us their formula. It is not one particular client. It is the whole thing. I called Extra Mart last week. He said they can't do anything with that bylaw. That is where we are at. It is not working.

Andy Avellino – They have all expressed they can work with architectural concerns. It is the number of pumps that is the issue.

Joe Avellino – That is an added cost. It has a New England look, and so the canopy has some character to it. What we are saying here is we don't want these guys to build anything we don't want them to build. They need a certain size to make the numbers work to go there. I think we should be strict with them, but give them an opportunity to show us how they can do it. They told me they could squeeze the 6 pumps under an 80' by 30' canopy. It would look like 3 from the street. They said they will do it that way. They would like the opportunity to present such a plan. They would be interested in coming here.

Karyl Spiller-Walsh – I am having trouble with this. The whole point was to allow a gasoline station on that site. 4 pumps seemed a stretch (when we first looked at this). I can't imagine 6 pumps anywhere in Medway. The scale of this is an extremely important issue. I think what you need to do is some kind of simplistic visual as to what you are talking about.

Joe Avellino – The problem I see with a visual, is we could get a picture, but it wouldn't necessarily be what you will end up with. These companies are going to build what they need to build. They need to show you what they want to build. If you look around, there are so many different types. By trying to restrict the bylaw to make them build something that is not profitable, they won't come. We need to let them propose something. This is a special permit. We should let the gas station show us (what they can do). I could go take pictures. It is a catch 22, a very difficult situation. I don't know how to rectify this. We need a tenant. I don't want them to build anything that is hideous. I think by changing the wording here, to allow up to 6 pumps would work.

Tom Gay – There seems to be 3 things you are proposing a change – and one you have not brought up which is the length of the canopy.

Andy Rodenhiser – We didn't want the dinky little ticket booth type. Is there a compromise here?

Karyl Spiller-Walsh – I told them show us what you mean. In their past discussions with the Planning Board and Design Review Committee, we spent a year on designing this site because of scale and relativity to the neighborhood. We thought we had gone to a very good place. This is not the fault of the town of Medway Planning Board.

Joe Avellino – I am not blaming the town. It is a problem of economics. You might as well say no gas stations.

Karyl Spiller-Walsh – What I have said to you is show us what you mean. Give us a proposal and look at the scale.

Joe Avellino – How am I going to get a site plan?

Bob Tucker – I am not at all in favor of having a plan in front of us and writing a bylaw from that.

Karyl Spiller-Walsh – We are not seeing what he is saying.

Joe Avellino – We need to solicit a tenant.

Andy Rodenhiser – When we wrote the text, we didn't have a plan in front of us. I think it is unreasonable for him (landowner) to have to come up with a design.

Joe Avellino – If we think about this, if we try not to prejudice ourselves against gas stations. It is a business where they need something to be profitable.

Karyl Spiller-Walsh – You are asking us to not prejudice ourselves against gas stations?

Joe Avellino – We want this bylaw to protect Medway so a gas station doesn't look bad.

Andy Rodenhiser – Let me stop this debate right now. How does the rest of the board feel? Is it incumbent on them to do a drawing in support of what they are proposing?

Karyl Spiller-Walsh – What is not adequate is just having a footprint shape.

Chan Rogers – All we are asking for is a basic concept. They are asking for 5-6 pumps on the site, our bylaw limits it to 4. What I have drawn illustrates that as a concept, 5-6 pumps can fit.

Karyl Spiller-Walsh – When the convenience store goes down in size from 4,000 square feet it will change the overall scale. What I am saying, we don't exactly know, how it will all look?

Andy Rodenhiser – Then you deny the permit.

Karyl Spiller-Walsh – Lets see what it looks like on the site.

Chan Rogers – I don't think we need a drawing to (revise the text).

Tom Gay – Conceptually, to look at what we might prefer in a bylaw, specifically on their site, I think what I am hearing, in an informal market analysis, you have heard numbers that are different from the bylaw. And for the business opportunity, they would like to see the numbers change, but for visual impact, we want to leave it alone.

Chan Rogers – This is a small thing compared to the two in Bellingham.

Andy/Joe Avellino – We don't want anything like those.

Karyl Spiller-Walsh – On Route 126 it is a 6 pump.

Chan Rogers – The one in Bellingham is 10-12 pumps.

Joe Avellino – They have 6 in a long row. We would have 6 in two rows.

Tom Gay – In our decision we have discretion on style. They are giving us some leverage by agreeing to keep it at 60’.

Bob Tucker – When we looked at this it (the convenience store) was crafted with a drive through (for donut tenant). I would say doing it as a minimum of 2400 sq. ft would work.

Karyl Spiller-Walsh – With the 4 pumps that were envisioned before, the access lanes were very tight. We need a visual concept. I need it.

Chan Rogers – We don’t need a visual concept for them to get a change. You need it after they make a presentation.

Karyl Spiller-Walsh - I disagree with that. When somebody comes and want to change the bylaw after we put so much effort into that, I want to see something.

Joe Avellino – We have 4 acres of land there. Me putting this on one acre of land and showing you how it would look, they could come in with a 2 acre plan. You have the right to refuse these people when they come in with a site plan. You have control of the whole project.

Karyl Spiller-Walsh – Right now, they don’t have the right to come in with a 6 pump.

Paul Kenney – It is not a by right use, it is a special permit. What we are trying to do is allow an applicant to get before the board to make a presentation.

Andy Rodenhiser – This (change) would apply to the whole district, not just for their site. Parella could come in with a gas station. Maybe Hess decides that the Parella site is better and the Avellino site is no good. The fact is that these guys could come in with a drawing for their site, and then we get an application for a different site (in the district).

Karyl Spiller-Walsh – We aren’t saying they can’t use their land for other uses.

Paul Kenney – We have had no other interest.

Chan Rogers – Very unlikely to get a new gas station proposed with less than 8 pumps. That location is the intersection of two state highways. The opportunity is greater on this site.

Karyl Spiller-Walsh – Does the rest of the board know that?

Chan Rogers – I would like to move that we adjust the bylaw to 6 pumps (12 filling stations).

John Williams – We are saying we would allow up to 6 pumps. I think we have got to let them have at least what the other gas stations in town have.

Andy Avellino – This is two different animals.

Karyl Spiller-Walsh – The Shell has 3 pumps. Norm Green has 2.

Tom Gay – We would change it to allow for 6 pumps (12 filing locations).

Bob Tucker – They are asking for an enablement, not a by right.

Joe Avellino – Let the guys get in the door. Let them show you what they are capable of doing. At least let them show you. Give us that opportunity.

Karyl Spiller-Walsh – It is never a question of whether it will work. It is how it is going to look in our small neighborhood. It is a very important issue. Scale is important.

Andy Rodenhiser – We get the opportunity to weigh in on it.

Karyl Spiller-Walsh – But first you have to get this through town meeting. It was like pulling teeth before.

Joe Avellino – We have more at risk than you.

Tom Gay – I am not afraid to go back with a change. We have done that before.

Bob Tucker – Bylaws are a dynamic set of words that have got to grow and change to accommodate change and progress.

Andy Rodenhiser – We shouldn't be bashful to change things if we make a mistake.

Joe Avellino – I think it was great that you put this in for us in the first place.

Karyl Spiller-Walsh – I think that corporately there is probably a line in the sand, that they won't even look at a site unless it is x number of units.

Chan Rogers's motion to revise the language to allow up to 6 pumps (12 locations) by special permit was seconded by Bob Tucker. The motion was approved - 4 yes (Rodenhiser, Rogers, Tucker and Gay) - 1 no (Spiller-Walsh)

A motion was made by Bob Tucker and seconded by Tom Gay to modify the text so that the minimum size of a convenience store would be changed from 4,000 sq. ft to 2,400 sq. ft. Change convenience store size – motion by Bob Tucker to modify to read a minimum of 2400 sq. ft instead of 4,000 sq. feet. The motion was approved – 4 yes (Rodenhiser, Rogers, Tucker and Gay) – 1 no (Spiller-Walsh).

A motion was made by Tom Gay, seconded by Bob Tucker to modify the text so that the canopy size over the gasoline pump cannot exceed 2,400 sq. ft. The motion was approved – 4 yes (Rodenhiser, Rogers, Tucker and Gay) – 1 no (Spiller-Walsh).

A motion was made by Tom Gay, seconded by Bob Tucker to add language that there be no lighting on the exterior of a canopy. The motion passed unanimously.

It was agreed to remove item d re: above ground storage tanks.

Andy Rodenhiser – They will have to work through the process with the Design Review Committee.

Joe Avellino – We really appreciate the opportunity you are giving us. Thank you tremendously. This is the way the town should work.

Andy Rodenhiser – Do a good job for us.

Karyl Spiller-Walsh – It is not thru town meeting yet, and if it does pass, we'll see you at the DRC.

Bob Tucker – Kudos to Susy Affleck-Childs for getting a place holder in there for this.

### **ANR – Richard and Margaret Williams for certain Oak Grove parcels**

Paul Atwood, Guerriere & Halnon Engineers

Paul Atwood - Basically there are 4 parcels off Alder and West Streets. The Williams bought multiple parcels out there. They want them defined on a plan to present to potential buyers.

Andy Rodenhiser – So this is collapsing the smaller lot lines (from the original Oak Grove layout). They are in the process of working something out with the Board of Selectmen. They need to codify their holdings.

Paul Atwood – This is only a portion of what they own. They have dozens and dozens. These are just some of them that are in the same area.

Andy Rodenhiser – Are you going through the process of doing this to all of them?

Paul Atwood – This is it for now.

NOTE - Review letter from Gino Carlucci.

Andy Rodenhiser – Contiguous nature is what is inside these boundaries

A motion was made by Chan Rogers, seconded by Bob Tucker to endorse the ANR plan for certain Oak Grove parcels owned by Richard and Margaret Williams.

### **DISCUSSION**

John Williams – In the ANR handbook that Gino Carlucci passed out, lots have to have actual frontage on an accepted street. We are kind of ignoring that.

Gino Carlucci – There is a statement on the plan that signing this does not constitute zoning. They are not proposing to create a new lot.

John Williams - Why are they doing this?

Gino Carlucci – Just to formalize and record at the registry of deeds.

Tom Gay – It is a way of legalizing the description.

The motion was approved. The Board signed the ANR plan.

### **Cassidy ANR plan**

Dave Cassidy - The railroad is giving back the property to the people that own it. You can reclaim it, so that is what we did. Dunn McKenzie Engineering, they did some pretty good research. This little shaded area originally was part of our property. It is not 61A property now, but it will be when it comes back to us.

Gino Carlucci - I believe all we need to do is to justify that.

Dave Cassidy – What I am showing you is different from what 37 Broad Street did. Jeff Mushnick – they found it to be something that the town had owned. This little section is viewed differently by Mushnick than by Dunn McKenzie. We think this little right of way of passage is the Town's and that would abut to us. What I had assumed is that who owned this before had a right of way.

Karyl Spiller-Walsh – I remember when Jeff came in – I think that was an oversight

Andy Rodenhiser – I think we should be careful on saying that it was an oversight.

Karyl Spiller-Walsh – If that was a mistake then we are going to have to go back and claim somehow by extracting that out. Be careful when you are absorbing.

Andy Rodenhiser – We are not the arbiters of whether that exists. The land court judge is the only party that can mediate a dispute.

David Cassidy – I just wanted to bring it up and let you know.

Andy Rodenhiser – Re: Gino Carlucci's review letter, we are looking for modifications to the plan.

Gino Carlucci – There is a zoning line that should be shown per our regs. The one that is a big deal is a statement that Planning Board endorsement is not a determination to compliance with zoning. That is all.

John Williams – What is the difference between 61A and 61B

Gino Carlucci – 61A is agricultural and 61B is recreational land.

John Williams – Why go thru the expense?

Susy Affleck-Childs – Get a revised plan back to us for Friday, and we can sign it Friday night (February 13, 2009).

### **51 Alder Street – Minor site plan modification**

Susy Affleck-Childs – They have submitted an application to make a very minor change to the north façade of the building. They want to add an access door to better connect the building to the outdoor storage area. WE have a drawing prepared by Ben Dzikczek who is doing the work for them.

A motion was made by Bob Tucker, seconded by Chan Rogers to approve the change as presented.

### **FY 10 budget discussion**

Susy Affleck-Childs distributed draft –

Andy Rodenhiser – The new town charter provides that Susy Affleck-Childs reports to Town Administrator and authorizes bills to be paid. Question - Are we (Planning Board members) responsible if bills are not paid?

### **Discussion of Other Matters for May Town Meeting**

#### **Design Review Committee Bylaw amendments**

Susy Affleck-Childs – This is a revised version based on further discussion with the DRC.

A motion was made by Karyl Spiller-Walsh, seconded by Chan Rogers to approve this change in the DRC bylaw and submit for the 2009 annual town meeting. Unanimously approved.

#### **Infill Housing**

Susy Affleck-Childs – We have further revised the text.

John Williams – I think it will be a substantial change.

Andy Rodenhiser – This provides an opportunity for someone to create off site affordable housing units.

John Williams – This is transferring development rights. To satisfy an affordable housing requirement we would allow a developer to build on small lots. We are talking about adding a number of front doors to Medway.

Bob Tucker – I disagree. I don't think this is an extensive change at all. This would not be significant.

Andy Rodenhiser – Just the process alone is going to be somewhat restrictive.

John Williams – How?

Susy Affleck-Childs – It will be a special permit with a mini site plan.

Chan Rogers – Only a small number of these would ever be looked at.

John Williams – Something intrinsically bothers me about loading affordable housing into the AR2 zone. We have made a social responsibility decision to provide affordable housing, and have made a requirement on our developers to come in and supply that. But in a way we are transferring that affordable housing unit into one specific area of town and not having it spread out.

Andy Rodenhiser – We are allowing for it, not requiring it. The idea is to provide options for people to do it on site or off site.

Bob Tucker – enabling

John Williams – Why would we allow it at all?

Bob Tucker – Why not?

John Williams – What is wrong with keeping affordable housing within a development?

Bob Tucker – You could also argue it encourages revitalization of older neighborhoods.

John Williams – That depends on your idea of what revitalization. And this is probably not consistent with keeping Medway that small community with a rural feel. I see this as inconsistent with our general bylaw.

Andy Rodenhiser –I get the sense that you do not want to see anything built.

John Williams – We should understand the impact of our bylaw changes. We can't stop building; we have a responsibility to grow. This opens up a lot of potential building where none existed before.

Andy Rodenhiser – I don't see that at all. Because we put in the affordable component requirement, that may cause people to even reconsider whether they build in Medway at all.

John Williams – I guess I don't see it as extremely restricted.

Andy Rodenhiser – That is what happened in the 80's in terms of our rules and regs.

Andy Rodenhiser – I don't think it our job to be a stopping board, but to provide opportunities in a controlled fashion.

Andy Rodenhiser – This is recommended as a way to keep a development in an area where you have infrastructure without adding new roads, and promoting sprawl.

John Williams – I see this as an addition to what is already developable and therefore speeding up our natural growth. I am uncomfortable with this.

Andy Rodenhiser - Does anybody share this perspective?

John Williams – We do run a risk of making economic development a large part of bylaws, and then when economy turns and breaks and we have hyperexaggerated growth when the economy turns around. As we kind of fiddle with these bylaws and make it more attractive, when the time comes, we will be very busy.

Chan Rogers – Do we have anything else? I want to go, this discussion is very one sided.

Karyl Spiller-Walsh – I share some of his perspectives. There are a lot of issues with this.

Chan Rogers - I think John Williams is greatly exaggerating the potential of this.

Tom Gay – I would like to spend some time reading this to see if the limitations do create a situation where it is not rampant. Do the other rules really control what can be done? I have a piece of land that is not shown on the list of possible parcels.

A motion was made by Chan Rogers, seconded by Bob Tucker to adjourn. The motion passed unanimously.

The meeting was adjourned at 10:24 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

**Medway Planning & Economic Development Board Meeting**  
**Friday, February 13, 2009**  
**Medway Town Hall, 155 Village Street**

PRESENT: Bob Tucker, Chan Rogers, Tom Gay, Andy Rodenhiser, John Williams, Karyl Spiller-Walsh

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Gino Carlucci, PGC Associates

Chairman Rodenhiser called the meeting to order at 5:05 pm

**Public Hearing Continuation – Williamsburg OSRD**

Andy Rodenhiser – We have a draft before us for the PB to review. I suggest we go thru it page by page. Draft is dated 2-10-09.

Tom Gay – I have no big issue with anything in here.

Paul Yorkis - I do have a question. Is it the intention to go through it (the draft) this evening and then provide us a copy so that at the next meeting we can provide comments if any, and then close everything and wrap it up?

Andy Rodenhiser – Yes.

All agreed

Shared common driveways –

Decision vote –

John Williams – For the findings, **a)** is debatable since we don't have a conventional subdivision plan to compare to. We are comparing it to a (previously approved) 40B project.

Andy Rodenhiser – I am looking at the application before us, trying to judge the application on its merit.

John Williams – we need to discuss the fact whether it is less detrimental

Andy Rodenhiser – An OSRD is always better – scenario for compact development, and reduces sprawl –

John Williams – I guess we could debate that.

Tom Gay – I don't think the bylaw proposes that you get both (conventional and OSRD) designs. It is more on the philosophical idea. I am more than fine. A conventional subdivision would make use of all the uplands.

Karyl Spiller-Walsh – You have to be careful and do a site by site evaluation – The bylaw is written in such a way that we are really protected. Under all circumstances that I can play it (an OSRD) is always a better solution than a conventional subdivision

Chan Rogers – Everyone of these, I-h, gives reasons to that point.

Karyl Spiller-Walsh – I do acknowledge however in your work (John) – that you have revealed many issues. I do believe it is a much better use than (a regular subdivision) – I do believe in the diversity of housing types

Sidewalk issue on West Street - expensive, impractical –

John Williams – I suggest we ask Dave D’Amico to make a finding whether it is practical or not to construct sidewalks on West Street. We are creating an OSRD which has lower impact and infrastructure. I see it as a compromise. We are going with a denser road. I think there is room to extend the sidewalks out to West Street and start making it a pedestrian friendly neighborhood.

Paul Yorkis– In the revised list of waivers – we are saying that no sidewalks are proposed. It would have to be (located) within the 25 foot buffer zone of certified wetlands – so it can’t be done.

Andy Rodenhiser- So in that case you cannot construct it there. The option is to provide a cash payment instead.

Paul Yorkis - We are requesting a waiver because we are building 3 affordable units in this subdivision.

Andy Rodenhiser – The impact on the neighborhood and the community needs to be taken into consideration. And you are asking for the waiver. That is what we are about to discuss. We are acknowledging why you cannot construct it, and we will start that debate.

Tom Gay – I am fine with the waiver request.

Bob Tucker – That is a policy to construct sidewalks. If you didn’t build a sidewalk you had a choice of a cash payment into a sidewalk fund, or build it elsewhere.

John Williams - There is an impact – Sidewalks would provide a way to access the new open space area . . .

Chan Rogers – Sidewalks on West Street are more important than in the subdivision.

Greg Whelan – If I agree to do this, I would like to see the town finish the sidewalk in front of 68 West Street and then there would be a sidewalk that would loop the whole thing. Then it would be beneficial. Having it stop in front of 68 West Street is foolishness.

It was agreed to continue the public hearing to Monday night, February 23, at 7:15 pm at the Senior Center.

Paul Yorkis – Our thanks for everybody for coming out tonight .

Andy Rodenhiser – Do you feel we have sufficiently gone through this so we can release a draft to the applicant?

Agreed.

Distribute memo from Dave D’Amico re: sidewalk construction.

The meeting adjourned at 6:23 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

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

Revised DRAFT – February 10, 2009

**PLANNING BOARD DECISION**  
**Williamsburg Condominium**  
**Open Space Residential Development (OSRD) Special Permit –**  
**Open Space Residential Development (OSRD) Concept Plan –**  
**Affordable Housing Special Permit -**

Name/Address of Applicant: Broad Acres Management Trust  
Greg Whelan, Trustee  
1352 West Main Street  
Millis, MA 02054

Name/Address of Property Owner: Broad Acres Management Trust  
Greg Whelan, Trustee  
1352 West Main Street  
Millis, MA 02054

Engineer: Faist Engineering, Inc.  
600 Charlton Street  
Southbridge, MA 01550

Land Surveyor: O’Driscoll Land Surveying, Co.  
46 Cottage Street  
Medway, MA 02053

Architect: Michael Blanchette  
39 Temple Street  
Medway, MA 02053

Landscape Architect: TO DESIGN, LLC  
114 West Main Street, Suite 201  
New Britain, CT.

Plan Dated: August 20, 2008, last revised January 28, 2009

Location: 66A, 70, 70R and 72 West Street

Assessors’ Reference Map 2, Parcels 7B, 6-1-B, 6-1-2, and 6-1-3.

Zoning District: AR-II

Purpose: To construct an Open Space Residential Development (OSRD) with eighteen (18) dwelling units (*including 3 affordable dwelling units*) on a 13.86 acre site and permanently preserve 8.7 acres as open space, pursuant to SECTION V. Subsections T and X of the Medway Zoning Bylaw.

**PROJECT DESCRIPTION**

The subject property, a 13.86 acre site, is located at 66A, 70, 70R and 72 West Street in the Agricultural Residential II zoning district. The site is comprised of four (4) parcels on the north side of West Street, west of Fisher Street, adjacent to the Medway Veterinary Clinic and across from Holbrook Street. The property is owned by Broad Acres Management Trust of Millis, MA. [The site includes wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls.](#)

The applicant proposes to develop a condominium community to be known as Williamsburg Condominiums consisting of nine (9) duplex buildings for a total of eighteen (18) residential dwelling units including three (3) affordable dwelling units. The condominium units will range in size from \_\_\_\_ to \_\_\_\_ for a \_\_ bedroom unit. Each dwelling unit has room for [2 to 4](#) off-street parking spaces. The three (3) affordable dwelling units will be considered to be low or moderate income units which shall comply with the requirements for inclusion on the Subsidized Housing Inventory prepared by the Department of Housing and Community Development pursuant to M.G.L., chapter 40B, section 20-23 (the "affordable housing units").

Site improvements include construction of an approximately 1134 foot long one-way 16' wide private road/driveway, approximately 1,200 linear feet of interior sidewalks/pathways, connection to Town sewer and water services, associated stormwater drainage facilities and 8.7 acres of permanently preserved open space to be accessible to the public with 3 designated visitor parking spaces. An additional 4 guest on-street parking spaces are also provided. Site access and egress will be from West Street.

The land is to be divided into 3 parcels as follows:

- Open Space Parcel A - .97 acres including a vernal pool (to be owned by the Williamsburg Condominiums Trust)
- Open Space Parcel B – 7.68 acres
- Developable Area Parcel - 5.21 acres includes all 18 dwelling units, roadway, sidewalks and stormwater facilities to be owned by the Williamsburg Condominiums Trust

## **PROCEDURAL BACKGROUND**

In accordance with the provisions of Section V., Sub-Section T and X of the Medway Zoning Bylaw and Section 9 of Chapter 40A of the Massachusetts General Laws, an application dated August 22, 2008 for an Open Space Residential Development (OSRD) special permit was filed by Broad Acres Management Trust with the Planning Board and the Town Clerk on August 22, 2008. The companion application for an Affordable Housing Special Permit was submitted on 9-23-08.

The public hearing was scheduled to begin on September 23, 2008, at which time comments would be received from the general public, municipal boards and/or departments and the Planning Board's consultants. Notices of the public hearing were published in the *Milford Daily News* on September 9 & 15, 2008. Notices were sent by certified mail to abutters and the Planning Boards of all adjacent towns on September 4, 2008.

On September 3, 2008, 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, Open Space Committee, Police Department, and Water/Sewer Department, and the Town's consulting planner. The memo noted that a public hearing was scheduled to begin on September 23, 2008 and requested comments by that date.

The Planning Board convened the public hearing in the Sanford Room of Town Hall on September 23, 2008, and continued it to October 28, December 9, January 13, January 27, February 10 and \_\_\_\_\_, 2009 at which time the public hearing was closed. At the public hearing, comments were received from the general public, municipal boards and/or departments, PGC Associates (the Town's planning consultant), 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 Special Permit were present at all sessions or have --- MULLINS RULE CERTIFICATION ---

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.

**EXHIBITS – PLANS and DOCUMENTS** - The following exhibits were submitted for the Board's review and deliberations. The application package consisted of:

- an application and related materials for an OSRD and affordable housing special permits;
- a plan entitled "Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying of Medway, MA.
- OSRD Project Narrative prepared by Paul Yorkis, Patriot Real Estate
- Development Impact Report dated August 22, 2008 prepared by Faist Engineering.
- Certified list of abutters within 300 feet of the site.
- Request for waivers from the *Subdivision Rules and Regulations*, dated 8-22-08.
- Proposed building elevations – Units A, B, C. No date or source specified.

Subsequent to the application package, the applicant submitted the following additional items.

- Revised “Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008, prepared by Faist Engineering of Southbridge, MA and O’Driscoll Land Surveying of Medway, MA. – Revised September 15, 2008, October 14, 2008, November 24, 2008 and January 28, 2009.
- Letter from W. Phillips Barlow, To Design, LLC dated 9-22- 08.
- Letter from David Faist, Faist Engineering, dated 10-14-08 in response to the 9-23-08 comment letter from Medway Police Sergeant Jeffrey Watson and to discussion at the 9-23-08 public hearing.
- Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
- Revised architectural elevations Units A-F, undated, source unspecified, received December 15, 2008
- Revised architectural elevations Units A-F, dated January 26, 2009, prepared by Michael Blanchette, architect.
- Letter dated January 13, 2009 from Paul Yorkis in response to the 1-8-09 review letter from the Medway Design Review Committee

#### **Other Information/Evidence**

- Medway ZBA Comprehensive Permit Decision, June 16, 2005 for subject property

#### **Review Letters**

Gino Carlucci, PGC Associates (Medway Planning Consultant) – Review letters dated August 25, September 18, October 24, 2008 and January 8, 2009

Sgt. Jeffrey Watson, Medway Police Department – Review memo dated September 23, 2008

Medway Open Space Committee – Review letter dated October 29, 2008

Medway Design Review Committee - Review letter dated January 8, 2009

#### **PUBLIC HEARING TESTIMONY**

**Professional Commentary**

David Faist, Faist Engineering, Southbridge, MA  
Gino Carlucci, PGC Associates, Franklin, MA

**Applicant Comments**

Greg and Mary Lou Whelan  
Paul Yorkis, Patriot Real Estate

**Citizen Comments**

Jeff Swenson, 68 West Street  
Rhea Berry, 68 West Street  
Jim Wickis, 74 West Street

**FINDINGS**

To make its findings, decision and conditions of approval, the Board carefully reviewed the proposed plan, as revised from time to time and last revised January 28, 2009 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 and Affordable Housing provisions 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

A. 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 \_\_\_\_\_, made the following FINDINGS regarding this application in accordance with Section V. Sub-Section T. Open Space Residential Development of the Zoning Bylaw:

1. Purpose and Intent – The Board finds that the proposed Williamsburg Condominium OSRD meets the purpose and intent of Subsection T.1 of the Zoning Bylaw in that the development:
  - a. Uses flexibility and creativity in its design as a more compact development;
  - b. Protects community water supplies by protecting the riparian zone of Hopping Brook;
  - c. Minimizes disturbance on the site by limiting it to less than 38%.
  - d. Permanently preserves 8.65 acres of mostly sensitive lands;
  - e. Uses land more efficiently in its compact design;
  - f. Furthers the goals of the Medway Master Plan by and Open Space Plan by preserving open space along a waterway;

- g. Facilitates construction and maintenance of housing, streets, utilities and public service by developing in a more compact style and providing maintenance privately;
  - h. Preserves and enhances community character by preserving open space and diversifying the housing stock;
  - i. Does not protect agricultural land because none is present on or adjacent to the site;
  - j. Protects real property values by providing buffers to adjacent property;
  - k. Provides housing types that increases the diversity of the housing stock.
- 
2. Site Eligibility – The site meets the eligibility requirements in that it is located in the AR-II district, consists of contiguous parcels, and is presented as a condominium development.
  3. Permit Required – As application for a special permit for an OSRD has been duly submitted by the applicant.
  4. Pre-Application – The Board finds that the requirements of Subsection T. 4 are met. An informal, pre-application meeting occurred at the July 22, 2008 Planning Board meeting.
  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 W. Phillips Barlow of New Britain, CT was retained to function as part of the applicant's development team. Mr. Barlow is registered landscape architect in the Commonwealth of Massachusetts. The four-step design process is documented [in that a Registered Landscape Architect was part of the design team and a](#)

Site Context and Analysis Plan identified the sensitive natural resources on the site. House and road locations were then kept away from the resources and Step 4 was not necessary in this case because it is condominium development with no lot lines.

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 planning consultant.
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 17 units. However, since three affordable units are being provided, the applicant is entitled to three bonus market rate units bringing the maximum to 20. The applicant proposes to construct nine (9) duplex buildings for a total of eighteen (18) dwelling units on one (1) lot. The Board finds that the construction of eighteen (18) dwelling units complies with this requirement and the configuration of the 9 duplex units is appropriate for the site since it minimizes disturbance and preserves views of and access to the open space areas.
8. Reduction of Dimensional Requirements – The Board finds that the development meets the dimensional requirements as specified in Subsection T. 8 of the bylaw. Items (a) through (d) are not applicable to this project because no subdivision lots are created. As conditioned below, the buildings are a minimum of 30 feet apart and landscaped buffers are provided between them. Also, the proposed garages meet the requirements that no more than 50% shall face the street and those that face the street shall be set back a minimum of 5 feet from the front façade of the principle building.
9. Open Space Requirements – Subject to conditions noted below, the Board finds that the Williamsburg Condominiums complies with the

**Open Space Requirements** as specified in Subsection T. 9. The minimum total open space required for this site is \_\_\_ sq. ft [Note: I suggest leaving out square feet. We could multiply acreage by 43,560 but that could result in an incorrect figures because the acreage likely has more than 2 decimal places. Unless the engineer or surveyor provide a square foot number, we will likely create confusion if we don't get it exactly right] (6.93 acres), which is 50% of the total site area of (13.86 acres). According to the \_\_\_\_\_communication from plan by Faist Engineering, the applicant proposes to designate two parcels of 7.68 and .97 acres for a total of 8.65 acres as open space. The planned open space area constitutes 61.96% of the tract's total area.

- a) *The percentage of the minimum required open space that is a resource area as defined and regulated by the Medway General Wetlands Protection Bylaw shall not exceed the percentage of the total site that is a resource area; provided however, that the applicant may include a greater percentage of resource areas in any proposed open space beyond the minimum required.*

Of the entire site, 3.19 acres, 22.85% is wetlands, flood plain and riverfront area. Therefore, no more than 22.85% of the minimum required open space of 6.93 acres, (1.58 acres) can consist of these resource areas, leaving a requirement for 5.35 acres of uplands. The development includes 5.66 acres of uplands.

- b) *The open space shall be contiguous.*

The open space is contiguous across the site driveway.

- c) *The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, parks, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes.*

The open space is suitable for wildlife habitat, conservation, outdoor education and passive recreation.

*The open space shall be accessible to the public. The Planning Board may require a minimum number of parking spaces to facilitate such public access.*

The open space is accessible to the public and 4 parking spaces for public use are provided.

- d) *The Planning Board also encourages the use of open space to provide active and passive recreation in the form of commons, parks and playgrounds to serve the needs of the development and surrounding neighborhoods.*

The open space will be used for passive recreation.

- e) *Certain items shall not qualify toward the minimum open space area:*

None of the provided open space consists of any of the excluded areas of surface and subsurface stormwater management and wastewater treatment facilities, utility easements, land within 15 feet of a dwelling unit, a community building or median strips or landscaped areas of parking lots.

- f) *Ownership of Open Space*

*The open space will be owned by the Town of Medway and/or the condominium association.*

- 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.*

*The Planning Board approves the open space parcels as depicted in the plans.*

10. General Design Standards – Subject to the conditions noted below, the Board finds that the Williamsburg Condominiums OSRD complies with the **General Design Standards** of Subsection T. 10 as follows:

- a) *The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.*

The Planning Board finds that this standard is met.

b) *Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.*

The Planning Board finds that this standard is met.

c) *The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.*

The Planning Board finds that this standard is met.

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.*

The Planning Board finds that this standard is met.

e) *The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.*

Subject to the conditions below regarding relocating and rebuilding existing stone walls, the Planning Board finds that this standard is met.

f) *Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.*

Since the development consists of 9 two-family buildings, the Planning Board finds that this standard is met.

g) *Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning Board.*

The Planning Board approves the proposed shared private driveway to serve the development.

h) *Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space.*

Since twelve of the proposed eighteen units have direct access to the larger open space parcel and the remaining six have easy access to it, the Planning Board finds that this standard is met.

i) *A fifteen foot (15') wide visual buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, acceptable to the Planning Board, shall be located along the perimeter of the OSRD tract, unless a reduction is otherwise authorized by the Planning Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements.*

The 15' wide buffer is provided so the Planning Board finds that this standard is met.

B. 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 \_\_\_\_\_, made the following FINDINGS regarding this application in accordance with Section V. Sub-Section X. Affordable Housing of the Medway Zoning Bylaw. Subject to the conditions noted below, the Board finds that the Williamsburg Condominiums OSRD complies with the **Affordable Housing** Requirements of Subsection X. as follows:

1. The plan includes the construction of three (3) affordable dwelling units on the subject site. This meets the requirements that at least 15% of the dwelling units in a multiple unit residential development are affordable.
2. Siting of affordable housing units – Subject to the provisions of Condition # \_\_\_\_ below, the

3. Minimum design and construction standards – Subject to the provisions of Condition # \_\_\_\_\_ below, the
4. One market rate bonus unit is authorized . . .

C. 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 \_\_\_\_\_, made the following additional FINDINGS regarding this application.

Other Pertinent Findings - ANYTHING ELSE WE SHOULD make findings on to link to any decision conditions????????????????????????????????

- construction of sidewalks along the West Street frontage is not practical due to (ROW width and wetlands) . . .

**DECISION/VOTE**

After reviewing the application and all information gathered during the public hearing process, the Medway Planning and Economic Board, at a duly posted meeting on \_\_\_\_\_ voted \_\_\_\_\_ to \_\_\_\_\_ an Open Space Residential Development Special Permit and an Affordable Housing Special Permit to Broad Acres Management Trust and to \_\_\_\_\_ the Williamsburg Condominium OSRD Concept Plan prepared by Faist Engineering and O’Driscoll Land Surveying last revised \_\_\_\_\_ attached hereto as Exhibit A, to develop an 18 unit OSRD (9 duplex buildings) including 3 affordable dwelling units, subject to the CONDITIONS, LIMITATIONS and MITIGATION MEASURES listed below. This approval is transferable to successors in title of the subject property, or assignees.

This decision is based on the following factors as specified in SECTION V, Sub-Section T. 11. of the Medway Zoning Bylaw.

- (a) The OSRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan by **siting the 9 proposed two-family dwelling units within a compact area allowing more than 60% of the site to be preserved as open space while also reducing construction and maintenance costs.**
- (b) The OSRD as proposed results in the permanent preservation of 8.65 acres of **wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls** as open space **in Parcel A and Parcel B.**
- (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 5.21 acres (37.3%) of the 13.86 acre site.
- (e) The OSRD furthers the goals and policies of the Medway Open Space and Master Plan by preserving open space, protecting water resources, providing a diversity of housing types and providing 3 affordable housing units.
- (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.
- (h) The design of the buildings with the OSRD is consistent or compatible with traditional New England architectural styles as described in the Medway Design Review Guidelines, and as approved by the Design Review Committee.
- (i) The OSRD is compatible or in harmony with the character of adjacent residential neighborhoods
- (j) The OSRD will not have a detrimental impact on abutting properties and residential neighborhoods
- (k) Any impacts of the OSRD on abutting properties and residential neighborhoods has been adequately mitigated
- (l) The OSRD protects and enhances community character.

**Voting Planning Board Member**

**Grant/Not Grant**

Andy Rodenhiser  
Cranston (Chan) Rogers  
Karyl Spiller-Walsh  
Thomas A. Gay

John W. Williams

**CONDITIONS OF APPROVAL** – The following conditions shall be binding upon the applicant and its assigns or successors. Failure to adhere to these conditions shall be cause for the Planning Board to hold a public hearing in order to determine whether the Special Permit shall be revoked or whether the violation warrants any other action relative thereto. The Town of Medway may elect to enforce compliance with this Special Permit using any and all powers available to it under the law.

1. Notwithstanding any future amendment of the Medway Zoning Bylaw, MGL c. 40A, or any other legislative act:

a. The maximum number of dwelling units to be constructed under this Special Permit shall be eighteen (18). \_\_\_\_% of the units shall have no more than 3 bedrooms. All three (3) affordable units shall have 3 bedrooms.

b. The tract(s) of land on which this OSRD is to be located shall not be altered or used except:

- 1) as granted by this Special Permit;
- 2) as shown on the Williamsburg Condominiums Special Permit Concept Plans OSRD, dated August 20, 2008, last revised January 29, 2009 to be modified and recorded as referenced herein; and
- 3) in accordance with subsequent approved plans or amendments to this Special Permit.

c. The entire tract of land and buildings to be constructed shall not be used, sold, transferred or leased except in conformity with this Special Permit.

2. **OSRD Concept Plan Modifications** – Before the Williamsburg Condominiums Concept Plans OSRD are endorsed by the Planning Board and recorded with this Special Permit at the Norfolk County Registry of Deeds, the plans dated August 20, 2008, last revised January 28, 2009 shall be revised to incorporate the following items:

- a. Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
- b. Revised architectural elevations by Michael Blanchette dated 1-28-09
- c. light post selection
- d. revise title page to list all plan sheets

3. **OSRD Definitive Plan**

a. This special permit and the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD are subject to the submission and approval of a Williamsburg Condominiums OSRD

Definitive Plan and compliance with all conditions of a Certificate of Planning Board Action approving the Williamsburg Condominiums OSRD Definitive Plan under the Medway Planning Board's *Rules and Regulations for the Review and Approval of Land Subdivisions* and the *Site Plan Rules and Regulations* in effect at the time of application.

- b. No clearance or construction shall begin on site and no building permit shall be issued before the Planning Board has approved or conditionally approved and endorsed the Williamsburg Condominiums OSRD Definitive Plan.
- c. The Williamsburg Condominiums OSRD Definitive Plan shall substantially comply with the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD (*as specified in SECTION V., Subsection T. 12. of the Zoning Bylaw*).
- d. Notwithstanding any other requirements, the following items shall be incorporated on the plan set for the Williamsburg Condominiums OSRD Definitive Plan:

General color palette and mix

Roofed structure with lighting to around community postal  
box

Street name

Open Space Parcel A – restrictions on use; mini  
playground?

Detailed landscape plan including specific plans for  
landscaped buffer areas within the site, locations where  
stone walls will be disturbed and relocated or used, identify  
significant trees to be saved

Also detailed design for a landscape barrier on the property  
adjacent to 68 West Street between roadway and  
house and behind the house

Materials specifications for the dwelling units

Maintenance plan for the both open space parcels including  
mowing, removal of underbrush

Bench location and design

Stone wall construction – very rustic, dry laid

- e. The Williamsburg Condominium OSRD Definitive Plan decision will include provisions for performance guarantees, construction inspection, construction phasing, project completion requirements including as-built plans and engineering certification,
  - f. The landscape plan, architectural elevations, and any designs submitted to the Planning Board as part of the OSRD Definitive Plan process shall be reviewed by the Design Review Committee for its recommendations and shall be prepared to the satisfaction of the Planning Board and subject to its approval.
4. **Open Space**
- a. The Williamsburg Condominiums Homeowners Association shall be responsible for the ongoing maintenance and upkeep of Open Space Parcels A and B including the annual mowing or haying of the upland meadow and the annual mowing/packing of any pathways.
  - b. Open Space Parcel A shall remain as open space managed by the Williamsburg Condominiums Trust for the use of residents of the development. Mini playground for use of development??????
  - c. Open Space Parcel B shall remain as permanent open space accessible to the general public. Open Space Parcel B 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 Williamsburg Condominiums Trust and protected to the satisfaction of the Planning 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.
  - d. The applicant shall provide a pathway/trail on Open Space 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.
  - e. 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 B, to be approved by the Board's legal counsel and the Secretary of the Executive Office of Environmental Affairs.
  - f. Parcel B has the potential for future use as part of a community trail system along Hopping Brook . ....
5. **Stormwater Drainage System** - The planned stormwater management system for the new development shall be designed to \_\_\_\_\_. 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 resource areas, reduce stormwater discharge to the street, and maximize the recharge of stormwater into the ground.

- a. use of rip rap shall be substantially screened
- b. natural design for any detention basin
- c. substantial landscaping

## 6. Affordable Housing

a. Three (3) 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 # \_\_\_\_\_. The Affordable units shall have 3 bedrooms.

c. As part of the Definitive Plan process, the applicant shall prepare an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, the Massachusetts Department of Housing and Community Development and Broad Acres Management Trust, 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. As part of the Definitive Plan process, the applicant shall prepare a marketing plan for the selection of qualified purchasers for Planning 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, shall be recorded with the deeds for the affordable units.

f. The Daniels Village 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 that are 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 1500 square feet and three (3) bedrooms excluding basement space.
- h) The owners and tenants of affordable housing units shall have the same rights and privileges to access any amenities available within the development as the owners and tenants of market rate dwelling units.
  - i) All other provisions of Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing shall apply.
7. **Water Conservation** – As part of the OSRD Definitive 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.

8. **Preservation of Site Features**

- a. Stone Walls
  - 1) The applicant, its successors or assigns, and the contractor shall make the maximum effort to retain the site’s existing stone walls. Where a road or path must disturb a stone wall, the applicant shall rebuild the wall in the same style and/or use the removed stone elsewhere on the site.
  - 2) There is a prominent stone wall on the southern border of the property which should be preserved and repaired or enhanced where needed with stone from the stone walls that have to be removed elsewhere on site. If possible, a corresponding stone wall should be installed on the opposite side of the roadway using old stone to duplicate the general style of the existing stone wall. If sufficient stone exists, the same approach should be used at the entrance roadway as well.
  - 3) Wall construction or reconstruction shall be completed in a highly rustic, dry laid, unfinished fashion.
- b. Pine grove – This area shall be kept intact.
- c. Vernal pool -
- d. other ????????????

9. **Sewer Connections** – In preparing the OSRD Definitive Plan application, the applicant shall
- 

10. **Sidewalk Construction**

- a. It is customary for a developer to install sidewalks along a property's frontage of existing public ways. For this site, sidewalk construction along approximately 350 linear feet of West Street is not practical due to \_\_\_\_\_ . Accordingly, in lieu of such sidewalk construction, the applicant shall construct or reconstruct approximately 350 linear feet of sidewalk (location ???? – waiting for recommendation of Dave D'Amico) to the satisfaction of the Medway Department of Public Services (DPS) as follows:

- 1). Improvements to be made in accordance with DPS standards.
- 2) Before construction, exact locations, sidewalk plan and street opening permit to be subject to approval by the DPS Director.
- 3) Construction inspection by the Town's consulting engineer or the Department of Public Services is required.
- 4) If necessary, trees may be removed and replacement plantings shall be installed in accordance with DPS requirements.

Work to be completed prior to the issuance of an occupancy permit for the first dwelling unit.

- b. Interior sidewalks shall be designed as a continuous plane across the driveway opening \_\_\_\_\_ with the driveways meeting the grades of the sidewalks rather than the sidewalks simply \_\_\_\_\_ ending at each driveway break.

11. **Architecture** –

- a. something on flexibility of unit selection
- b. all 6 unit types shall be constructed
- c. no more than 50% of the dwelling units with garages may have garage doors facing the \_\_\_\_\_ street from which the dwelling unit is accessed. Any garage door facing the street shall be \_\_\_\_\_ set back at minimum of five feet from the front wall of the principle building.

12. **Parking**

- a. each unit shall provide at least 4 off street parking spaces (Is this excessive?)

13. **Condominium Management**

- a. A Williamsburg Condominium Homeowners Association shall be established and be \_\_\_\_\_ responsible for the upkeep and maintenance of the roadway, drainage system and open \_\_\_\_\_ space areas.

b. Prior to the issuance of an occupancy permit for any unit in the development, the following documents shall be recorded at the Norfolk County Registry of Deeds.

- 1). Williamsburg Condominiums Master Deed including Bylaws, Rules & Regulations, and the Stormwater Operation and Maintenance Plan
- 2) Declaration of Trust of the Williamsburg Condominium organization
- 3) Open Space/Conservation Restriction applicable to Parcel B.

**14. Ownership/Maintenance of Common Areas**

a. All roads, drainage facilities and Open Space Parcel A and Parcel C shall be owned and maintained by the Williamsburg Condominium Trust. It is the intent of the Planning and Economic Development Board that the roadway system and drainage facilities will 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 the operation and maintenance of the following:

- 1) roadways and parking areas
- 2) stormwater management system
- 3) snowplowing/sanding and other road maintenance and repairs
- 4) landscaping
- 5) trash removal
- 6) street lighting
- 7) open space parcels

Such services shall be the responsibility of the Williamsburg Condominiums Trust.

**15. ANR Plan** – file to split land into two open space lots and development area lot.

**16. Fire Protection** – In lieu of installing a fire alarm system within the development, the 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 Condominiums plan calls for over approximately 1,134 linear feet of roadway. Therefore, a fee of \$\_\_\_\_\_ shall be paid to the Town of Medway for the \_\_\_\_\_ prior to the issuance of the first occupancy permit.

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

**18. Restriction 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. Construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m.

- b. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
  - c. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.
19. **Payment of Balance of Fees/Taxes** - Prior to Planning Board signature on this special permit, the Applicant shall pay the balance of any outstanding plan review services provided by any outside consultants retained by the Planning Board who assisted in the review of this project 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 and any penalties and back charges resulting from the non-payment of taxes for all property included in this development are paid in full.
20. **Recording of Plans and Documents** - The following documents shall be recorded at the Norfolk County Registry of Deeds before the Williamsburg Condominium OSRD Definitive Plan and application are filed with the Town of Medway.
- a. Williamsburg Condominium OSRD and Affordable Housing Special Permit Decision
  - b. Williamsburg Condominium Concept Plans OSRD last dated January 28, 2009 to be revised as specified herein.
21. **Modifications** – No modification shall be made to Williamsburg Condominiums OSRD Definitive Plan and development without modification of this Special Permit or as set forth herein. The approval of the Planning Board under then applicable zoning bylaw requirements shall be required for any modification of the record plans, whether substantial or insubstantial. The Board reserves its right and power to modify or amend the record plans and the terms and conditions of this Special Permit upon request of the Applicant, his designees or assigns. It shall be within the Planning Board's sole discretion to determine whether any proposed modification is substantial or insubstantial and what constitutes such. Substantial modifications shall be subject to the same review standards and procedures applicable to the original application for this Special Permit. The Planning Board may authorize insubstantial modifications without a public hearing. If the Applicant petitions for amendments to the Definitive OSRD Plan or this Special Permit, the applicant must submit all plans and information to the change as required by the applicable *Rules and Regulations*.
22. **Project Completion**
- a. This special permit shall lapse if substantial use thereof has not commenced within two years of the filing of this decision with the Town clerk, except for good cause, in the event of an appeal, or if construction is not continued through to completion as continuously and expeditiously as is reasonable. For substantial use to have commenced, construction of \_\_\_\_ feet of roadway must be underway. For construction to continue toward completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than one (1) year or in the case of a permit for construction, if construction has not begun except for good cause.
  - b. The applicant, its successors or assigns, shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the OSRD Concept Plan, to the satisfaction of the Planning Board, within 5 years of the date this decision is filed with the Town Clerk. A request to extend the completion time limit 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 issue any appropriate changes to the special permit and to require any appropriate modifications to the OSRD Definitive Plan.

**LIMITATIONS** – Other approvals or permits required by the Medway Zoning Bylaw, Medway General Bylaws, or other governmental boards, agencies or bodies have in jurisdiction shall not be assumed or implied by this Special Permit Decision.

### **MITIGATION MEASURES**

**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 Williamsburg Condominium OSRD Definitive Plan phase of approval. These waivers include the following:

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 Williamsburg Condominiums OSRD Definitive 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 Williamsburg Condominiums Concept Plan OSRD. A copy of said recording must be returned to the Town Clerk and the Planning Board to complete the file.

**MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD**

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

\_\_\_\_\_  
Andy Rodenhiser

\_\_\_\_\_  
Cranston (Chan) Rogers

\_\_\_\_\_  
Karyl Spiller-Walsh

\_\_\_\_\_  
Thomas A. Gay

\_\_\_\_\_  
John W. Williams

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: Planning Boards of Bellingham, Franklin, Holliston, Millis, Milford, and Norfolk

- Board of Assessors
- Building Commissioner/Zoning Enforcement Officer
- Board of Health
- Board of Water/Sewer Commissioners
- Department of Public Services
- Design Review Committee
- Fire Chief
- Open Space Committee
- Police Safety Officer
- Town Administrator/Board of Selectmen
- Town Counsel
- Zoning Board of Appeals
- Greg Whelan, Broad Acres Management
- Paul Yorkis, Patriot Real Estate
- David Faist, Faist Engineering



**Medway Planning & Economic Development Board Meeting  
Tuesday, February 23, 2009  
Medway Senior Center, 76 Oakland Street**

PRESENT: Bob Tucker, Karyl Spiller-Walsh, Tom Gay, John Williams, Andy Rodenhiser, Chan Rogers

ABSENT:

ALSO PRESENT: Susy Affleck-Childs  
Gino Carlucci  
Barbara Saint André – Town Counsel

Chairman Rodenhiser called the meeting to order at 6:42 pm

**Discussion on street acceptance issues**

Andy Rodenhiser – Board of Selectmen is generally opposed to the idea of using town's resources for takings, etc.

Karyl Spiller-Walsh – Are the legal fees part of the taking process?

Barbara Saint André – The Board of Selectmen is looking for specific recommendations. On all of these your board was successful in obtaining funds from the developers toward the expense for legal review of street acceptances.

Andy Rodenhiser – But it is proving problematic. Birch Hill example.

Barbara Saint Andre – There was a March 1 deadline for Birch Hill. I need to check on this. She (Ellen Rosenfeld) was working on the deeds. She said she was going to meet with the abutters.

Chan Rogers – Where we have had trouble is where we have had more than a 20 year hiatus. That makes for a lot of problems, especially the condition of the road after 20 years.

Barbara Saint Andre – With **Ishmael Coffee Estates**, the problem here are the easements. They actually did keep the road title so they can give us the roads. But they did not reserve the easements for drainage, etc. The easements do show on the plans. They thought that was adequate. My goal is for the town to have good title. I am more concerned about the easements on private lots. That is when people get excited. The developer's attorney says when they kept the title to the roads it implied retention of the easements because they go with the streets. There is some law that sort of backs that up. There are some cases where there are implied easements. But I don't want the Town to be in a position to have to go to court re: easements. My advice is to go to the Ishmael Coffee Estates folks. We should just insist that they go out and get the easements. Some of these are pretty substantial.

Barbara Saint André – If you want to accept roads, you want to have all the drainage structures that go along with them. The water has to go somewhere, if we don't have easement to drain water on somebody's property, then we really don't have the full system. The Board of Selectmen doesn't want to go do eminent domain takings. The developer would like us to take the roads without pinning down the easements.

Andy Rodenhiser – The plans show the easements. The Board of Selectmen has asked us to plan meetings with residents to explain what the problems are. They want us to facilitate the completion of some of the subdivisions that are problematic.

Barbara Saint André – I will relay to Bill Sack that both the Board of Selectmen and the Planning Board have requested that they do the easements for all these drainage and other easements as shown on the plan.

Andy Rodenhiser – I suspect we will get a request for a meeting at which time Paul Yorkis will come in and ask for that to be reconsidered. Board of Selectmen wants this clarity

Barbara Saint Andre – With **The Meadows**, it is the opposite. They did reserve the easements, but did not reserve the fee in the roads. The easements are okay. So again, my feeling is to ask the abutters to deed over the roadway. The developer has said he will not do anything more.

Andy Rodenhiser – What we can do is to facilitate the meeting? Explain to the residents what is required; explain to them what is going on.

Barbara Saint André – We have asked them. They don't want to do anything. They are OK with just leaving it as is.

Andy Rodenhiser – We could take it by eminent domain, and charge the fees back to the bond. We could recommend that to the Board of Selectmen.

Karyl Spiller-Walsh – If in every subdivision the applicant is expected to pay all the legal costs to secure all the easements, do we also have our attorney vet all their finds? And do we pay for it?

Andy Rodenhiser – As we go forward, we provide sample deeds.

Barbara Saint André – If they reserve the roads and the easements that is all they have to do. It is the older ones that are a problem. This is not unusual to Medway.

Karyl Spiller-Walsh – I can imagine there are very angry applicants.

Andy Rodenhiser – The base of knowledge has improved dramatically. They will not get accepted.

John Williams – There is some money in the Construction Observation account to facilitate this? Give the developer the opportunity to come to the table. These are the steps we are going to take.

Andy Rodenhiser – If we go to the Board of Selectmen with a recommendation. .

Karyl Spiller-Walsh - Might the neighborhood want to have their roads approved and so there would be an incentive to pay for the portion of the legal expenses?

Bob Tucker – I would suggest Susy put together a matrix.

Andy Rodenhiser – We need to have Barbara Saint Andre look at our various bond agreements.

### **Approval of Meeting Minutes**

A motion was made by Tom Gay, seconded by Karyl Spiller-Walsh to approve the minutes of the 1-20-2009 and the 1-27-2009 meetings. Approved.

### **Committee Reports**

Bob Tucker – Susy went to Concom for me the other night, following up on the question whether they want the open space at The Meadows and at Williamsburg.

Susy Affleck-Childs – ConCom is agreeable to receiving the open space at both sites.

Susy Affleck-Childs – There is an Open Space Committee public hearing on March 3<sup>rd</sup>.

Andy Rodenhiser – There is an EDC organizational briefing on March 3<sup>rd</sup>. Also, I am meeting with Suzanne Kennedy that same afternoon.

Bob Tucker – The CPC meets Monday, March 2<sup>nd</sup>. They are continuing discussion on 2B Oak Street. The Historical Society has expressed interest in the property. Also the Boys and Girls clubs. We need to hear from groups that are interested. We are soliciting proposals. The lot does have historic significance within the town. I am not convinced the structures carry the same merit.

### **ANR plan – Hidden Acres Realty Trust**

Gino Carlucci – Of my comments, the critical item they did put on the Planning Board endorsement does not indicate compliance. They added zoning dimensional requirements but not the other items I had specified per the regs.

Bob Tucker – If it doesn't have everything, we shouldn't approve. They know the rules.

A motion was made by Chan Rogers, seconded by Bob Tucker to not endorse the ANR plan for the Pine Street/RR area submitted by Hidden Acres Realty Trust prepared by Dunn McKenzie because it was not complete. The motion was approved.

### **Williamsburg Condominium Public Hearing Continuation**

Paul Yorkis, representing Greg Whelan

At 7:25 pm Chan Rogers steps out for a minute, and then returns at 7:28 pm.

**NOTE – Attach draft decision dated February 19, 2009**

Paul Yorkis – First, briefly, I have a revised plan. The only revision is showing the change in the locations of the affordable housing units to be 9, 11 and 17; that is the only change.

I have some comments on the draft decision.

1. Add Affordable Housing Committee to the list of committees giving testimony
2. Question on conservation restriction – and requiring occupancy permit – Gino Carlucci suggestion - and submitted to the

Tony Biocchi and Christine Price – The Conservation Commission did vote to accept the open space parcels.

Paul Yorkis – On page 12 – f. – I want it to be clear that the condo association will not have to install those trails.

6 f 2 – “sold” not “told”

6 h – they also have same rights and “privileges”

8 a. 2 – I would rather we leave the walls alone and relocate any material to the entrance and a new wall.

Andy Rodenhiser – This language gives a lot of flexibility/

Paul Yorkis – Re: 9. Sidewalk Construction – I know the board has a goal and policy and procedures relative to sidewalks and mitigation, and I am, on behalf of the applicant, I am very concerned that this is an open ended number. I did speak with Dave D’Amico regarding this. The information he provided to Susy Affleck-Childs was for Village Street which is for granite curbs and concrete sidewalks.

For West Street it would be bread loaf berm and asphalt decking.

A rough calculation of each of the affordable units at 1500 sq. ft with 3 bedrooms, and portioning the infrastructure and the permitting costs, etc., you are looking at a \$270,000 to 290,000 COST. That is a lot of money that is not being fully recaptured through the sale (of those affordable units). And the mitigation here really is the construction of 3 affordable units. From my perspective those are more important than 250 feet of sidewalks.

With a conventional subdivision, it is absolutely a requirement that sidewalks are to be provided along the frontage of existing ways, but it is not specific in the OSRD.

John Williams – I thought at the last meeting, we did go through a series of decisions where most of the board members felt it was important.

Andy Rodenhiser – There were many gyrations. Even Greg Whelan agreed.

Paul Yorkis – After I spoke more with Greg Whelan, he now understands. With the costs, the vagueness in the town's policies relative to where sidewalks go and questions about who pulls permits, there are just too many loose ends. The ConCom in this case, could deny the construction of the sidewalk. Whose responsibility would be to appeal that? I think it is truly unfair and unreasonable. All the implications of this are not well thought out.

Andy Rodenhiser – I think in certain instances, the rules and regs are there to provide maximum flexibility. In the instance where it is unique here, the construction of sidewalks is fraught with problems. The option exists to construct elsewhere or to pay into the fund.

Paul Yorkis – Or not to construct at all because there are other mitigation measures – There is a lot of money being poured into mitigation because of the affordable units.

Andy Rodenhiser – What do you mean affordable housing is mitigation? That is part of the special bylaw; it is not mitigation.

Paul Yorkis – It is when you look at the broadest possible context.

Andy Rodenhiser – It is an underlying responsibility when you do an OSRD.

Paul Yorkis – If you don't want developers to do OSRDs then keep increasing the costs to build them. And the town wants more affordable housing and has been negligible in using any CPA funds. The private party needs to do it in such a way that they still make money.

Bob Tucker – The CPC has been taking steps to put some money into affordable housing. CPC doesn't come up with ideas on their own.

Paul Yorkis – Organic farming has been a higher priority than affordable housing. Money speaks loudly. It hasn't been spent. The town hasn't done anything.

Bob Tucker – Steps are being taken.

Andy Rodenhiser – Do you have any evidence to present that this is a financial burden or a hardship?

Paul Yorkis – We know what our projected costs are. Those are gross projections because we don't have a definitive plan. The town has no policy, no specific amount relative to this fund for sidewalks. If you take granite curbing and concrete decking that is what he (Dave D'Amico) would want on Village Street. In other areas it varies. So what is the number?

Tom Gay – Why don't we determine this based on what it would cost to do this on West Street?

Paul Yorkis – I am not interested in constructing sidewalks off site. We are willing to do a payment in lieu of.

Karyl Spiller-Walsh – When we established that fund we did not have the affordable housing requirement, so it does change the profile. So being in this delicate economic scenario, I can see why. I have sympathy. I am not saying it is an either/or.

Andy Rodenhiser – A compromise may lie in what Tom Gay has suggested as a dollar figure as opposed to the traditional method of figuring out the footage and then applying the state's standard of cost. He (the applicant) sounds more amendable to making a payment then constructing sidewalks.

Paul Yorkis – The applicant has tried to work with the board as cooperatively as we can, knowing there are different issues. In the ideal world, from the applicant's perspective, there would be no sidewalks. If the board's position is that there is going to be some dollar contribution, it needs to be a specific amount, based on a specific understanding. This applicant is not going to get involved in doing work off site.

Andy Rodenhiser – Bob, does RS Means have a table we could use as a reference for this type of construction cost? That would be a private

Bob Tucker – Means, or one, or many others.

Andy Rodenhiser – Is there something we could use as an alternative?

Bob Tucker – I can look into that. I did have to price some sidewalk work.

Andy Rodenhiser – We need to have a referenceable standard, taking whatever the footage is that is required, apply it to a private contractor's price, and figure out that cost so it is understood and clear.

John Williams – I guess what I am hearing, it is difficult and a pain in the neck to build the sidewalks. This is a special permit. We have the right. I am uncomfortable to shifting this off.

Andy Rodenhiser – The rules and regs allow for payment in lieu of as an option.

Tom Gay – I said the payment should be based on the type of sidewalk that would be constructed on West Street.

Bob Tucker – I can get that number. But my concern is that, since I have been on the board, we have used the state dollar value. But any of that work that is done by the Town has to be according to prevailing wage. So now you are saying you are not going to even take in enough to cover prevailing wage.

Andy Rodenhiser – We are in an economic downturn and in somewhat of a difficult situation.

Bob Tucker – I understand the economic downturn. The whole intent is to provide options – build on site, payment in lieu of, or construct elsewhere in town. A contractor can build 100 feet of sidewalk a whole lot cheaper than the Town can.

Chan Rogers – We have also substantially reduced the amount of road that has to be built.

Paul Yorkis – If the Town was to supply all the permits, sure; but that isn't going to happen. There are wetlands on Village Street. There are title issues.

Chan Rogers – We wouldn't ask you to build sidewalks if it wasn't clear.

Paul Yorkis – When I spoke with Dave D'Amico, he said there would need to be a street opening permit and a bond. Who posts the bond? There are so many issues associated with this. It makes no sense.

Bob Tucker – It takes prevailing wages for the town to build anywhere.

Bob Tucker – The dollar value should be based on the standard for building in that particular site.

Paul Yorkis – Out of this discussion my hope is the next time this happens there will be some standards; there will be some policies and procedures.

Karyl Spiller-Walsh – He is right about the financial burden of the affordable units.

Andy Rodenhiser – Are we okay in concept? Just to clarify. We are talking about the square footage at that site.

Tom Gay – So it is asphalt and bread loaf berm times X number of feet – state dollar value – per mass highway standards.

Karyl Spiller-Walsh – not prevailing wage?

Tom Gay – I think we have to go with what the standard is. I think you have to use how they price that, and how they go after the bidding. There are other ways to shorten the cost. 3 out of 18 units are affordable. We could apply some multiplier discount based on the affordable units.

Andy Rodenhiser- So if there is 100 feet, and there are 3 affordable units, then what?

Tom Gay – 250' x \$10, then credit it back somehow.

John Williams – We have to discount on footage – 10 units/100 feet, 3 are affordable, so reduce the length by 30 feet.

Tom Gay – I would do it based on the number of units.

Paul Yorkis – I don't think your frontage length is correct.

Susy Affleck-Childs – Can you provide us with the alternative frontage length?

Paul Yorkis – In reality there is going to be sidewalk. We can give you a net figure.

NOTE – Susy Affleck-Childs and Paul Yorkis stepped away to review the plans and calculate the frontage length on West Street (minus the roads).

Susy Affleck-Childs – It is 225 feet of frontage.

John Williams – Are we going to discount the same sidewalk for affordable units in a conventional subdivision? If we look to the bigger picture, if it is a standard subdivision, there are provisions for affordable housing. In this OSRD we are lessening the requirement. Are we prepared to do the same formula adjustment? Allowing this provision here allows it elsewhere.

Tom Gay - I am.

Karyl Spiller-Walsh – Yes.

Tom Gay – The thing we might be missing is that this is due to a condition where the sidewalk cannot be built.

Paul Yorkis – We have requested a waiver from this requirement. We are asking you to grant that waiver. I also understand you are requiring dollars into some account that would be part of the decision.

Andy Rodenhiser – We are saying you do have to make a contribution

Paul Yorkis – If we were to construct, it would still require a permit from the conservation commission. I know what can happen. I am in a lawsuit with them

Gino Carlucci – Discount the amount based on the affordable units.

Tom Gay – Instead of 100% of the sidewalk cost, some reduction.

Andy Rodenhiser – Are you OK with this concept? All agreed.

Paul Yorkis – Re: 9. a – funds to be paid when?? I suggest prior to the 7<sup>th</sup> market rate unit occupancy permit.

Andy Rodenhiser – Or 3 years, whichever comes first, from the issuance of the first building permit.

Paul Yorkis – Re: 14 and the ANR. There doesn't need to be an ANR plan. The plan that gets approved by the Planning Board will divide the land. I am sensitive to the cost of recording.

Susy Affleck-Childs – I didn't think a special permit created parcels.

Tony Biocchi – As long as you have an endorsed plan, that makes it recordable, and whatever you say in the special permit goes.

Susy Affleck-Childs – I want to check with town counsel on this.

Paul Yorkis – Re: 17 a. I request the time restrictions should be based on external construction only.

RE: Open Space Parcels – A and B

Tony Biocchi – We (ConCom) want to truly protect the vernal pool in A. If offered, we would take it.

Paul Yorkis – Parcel A is not available to the Conservation Commission.

Tony Biocchi – The pathway done at the park to the high school was done in crusher rock. That has been most effective. It stays in its place. Bluestone runs off. If something is going to be put there that would be good.

Paul Yorkis – In the site walk we did with the OSC, and at the other meetings, we tried to advocate for not having a permanent path, because we wanted the upland meadow to be able to restore itself. It is something that could be done. It is not a big deal.

Tony Biocchi – The basis for the recommendation is that we want the meadow area to stay the way it is. But I believe Open Space would tell you once a field stays the way it is, the invasives tend to come out and overtake. You need to do either one of two things. Either you want a permanent trail structure and/or you have some ways to cut regularly.

Paul Yorkis – It is really a beautiful area. There is habitat value for the species present there – it has to be maintained as a meadow. You end up losing the specifics. At some point in time, going back to the trail issue, there is nothing to prevent, at a future date, the actual building of a trail through the wetlands. It has to be done with permits. We don't want to be responsible for that. The habitat would lend itself nicely to that.

Bob Tucker – Give it either/or . . . Give them an option to put in the trail.

Minimum of cutting at least once annually.

Andy Rodenhiser – Greg is pursuing this permit because he believes this is a better alternative than the 40B; and he is giving up that right. We will put this in the findings. We will list it as a condition of this permit that he voluntarily agreed to do so.

Tony Biocchi – Make sure to reference the specific decision 40 B.

Jim Wickis – As an abutter I am very impressed and pleased with the whole process and the way it is unfolding. I think this OSRD is working out nicely for the abutters. I appreciate it.

NOTE - Mullins Rule certifications were received from Tom Gay and John Williams for absent meetings.

A motion was made by Chan Rogers to close the public hearing, seconded by Karyl Spiller-Walsh. The motion passed unanimously.

Chan Rogers – Are we going to approve this thing at a subsequent meeting?

NOTE – It was agreed to vote on this at the March 10<sup>th</sup> meeting.

### **Other Business – Zoning Articles**

Eric Alexander, Affordable Housing Committee – I am here re: the proposed **infill housing** bylaw. We have incorporated most of the changes you have suggested. Attach revised draft. We eliminated the provision re: ANRs so we are just looking at previously existing lots in AR2. We changed the language re: the DRC's recommendation. We changed the effective date of the existing lots of the adoption. We made it back to Jan. 1, 2009. We added a lot shape factor for compatibility.

Fran Hutton Lee and Susy Affleck-Childs have helped us pare down a spreadsheet of possible lots. Fran Hutton Lee has highlighted the lots in ARII that might qualify which are at least 6000 sq. ft (and no larger than 22,500 sq. ft) and have frontage on a public way. So you can see we are not talking about hundreds of lots. Some may not be buildable for other reasons.

John Williams – Is there a possibility that larger lots could be subdivided?

Eric Alexander – No, we removed the ANR option. You cannot create nonconformity.

A motion was made by Bob Tucker, seconded by Chan Rogers to go ahead with this proposal for the May 2009 Annual Town Meeting. The motion was approved unanimously.

Gino Carlucci – Re the adult uses bylaw, there are 2 issues. We had included a requirement that it be 500 feet away in any direction, and that would knock out the 4 lots that are sort of close to Coffee Street. Barbara Saint Andre pointed out this is a by right use. We made it another options for different buffers with a solid fence. That puts those lots back in play.

Second – Susy Affleck-Childs raised an issue today. I had suggested putting this in subsection M 1, which is the list of districts but it includes the specific criteria. I would suggest we split the proposed text between paragraphs one and two.

A motion was made by Bob Tucker, seconded by Chan Rogers to go ahead with this revised text for the adult uses in Industrial I zone. The motion was approved unanimously.

### **Other Business**

Chan Rogers – The new Charter all but cuts the feet out from under the Sewer/Water Commission.

A motion was made by Tom Gay, seconded by Karyl Spiller-Walsh to adjourn the meeting. The motion was approved.

The meeting adjourned at 9:20 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

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

*Revised DRAFT – February 19, 2009*

**PLANNING & ECONOMIC DEVELOPMENT BOARD DECISION  
Williamsburg Condominium  
Open Space Residential Development (OSRD) Special Permit –  
Open Space Residential Development (OSRD) Concept Plan –  
Affordable Housing Special Permit -**

Name/Address of Applicant: Broad Acres Management Trust  
Greg Whelan, Trustee  
1352 West Main Street  
Millis, MA 02054

Name/Address of Property Owner: Broad Acres Management Trust  
Greg Whelan, Trustee  
1352 West Main Street  
Millis, MA 02054

Engineer: Faist Engineering, Inc.  
600 Charlton Street  
Southbridge, MA 01550

Land Surveyor: O'Driscoll Land Surveying, Co.

46 Cottage Street  
Medway, MA 02053

Architect: Michael Blanchette  
39 Temple Street  
Medway, MA 02053

Landscape Architect: TO DESIGN, LLC  
114 West Main Street, Suite 201  
New Britain, CT.

Plan Dated: August 20, 2008, last revised January 28, 2009

Location: 66A, 70, 70R and 72 West Street

Assessors' Reference Map 2, Parcels 7B, 6-1-B, 6-1-2, and 6-1-3.

Zoning District: AR-II

Purpose: To construct an Open Space Residential Development (OSRD) with eighteen (18) dwelling units (*including 3 affordable dwelling units*) on a 13.86 acre site and permanently preserve 8.7 acres as open space, pursuant to SECTION V. Sub-Sections T. and X. of the Medway Zoning Bylaw.

### **PROJECT DESCRIPTION**

The subject property, a 13.86 acre site, is located at 66A, 70, 70R and 72 West Street in the Agricultural Residential II zoning district. The site is comprised of four parcels on the north side of West Street, west of Fisher Street, adjacent to the Medway Veterinary Clinic and across from Holbrook Street. The property is owned by Broad Acres Management Trust of Millis, MA. The site includes wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls.

The applicant proposes to develop a condominium community to be known as Williamsburg Condominiums consisting of nine duplex buildings for a total of eighteen residential dwelling units including three affordable dwelling units. Each dwelling unit has room for two to four off-street parking spaces. The three affordable dwelling units will be considered to be low or moderate income units which shall comply with the requirements for inclusion on the Subsidized Housing Inventory prepared by the Department of Housing and Community Development pursuant to M.G.L., chapter 40B, section 20-23 (the "affordable housing units").

Site improvements include construction of an approximately 1,134 foot long one-way sixteen foot wide private road/driveway, approximately 1,200 linear feet of interior sidewalks/pathways, connection to Town sewer and water services, associated stormwater drainage facilities and 8.7 acres of permanently preserved open space to be accessible to the public with three designated visitor parking spaces. An additional four guest on-street parking spaces are also provided. Site access and egress will be from West Street.

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

- Open Space Parcel A - .97 acres including a vernal pool (*to be owned by the Williamsburg Condominiums Trust*)
- Open Space Parcel B – 7.68 acres
- Developable Area Parcel - 5.21 acres includes all 18 dwelling units, roadway, sidewalks and stormwater facilities (*to be owned by the Williamsburg Condominiums Trust*)

## **PROCEDURAL BACKGROUND**

In accordance with the provisions of Section V., Sub-Section T. and X. of the Medway Zoning Bylaw and Section 9 of Chapter 40A of the Massachusetts General Laws, an application dated August 22, 2008 for an Open Space Residential Development (OSRD) special permit was filed by Broad Acres Management Trust with the Planning and Economic Development Board and the Town Clerk on August 22, 2008. The companion application for an Affordable Housing Special Permit was submitted on 9-23-08.

The public hearing was scheduled to begin on September 23, 2008, at which time comments would be received from the general public, municipal boards and/or departments and the Planning and Economic Development Board's consultants. Notices of the public hearing were published in the *Milford Daily News* on September 9 & 15, 2008. Notices were sent by certified mail to abutters and the Planning Boards of all adjacent towns on September 4, 2008.

On September 3, 2008, a transmittal memo from the Planning and Economic Development 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, Open Space Committee, Police Department, and Water/Sewer Department, and the Town's consulting planner. The memo noted that a public hearing was scheduled to begin on September 23, 2008 and requested comments by that date.

The Planning and Economic Development Board convened the public hearing in the Sanford Room of Town Hall on September 23, 2008, and continued it to October 28, December 9, January 13, January 27, February 10, February 13 and February 24, 2009 at which time the public hearing was closed. At the public hearing, comments were received from the general public, municipal boards and/or departments, PGC Associates (the Town's planning consultant), 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 Special Permit were present at all sessions or have provided a certification pursuant to MULLINS RULE.

All matters of record were available for public review in the office of the Planning and Economic Development Board and the Town Clerk for all times relevant thereto.

**EXHIBITS – PLANS and DOCUMENTS** - The following exhibits were submitted for the Board's review and deliberations. The application package consisted of:

- an application and related materials for an OSRD and affordable housing special permits;
- a plan entitled "Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008,

prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying of Medway, MA.

- OSRD Project Narrative prepared by Paul Yorkis, Patriot Real Estate
- Development Impact Report dated August 22, 2008 prepared by Faist Engineering.
- Certified list of abutters within 300 feet of the site.
- Request for waivers from the *Subdivision Rules and Regulations*, dated 8-22-08.
- Proposed building elevations – Units A, B, C. No date or source specified.

Subsequent to the application package, the applicant submitted the following additional items.

- Revised “Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying of Medway, MA. – Revised September 15, 2008, October 14, 2008, November 24, 2008 and January 28, 2009.
- Letter from W. Phillips Barlow, To Design, LLC dated 9-22- 08.
- Letter from David Faist, Faist Engineering, dated 10-14-08 in response to the 9-23-08 comment letter from Medway Police Sergeant Jeffrey Watson and to discussion at the 9-23-08 public hearing.
- Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
- Revised architectural elevations Units A-F, undated, source unspecified, received December 15, 2008
- Revised architectural elevations Units A-F, dated January 26, 2009, prepared by Michael Blanchette, architect.
- Letter dated January 13, 2009 from Paul Yorkis in response to the 1-8-09 review letter from the Medway Design Review Committee
- Revised request for waivers from the *Subdivision Rules and Regulations*, dated 2-20-09 and 2-12-09.

#### **Other Information/Evidence**

- Medway ZBA Comprehensive Permit Decision, June 16, 2005 for subject property
- West Haven Estates (40B Project) Site Plan Layout – Drawing C-1 by Faist Engineering, May 5, 2005
- MULLINS RULE certifications from Tom Gay for the 9-23-08 public hearing and from John Williams for 1-13-09 public hearing.

### **Review Letters**

Gino Carlucci, PGC Associates (Medway Planning Consultant) – Review letters dated August 25, September 18, October 24, 2008 and January 8, 2009

Sgt. Jeffrey Watson, Medway Police Department – Review memo dated September 23, 2008

Medway Open Space Committee – Review letter dated October 29, 2008

Medway Design Review Committee - Review letter dated January 8, 2009

Fire Chief Paul Trufant – Review memo dated February 6, 2009.

DPS Director Dave D'Amico – Email memo dated 2-11-09 regarding sidewalk construction.

### **PUBLIC HEARING TESTIMONY**

#### **Professional Commentary**

David Faist, Faist Engineering, Southbridge, MA

Gino Carlucci, PGC Associates, Franklin, MA

#### **Applicant Comments**

Greg and Mary Lou Whelan

Paul Yorkis, Patriot Real Estate

#### **Citizen Comments**

Jeff Swenson, 68 West Street

Rhea Berry, 68 West Street

Jim Wickis, 74 West Street

### **FINDINGS**

To make its findings, decision and conditions of approval, the Planning and Economic Development Board carefully reviewed the proposed plan, as revised from time to time and last revised January 28, 2009 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 and Affordable Housing provisions 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

A. 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 Planning and Economic Development Board, on \_\_\_\_\_, made the following general FINDINGS regarding this application in accordance with Section V. Sub-Section T. Open Space Residential Development of the Zoning Bylaw:

1. Purpose and Intent – The Planning and Economic Development Board finds that the proposed Williamsburg Condominium OSRD meets the purpose and intent of Subsection T.1 of the Zoning Bylaw in that the development:
  - a. Uses flexibility and creativity in its design as a more compact development;
  - b. Protects community water supplies by protecting the riparian zone of Hopping Brook;
  - c. Minimizes disturbance on the site by limiting it to less than 38%.
  - d. Permanently preserves 8.65 acres of mostly sensitive lands;
  - e. Uses land more efficiently in its compact design;
  - f. Furthers the goals of the Medway Master Plan by and Open Space Plan by preserving open space along a waterway;
  - g. Facilitates construction and maintenance of housing, streets, utilities and public service by developing the site in a more compact style and providing private maintenance of roadways and infrastructure.
  - h. Preserves and enhances community character by preserving open space and diversifying the housing stock;
  - i. Does not protect agricultural land because none is present on or adjacent to the site;
  - j. Protects real property values by providing buffers to adjacent property;
  - k. Provides housing types (duplexes) that increase the diversity of the community's housing stock.
2. Site Eligibility – The site meets the eligibility requirements in that it is located in the AR-II district, consists of contiguous parcels, and is presented as a condominium development.
3. Permit Required – An application for a special permit for an OSRD was submitted by the applicant on August 22, 2008.
4. Pre-Application – The Planning and Economic Development Board finds that the requirements of Subsection T. 4 are met. An informal, pre-application meeting occurred at the July 22, 2008 Planning and Economic Development Board meeting.
5. Four-Step Design Process – The Planning and Economic Development 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 W. Phillips Barlow of TO Design, LLC of New Britain, CT was retained to function as part of the applicant's development team. Mr. Barlow is registered landscape architect in the Commonwealth of Massachusetts. The four-step design process is documented in that a Registered Landscape Architect was part of the design team and a Site Context and Analysis Plan identified the sensitive natural resources on the site. House and road locations were then kept away from the resources. Step 4 was not necessary in this case because it is condominium development with no lot lines.

6. Procedures – The Planning and Economic Development 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 planning consultant.
7. Maximum Number of Dwelling Units - Applying the Yield Plan formula as specified in Sub-Section T.7 to determine the maximum possible number of OSRD dwelling units for this site results in a maximum of 17 units. However, since three affordable units are being provided pursuant to SECTIN V. USE REGULATIONS, Sub-Section X. Affordable Housing, the applicant is entitled to three additional market rate units (to offset the affordable units) bringing the maximum possible number of dwelling units to 20. The applicant proposes to construct nine (9) duplex buildings for a total of eighteen (18) dwelling units on one (1) lot. The Planning and Economic Development Board finds that the construction of eighteen (18) dwelling units complies with this requirement and the configuration of the 9 duplex units is appropriate for the site since it minimizes disturbance and preserves views of and access to the open space areas.
8. Reduction of Dimensional Requirements – The Planning and Economic Development Board finds that the development meets the dimensional requirements as specified in Subsection T. 8 of the bylaw. Items (a) through (d) are not applicable to this project because no subdivision lots are created. The buildings are a minimum of 30 feet apart and landscaped buffers are provided between them. The proposed garages meet the requirement that no more than 50% of the garage doors shall face the street from which the unit is accessed. The requirement that garage doors that face the street shall be set back a minimum of 5 feet from the front façade of the principle building is met except for a maximum of two Type F one-story building styles. The Planning and Economic Development Board as conditioned below (Condition 10. c) hereby waives this requirement only for those specified units in order to increase the variety of housing types that may be offered within the development because the constraints of the site would not accommodate the Type F one-story units within the proposed site development configuration.
9. Open Space Requirements – Subject to conditions noted below, the Planning and Economic Development Board finds that the Williamsburg Condominiums complies with the **Open Space Requirements** as specified in Subsection T. 9. The minimum total open space required for this site is 6.93 acres which is 50% of the total site area of (13.86 acres). According to the plan by Faist Engineering, the applicant proposes to designate two parcels of 7.68 and .97

acres for a total of 8.65 acres as open space. The planned open space area constitutes 61.96% of the tract's total area.

- a) *The percentage of the minimum required open space that is a resource area as defined and regulated by the Medway General Wetlands Protection Bylaw shall not exceed the percentage of the total site that is a resource area; provided however, that the applicant may include a greater percentage of resource areas in any proposed open space beyond the minimum required.*

Of the entire 13.86 acre site, 3.19 acres (22.85%) is comprised of wetlands, flood plain and riverfront area. Therefore, no more than 22.85% (1.58 acres) of the minimum required open space of 6.93 acres can consist of these resource areas, leaving a requirement for 5.35 acres of uplands. The development includes 5.66 acres of uplands.

- b) *The open space shall be contiguous.*

The open space is contiguous across the site driveway.

- c) *The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, parks, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes.*

The open space is suitable for wildlife habitat, conservation, outdoor education and passive recreation.

*The open space shall be accessible to the public. The Planning Board may require a minimum number of parking spaces to facilitate such public access.*

Open Space Parcel B is accessible to the public and 4 parking spaces for public use are provided. Open Space Parcel A is available to the residents of the condominium development.

- d) *The Planning Board also encourages the use of open space to provide active and passive recreation in the form of commons, parks and playgrounds to serve the needs of the development and surrounding neighborhoods.*

Open Space Parcel A may include a small playground for use by the residents of the Williamsburg Condominium development.

- e) *Certain items shall not qualify toward the minimum open space area:*

None of the provided open space consists of any of the excluded areas of surface and subsurface stormwater management and wastewater

treatment facilities, utility easements, land within 15 feet of a dwelling unit, a community building or median strips or landscaped areas of parking lots.

f) *Ownership of Open Space*

The open space will be owned by the Town of Medway and/or the condominium association.

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.*

The Planning and Economic Development Board approves the two open space parcels as depicted in the plans.

10. General Design Standards – Subject to the conditions noted below, the Planning and Economic Development Board finds that the Williamsburg Condominiums OSRD complies with the **General Design Standards** of Subsection T. 10 as follows:

a) *The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.*

The Planning and Economic Development Board finds that this standard is met.

b) *Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.*

The Planning and Economic Development Board finds that this standard is met.

c) *The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.*

The Planning and Economic Development Board finds that this standard is met.

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.*

The Planning and Economic Development Board finds that this standard is met.

- e) *The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.*

Subject to the Condition # 8 a) below regarding relocating and rebuilding existing stone walls, the Planning and Economic Development Board finds that this standard is met.

- f) *Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.*

Since the development consists of 9 two-family/duplex buildings, the Planning and Economic Development Board finds that this standard is met.

- g) *Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning Board.*

The Planning and Economic Development Board approves the use of shared private driveways for the dwelling units.

- h) *Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space.*

Since twelve of the proposed eighteen units have direct access to Open Space Parcel B. and the remaining six have easy access to it, the Planning and Economic Development Board finds that this standard is met.

- i) *A fifteen foot (15') wide visual buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, acceptable to the Planning Board, shall be located along the perimeter of the OSRD tract, unless a reduction is otherwise authorized by the Planning Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements.*

The 15' wide buffer is provided so the Planning and Economic Development Board finds that this standard is met.

B. 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 Planning and Economic Development Board, on \_\_\_\_\_, made the following **FINDINGS** regarding this application in accordance with Section V. USE REGULATIONS, Sub-

Section X. Affordable Housing of the Medway Zoning Bylaw. Subject to the conditions noted below, the Planning and Economic Development Board finds that the Williamsburg Condominiums OSRD complies with the **Affordable Housing Requirements** of Sub-Section X. as follows:

1. The plan includes the construction of three (3) affordable dwelling units on the subject site. As the total number of dwelling units is 18, this meets the requirement that at least 15% of the dwelling units in a multiple unit residential development are affordable.

2. Siting of affordable housing units – Subject to the provisions of Condition # 6b below, the Planning and Economic Development Board finds that the affordable units are suitably sited within the development.

3. Minimum design and construction standards – Subject to the provisions of Condition # 6g below, the Planning and Economic Development Board finds that these standards are met.

4. One market rate bonus unit is authorized.

C. 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 Planning and Economic Development Board, on \_\_\_\_\_, made the following additional **FINDINGS** regarding this application.

Other Pertinent Findings - ANYTHING ELSE WE SHOULD make findings on to link to any decision conditions?????????????

1. Construction of sidewalks along the West Street frontage is not practical due to \_\_\_\_\_.

**DECISION/VOTE**

After reviewing the application and all information gathered during the public hearing process, the Medway Planning and Economic Board, at a duly posted meeting on \_\_\_\_\_ voted \_\_\_\_\_ to \_\_\_\_\_ an Open Space Residential Development Special Permit and an Affordable Housing Special Permit to Broad Acres Management Trust and to \_\_\_\_\_ the Williamsburg Condominium OSRD Concept Plan prepared by Faist Engineering and O’Driscoll Land Surveying last revised \_\_\_\_\_ attached hereto as Exhibit A, to develop an 18 unit OSRD (9 duplex buildings) including 3 affordable dwelling units, subject to the CONDITIONS, LIMITATIONS and MITIGATION MEASURES listed below. This approval is transferable to successors in title of the subject property, or assignees.

This decision is based on the following factors as specified in SECTION V, Sub-Section T. 11. of the Medway Zoning Bylaw.

(a) The proposed OSRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan by siting the 9 two-family buildings (18 dwelling units) within a compact area allowing more than 60% of the site to be preserved as open space while also reducing construction and maintenance costs.

- (b) The OSRD as proposed results in the permanent preservation of 8.65 acres of open space (Open Space Parcels A and B) including wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls.
- (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 only 5.21 acres (37.3%) of the 13.86 acre site.
- (e) The OSRD furthers the goals and policies of the Medway Open Space and Master Plan by preserving open space, protecting water resources, providing a diversity of housing types and providing 3 affordable housing units.
- (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.
- (h) The design of the buildings with the OSRD is consistent or compatible with traditional New England architectural styles as described in the Medway Design Review Guidelines, and as approved by the Design Review Committee.
- (i) The OSRD is compatible or in harmony with the character of adjacent residential neighborhoods in that the architectural style of the units is in keeping with New England character. Furthermore, and development is set back considerably from the street.
- (j) The OSRD will not have a detrimental impact on abutting properties and residential neighborhoods. The location of this development is on West Street, a thru street between Routes 109 and 126 and there are few directly abutting residences.
- (k) Any impacts of the OSRD on abutting properties and residential neighborhoods have been adequately mitigated with the 15 foot landscape buffer and the access roadway is skewed as far away as possible from the abutting residence at 68 West Street.
- (l) The OSRD protects and enhances community character by using New England architectural style and increasing the diversity of housing options in Medway.

**Voting Planning and Economic Development Board Member**      **Grant/Not Grant**

Andy Rodenhiser  
Cranston (Chan) Rogers  
Karyl Spiller-Walsh  
Thomas A. Gay  
John W. Williams

**CONDITIONS OF APPROVAL** – The following conditions shall be binding upon the applicant and its assigns or successors. Failure to adhere to these conditions shall be cause for

the Planning and Economic Development Board to hold a public hearing in order to determine whether the Special Permit shall be revoked or whether the violation warrants any other action relative thereto. The Town of Medway may elect to enforce compliance with this Special Permit using any and all powers available to it under the law.

1. Notwithstanding any future amendment of the Medway Zoning Bylaw, MGL c. 40A, or any other legislative act:
  - a. The maximum number of dwelling units to be constructed under this Special Permit shall be eighteen (18). All three (3) affordable units shall have 3 bedrooms.
  - b. The tract(s) of land on which this OSRD is to be located shall not be altered or used except:
    - 1) as granted by this Special Permit;
    - 2) as shown on the Williamsburg Condominiums Special Permit Concept Plans OSRD, dated August 20, 2008, last revised January 29, 2009 to be modified and recorded as referenced herein; and
    - 3) in accordance with subsequent approved plans or amendments to this Special Permit.
  - c. The entire tract of land and buildings to be constructed shall not be used, sold, transferred or leased except in conformity with this Special Permit.
2. **OSRD Concept Plan Modifications** – Before the Williamsburg Condominiums Concept Plans OSRD are endorsed by the Planning and Economic Development Board and recorded with this Special Permit at the Norfolk County Registry of Deeds, the plans dated August 20, 2008, last revised January 28, 2009 shall be further revised to incorporate the following items:
  - a. Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
  - b. Revised architectural elevations by Michael Blanchette dated 1-28-09
  - c. Light post selection
  - d. The title page will list all plan sheets
  - e. Revise the specification of the affordable housing units to indicate units #9, 11 and 17.
  - f. A standard signature block shall be provided on each sheet.
  - g. The Primary Development Parcel shall be labeled Parcel C.
3. **OSRD Definitive Plan**
  - a. This special permit and the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD are subject to the submission and approval of a Williamsburg Condominiums OSRD Definitive Plan and compliance with all conditions of a Certificate of Planning and Economic Development Board Action approving the Williamsburg Condominiums OSRD Definitive Plan under the Medway Planning Board's *Rules and Regulations for the Review and Approval of Land Subdivisions* and the *Site Plan Rules and Regulations* in effect at the time of application.
  - b. No clearance or construction shall begin on site and no building permit shall be issued before the Planning and Economic Development Board has approved or

conditionally approved and endorsed the Williamsburg Condominiums OSRD Definitive Plan.

- c. The Williamsburg Condominiums OSRD Definitive Plan shall substantially comply with the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD (as specified in SECTION V., Subsection T. 12. of the Zoning Bylaw).
- d. Notwithstanding any other requirements, the following items shall be incorporated on the plan set for the Williamsburg Condominiums OSRD Definitive Plan:
  - 1) General color palette and mix.
  - 2) Street name.
  - 3) The location and specifications for a playground on Open Space Parcel A or on the primary Development parcel (C)
  - 4) Detailed landscape plan including specific plans for landscaped buffer areas between the structures and elsewhere on the site, locations where stone walls will be disturbed and relocated or used. The plan will identify significant trees to be saved/retained and the locations for new street trees to be installed along the roadway.
  - 5) Detailed design for a landscape barrier to screen the 68 West Street between the access roadway and the house and behind the house.
  - 6) Materials specifications for the dwelling units.
  - 7) Maintenance plan for the both open space parcels including mowing, removal of underbrush.
  - 8) Bench location (in the northwest meadow) and design.
  - 9) Specifications that stone wall construction shall be consistent with the existing stone walls on site and shall be replicate a rustic, dry laid construction style.
  - 10) There is a prominent stone wall on the southern border of the property. If possible, a corresponding stone wall should be installed on the opposite side of the roadway using old stone to duplicate the general style of the existing stone wall. If sufficient stone exists, the same approach should be used at the entrance roadway as well.
- e. The Williamsburg Condominium OSRD Definitive Plan decision will include provisions for performance guarantees, construction inspection, construction phasing, project completion requirements including as-built plans and engineering certification.
- f.. The landscape plan, architectural elevations, and any designs submitted to the Planning and Economic Development Board as part of the OSRD Definitive Plan

process shall be reviewed by the Design Review Committee for its recommendations and shall be prepared to the satisfaction of the Planning and Economic Development Board and subject to its approval.

#### **4. Open Space**

- a. The Williamsburg Condominiums Homeowners Association shall be responsible for the ongoing maintenance and upkeep of Open Space Parcels A and B including the annual mowing or haying of the upland meadow and the annual mowing/packing of a pathway on Parcel B.
- b. Open Space Parcel A shall remain as open space managed by the Williamsburg Condominiums Trust for the use of residents of the development.
- c. Open Space Parcel B shall remain as permanent open space accessible to the general public. Open Space Parcel B 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 Williamsburg Condominiums Trust and 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.
- d. The applicant shall provide a pathway/trail on Open Space 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.
- e. A mini playground for use by residents of the development shall be provided on Parcel A or Parcel C (the primary development parcel).
- f. 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 B, to be approved by the Planning and Economic Development Board's legal counsel and the Secretary of the Executive Office of Environmental Affairs. The Conservation Restriction shall include provisions allowing for the future construction of trails subject to appropriate approvals.

#### **5. Stormwater Drainage System** - The planned stormwater management system for the Williamsburg Condominium development shall comply with the current Massachusetts DEP Stormwater policy. The stormwater drainage system shall be designed to include appropriate Low Impact Development (LID) best management practice techniques including the use of rain gardens; roof runoff collectors and other suitable techniques to minimize the project's impact on resource areas, reduce stormwater discharge to the street, and maximize the recharge of stormwater into the ground, subject to the following limitations/conditions:

- a. substantial landscape screening shall be provided at any locations where rip rap is used.
- b. any detention basin shall be designed to be integrated into the site's topography and natural features such that the contours are softened and a naturalized appearance is achieved.

## 6. Affordable Housing

- a. Three (3) 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 3 bedrooms.
- c. As part of the Definitive Plan process, the applicant shall prepare an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, the Massachusetts Department of Housing and Community Development and Broad Acres Management Trust, 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. As part of the Definitive Plan process, the applicant shall prepare 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, 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 that are 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 (3) bedrooms excluding basement space.
  - h. The owners and tenants of affordable housing units shall have the same rights and privileges to access any amenities available within the development as the owners and tenants of market rate dwelling units.
  - i. All other provisions of Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub- Section X. Affordable Housing shall apply.
7. **Water Conservation** – As part of the OSRD Definitive 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.

8. **Preservation of Site Features**

- a. Stone Walls
  - 1) The applicant, its successors or assigns, and the contractor shall make the maximum effort to retain the site’s existing stone walls. Where a road or path must disturb a stone wall, the applicant shall rebuild the wall in the same style and/or use the removed stone elsewhere on the site.
  - 2) There is a prominent stone wall on the southern border of the property which should be preserved and repaired or enhanced where needed with stone from the stone walls that have to be removed elsewhere on site. If possible, a corresponding stone wall should be installed on the opposite side of the roadway using old stone to duplicate the general style of the existing stone wall. If sufficient stone exists, the same approach should be used at the entrance roadway as well.
  - 3) Wall construction or reconstruction shall be completed in a highly rustic, dry laid, unfinished fashion.
- b. The Upland Meadow shall be retained and shall be mowed at least once a year.

9. **Sidewalk Construction**

- a. 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 350 linear feet. The Planning and Economic Development Board has found that sidewalk construction along approximately 350 linear feet of West Street is not practical. Accordingly, in lieu of such sidewalk construction, the applicant shall either make a payment to the Medway Sidewalk Improvement Fund . . . . . or

construct/reconstruct approximately 350 linear feet of sidewalk at an off-site location to the satisfaction of the Medway Department of Public Services (DPS) as follows:

- 1). Improvements to be made in accordance with DPS standards.
- 2) Before construction, exact locations, sidewalk plan and street opening permit to be subject to approval by the DPS Director.
- 3) Construction inspection by the Town's consulting engineer or the Department of Public Services is required.
- 4) If necessary, trees may be removed and replacement plantings shall be installed in accordance with DPS requirements.

Work to be completed prior to the issuance of an occupancy permit for the first dwelling unit.

- b. Interior sidewalks shall be designed as a continuous plane across the driveway opening with the driveways meeting the grades of the sidewalks rather than the sidewalks simply ending at each driveway break.

#### **10. Architecture**

- a. The duplexes may be constructed such that different unit types may be combined in one building.
- b. The development, when completed, will include all 6 unit types.
- c. In Type F units with 2 garages, at least one garage shall not face the street.

#### **11. Parking**

- a. As there is very limited room for on-street parking, each unit shall provide at least 4 off street parking spaces.

#### **12. Condominium Management**

- a. A Williamsburg Condominium Homeowners Association shall be established and be responsible for the upkeep and maintenance of the roadway, drainage system and open space areas.
- b. Prior to the issuance of an occupancy permit for any unit in the development, the following documents shall be recorded at the Norfolk County Registry of Deeds.
  - 1) Williamsburg Condominiums Master Deed including Bylaws, Rules & Regulations, and the Stormwater Operation and Maintenance and Management Plan
  - 2) Declaration of Trust of the Williamsburg Condominium organization
  - 3) Open Space/Conservation Restriction applicable to Parcel B.

#### **13. Ownership/Maintenance of Common Areas**

- a. All roads, drainage facilities and Open Space Parcel A shall be owned and maintained by the Williamsburg Condominium Trust. It is the intent of the Planning and Economic Development Board that the roadway system and drainage facilities will not be accepted by the Town of Medway.
- b. The Planning and Economic Development 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 the operation and maintenance of the following:
  - 1) roadways and parking areas
  - 2) stormwater management system
  - 3) snowplowing/sanding and other road maintenance and repairs
  - 4) landscaping
  - 5) trash removal
  - 6) street lighting
  - 7) Open Space Parcel A

Such services shall be the responsibility of the Williamsburg Condominiums Trust.

14. **ANR Plan** – Prior to any endorsement of the Definitive OSRD plan, an ANR plan shall be filed for Planning Board endorsement. The ANR plan shall divide the site into 3 parcels – Open Space Parcels A and B, and the development parcel in general conformance to the OSRD Concept Plan.
15. **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 Condominiums plan calls for over 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 first occupancy permit.
16. **Signage** – The Williamsburg Condominium development will not include any development identification signage except for standard private way street signs.
17. **Restriction 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. Construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m.
  - b. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
  - c. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.

18. **Payment of Balance of Fees/Taxes** - Prior to Planning and Economic Development Board signature on this special permit, the Applicant shall pay the balance of any outstanding plan review services provided by any outside consultants retained by the Planning and Economic Development Board who assisted in the review of this project 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 and any penalties and back charges resulting from the non-payment of taxes for all property included in this development are paid in full.
19. **Recording of Plans and Documents** - The following documents shall be recorded at the Norfolk County Registry of Deeds before the Williamsburg Condominium OSRD Definitive Plan and application are filed with the Town of Medway.
  - a. Williamsburg Condominium OSRD and Affordable Housing Special Permit Decision
  - b. Williamsburg Condominium Concept Plans OSRD last dated January 28, 2009 to be revised as specified herein.
20. **Modifications** – No modification shall be made to the Williamsburg Condominiums OSRD Definitive Plan and development without modification of this Special Permit or as set forth herein. The approval of the Planning and Economic Development Board under then applicable zoning bylaw requirements shall be required for any modification of the record plans, whether substantial or insubstantial. The Planning and Economic Development Board reserves its right and power to modify or amend the record plans and the terms and conditions of this Special Permit upon request of the Applicant, his designees or assigns. It shall be within the Planning and Economic Development Board's sole discretion to determine whether any proposed modification is substantial or insubstantial and what constitutes such. Substantial modifications shall be subject to the same review standards and procedures applicable to the original application for this Special Permit. The Planning and Economic Development Board may authorize insubstantial modifications without a public hearing. If the Applicant petitions for amendments to the Definitive OSRD Plan or this Special Permit, the applicant must submit all plans and information to the change as required by the applicable *Rules and Regulations* in effect at that time.
21. **Project Completion**
  - a. This special permit shall lapse if substantial use thereof has not commenced within two years of the filing of this decision with the Town clerk, except for good cause, in the event of an appeal, or if construction is not continued through to completion as continuously and expeditiously as is reasonable. For substantial use to have commenced, construction of the entire length of the private roadway must be underway or completed. For construction to continue toward completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than one year or in the case of a permit for construction, if construction has not begun except for good cause.
  - b. The applicant, its successors or assigns, shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the OSRD Concept Plan, to the satisfaction of the Planning and Economic Development Board, within five years of the date this

decision is filed with the Town Clerk. A request to extend the completion time limit must be made in writing to the Planning and Economic Development Board at least thirty days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications to the OSRD Definitive Plan.

**LIMITATIONS** – Other approvals or permits required by the Medway Zoning Bylaw, Medway General Bylaws, or other governmental boards, agencies or bodies have in jurisdiction shall not be assumed or implied by this Special Permit Decision.

### **MITIGATION MEASURES**

**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 Williamsburg Condominium OSRD Definitive Plan phase of approval. These waivers include the following:

**Section 5.7.19** *Proposed Layout of Electric, Telecomm, Gas, & Cable TV Utility Lines is to be shown on the definitive plan.*

*Explanation* –The applicant requests a waiver from this regulation as it is not possible to show these locations on the definitive plan. NSTAR is the utility in the Town of Medway that prepares the initial design for underground utilities for electric, phone, and cable service; Verizon and Comcast follow the NSTAR design. NSTAR does not begin the design process until it receives three (3) copies of the endorsed plans. The underground utility services will be shown on the as-built plans.

**\*Section 6.6.3** *Partial Bond Release – The Board shall not grant a partial release from such security for the partial completion of improvements until certain items are installed, inspected and approved by the Board or its agent.*

*Explanation* – Applicant requests a waiver from this regulation as Williamsburg Way will be a Private Roadway when constructed.

**Section 6.8.1** *Street Acceptance: Legal Description, Deeds, & Easements*

*Explanation* – Applicant requests a waiver from this regulation as Williamsburg Way will be a Private Roadway when constructed and therefore these items are not needed.

**Section 6.8.2** *Street Acceptance/Infrastructure Acceptance Fee*

*Explanation* – Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed, the Town will not be accepting the road as a public way

and therefore, the requirement for a street acceptance fee does not apply to this development. Therefore, no fee is needed.

**Section 6.8.3**            *Street Acceptance Plan*

*Explanation* – The Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, the requirement for a street acceptance plan does not apply to this development. Therefore, a street acceptance plan is not needed.

**Section 6.8.4**            *Pre-Acceptance Inspection & Review by Other Town Boards*

*Explanation* – The Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the various town boards and departments do not need to conduct such inspections.

**Section 6.8.6**            *Street Acceptance - Planning Board Recommendation*

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Planning Board does not need to make any recommendation regarding street acceptance.

**Section 6.8.7**            *Street Acceptance Town/Meeting Warrant*

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, this matter does not need to be included on a warrant for town meeting consideration.

**Section 6.8.8**            *Street Acceptance/Board of Selectman Establish Roadway Layout*

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Board of Selectmen does not need to approve a roadway layout.

**Section 6.8.9**            *Approval of Street Acceptance Plans*

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore no action to approve a street acceptance plan is needed.

**Section 6.8.10**            *Street Acceptance/Town Meeting Acceptance*

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore no action is required at a Town Meeting.

**Section 6.8.11** *Street Acceptance/Recording of Street Acceptance Plan*

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. As no action will be taken by the Board of Selectmen, Planning Board, or Town Meeting, no recording is necessary.

**Section 7.9.1.e** *Use of Local Street construction standards for subdivisions of six and more lots/dwelling units.*

*Explanation* - The Applicant requests a waiver from this regulation. Although the roadway will serve eighteen dwelling units, the roadway will be private and will not conform to all of the construction standards for a *Local Street*. MORE EXPLANATION NEEDED – What standards are proposed??

**Section 7.9.4** *The minimum right of way width of any permanent private way, neighborhood, minor or secondary street will be fifty feet.*

*Explanation* – A waiver from this regulation will be needed. The roadway will be private; the applicant plans for an eighteen foot right of way to allow for some minimal future expansion of the paved area.

**Section 7.9.7.g** *Minimum Paved Roadway Width - 26' for a Local Street & 18' for a Private Way*

*Explanation* – The applicant requests a waiver from this regulation. Williamsburg Way is planned to be a one-way, Private Roadway with a pavement width of fourteen feet at the entrance increasing to sixteen foot width for the remainder. The roadway layout will be eighteen feet allowing for future expansion of the pavement from sixteen to eighteen feet.

**Section 7.10.2** *Curbs/Berms - Sloped Granite Edging (Type S-B) for a Local Street*

*Explanation* - Williamsburg Way is proposed to utilize a “country drainage” low impact design using roadside grass swales to guide stormwater flow. Curbing is not proposed along all of the edges of the Private Roadway. Where necessary for drainage purposes, cape cod or bituminous style curbing will be used.

**Section 7.13.3** *Sidewalks shall be provided along the entire frontage of the subdivision parcel along existing Town ways*

*Explanation* – The applicant requests a waiver from this regulation. The reason that no sidewalk is proposed along the property’s approximately 350’ West Street frontage is because the sidewalk would have to be located within the twenty-five (25’) no disturb portion of the buffer zone regulated by the Conservation Commission under the Town of Medway Wetlands By-Law and it would be immediately adjacent to the Certified Vernal Pool for a distance greater than 150’ (including the twenty-five (25’) foot buffer zone). Neither would be allowed by the Conservation Commission. In addition, there are no existing sidewalks along either side of West Street in the vicinity of this project.

**Section 7.19.2** *Street Trees shall be planted on each side of the street.*

**Explanation** - The applicant requests a waiver from this regulation. The applicant, in compliance with the OSRD bylaw, will prepare and submit a landscape plan for the entire project during the OSRD Definitive Plan phase.

Formal action on requests for waivers from the *Subdivision Rules and Regulations* will be addressed once the applicant applies for and the Planning and Economic Development Board acts on the Williamsburg Condominiums OSRD Definitive Plan. During the course of that review, other waivers may be identified. In acting on any waiver request, the Planning and Economic Development Board may impose conditions, safeguards and limitations in the best interest of the Town of Medway. Based on the information presently available, the waiver requests have merit and appear to be reasonable for this particular site.

**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 Williamsburg Condominiums Concept Plan OSRD. A copy of said recording must be returned to the Town Clerk and the Planning and Economic Development Board to complete the file.

**MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD**

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

\_\_\_\_\_  
Andy Rodenhiser

\_\_\_\_\_  
Cranston (Chan) Rogers

\_\_\_\_\_  
Karyl Spiller-Walsh

\_\_\_\_\_  
Thomas A. Gay

\_\_\_\_\_  
John W. Williams

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: Planning Boards of Bellingham, Franklin, Holliston, Millis, Milford, and Norfolk  
Board of Assessors  
Building Commissioner/Zoning Enforcement Officer  
Board of Health  
Board of Water/Sewer Commissioners  
Department of Public Services  
Design Review Committee  
Fire Chief  
Open Space Committee  
Police Safety Officer  
Town Administrator/Board of Selectmen  
Town Counsel  
Zoning Board of Appeals  
Greg Whelan, Broad Acres Management  
Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering

## ADULT USES

2/20/09 draft

ARTICLE To see if the Town of Medway will vote to amend the Medway Zoning Bylaw by:

1. Deleting SECTION V. USE REGULATIONS, Sub-Section G.2 (h);
2. Deleting SECTION V. USE REGULATIONS, Sub-Section I.3 (h);
3. Deleting SECTION V. USE REGULATIONS, Sub-Section J.3 (h); and
4. Adding a new item (i) to SECTION V. USE REGULATIONS, Sub-Section M.1 (2?????)as follows:

(i) “Adult Uses”, as defined herein, except as otherwise restricted, will be subject to the following dispersal, separation and design standards established to preserve the public good, public safety and neighborhood objectives and protect against the documented secondary effects of such uses:

1. 500 ft. in any direction from other establishments of such “Adult Uses,” as measured along the shortest line between any buildings housing such an adult establishment;
2. 250 ft. in any direction from residential zoned land, as measured along the shortest line between the residential zoning district boundary and any buildings housing such an adult establishment. A solid fence and 50-foot heavily vegetated buffer appropriate to the character of the area shall be provided along any residential zoning district.
3. 500 ft. in any direction from a residence, school, place of worship, day care center, or playground, as measured along the shortest line between these buildings or structures and any building housing such an adult establishment. A 50-foot heavily vegetated buffer appropriate to the character of the area shall be provided along any residential zoning district.
4. An adult establishment may be located a minimum of 200 ft. away from residential zoned land and 250 ft. away from a residence, school, place of worship, day care center or playground provided that a 100-foot heavily vegetated buffer and solid fence along the property line with any such use is provided and maintained.
5. No adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in G. L. c. 272;
6. Building designs shall be consistent in architectural style and color with other buildings in the Industrial I district;
7. Windows shall be screened to prevent public view of the interior of the premises from any public or private right-of-way or abutting property; and
8. Adult uses shall not be allowed within a building containing other uses.

Or to act in any manner relating thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD



**Medway Planning & Economic Development Board Meeting  
Tuesday, March 10, 2009  
Medway Town Hall, 155 Village Street**

PRESENT: Bob Tucker, Tom Gay, Karyl Spiller-Walsh Spiller-Walsh, Chan Rogers, Andy Rodenhiser (arrives at 7:28 p.m.)

ABSENT: None

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Gino Carlucci, PGC Associates

The meeting was called to order at 7:08 pm by Vice Chairman Bob Tucker

Bob Tucker – Andy Rodenhiser is running late and we will need to wait until he arrives to be able to do the decision on Williamsburg Condominium

**CITIZEN COMMENTS** – None

**ANR Plan for Cassidy/Hidden Acres Realty Trust**

Susy Affleck-Childs – We have received a revised ANR plan. They have addressed the items that had not been included before. They make reference to the 61A status, include the zoning district boundaries and provide the zoning district dimensional requirements.

A motion to endorse the ANR plan was made by Chan Rogers, seconded by Karyl Spiller-Walsh Spiller-Walsh. The motion was approved unanimously.

The board signed the plan dated November 13, 2008.

**Discussion with Gino Carlucci re: contract extension**

Reference memo from Susy Affleck-Childs dated 3-6-09

Susy Affleck-Childs – The Town's contract with Gino expires June 30, 2009. That contract provides for an extension. I recommend that the Planning and Economic Development board recommend that the Town Administrator extend the contract thru September 30, 2010. Gino has worked with us but also with the Industrial Development Committee, Open Space Committee, Master Plan Update Committee and the Affordable Housing Committee.

Bob Tucker – He has also been very instrumental in a number of grants the town has received.

A motion was made by Chan Rogers to recommend extension of the contract to September 30, 2010. The motion was seconded by Tom Gay. The motion was approved unanimously.

**Discussion of updating the Medway Zoning Map**

Susy Affleck-Childs – This is long overdue; it was last fully updated in 2001. This is a good time to do it as we have no zoning boundary amendments proposed for this year's town meeting.

Gino Carlucci – I have done a colored version for the master plan update.

Karyl Spiller-Walsh – John Schroeder had some ideas regarding the zoning map.

Tom Gay – If Gino Carlucci is going to go to the trouble of updating it, we should look at the coordinating of the different groups because they ultimately will be a layer. The open space map was created in a specific format and scale. We should try to get those all on the same specification.

Susy Affleck-Childs – Tom, could you help me to figure out what that standard should be?

Bob Tucker – Could we, at our next meeting, find out what DesLauriers has, and what Gino Carlucci has, and then decide which direction to go?

Chan Rogers – With the town administrative system the way it is, let's just leave it up to Susy to figure out how to take care of it. We don't need to get involved.

Susy Affleck-Childs – You may not have to approve the bill, but I would value your input and guidance.

NOTE -- Andy Rodenhiser arrives at 7:28 pm.

Andy Rodenhiser- Bellingham has a good zoning map. Let's look at the current modern systems for doing maps.

Tom Gay – We have to reach a common ground point and have an interoperable standard for multiple vendors.

### **Discussion of Draft Decision for Williamsburg Condominiums**

NOTE – Draft under review is dated March 3, 2009.

Susy Affleck-Childs – This draft reflects the changes you discussed at the last meeting and further minor clarifications I made after Paul Yorkis had reviewed it. NOTE – Susy highlighted these minor changes.

Paul Yorkis – I would like to discuss the payment in lieu of sidewalk. I have reviewed the estimate prepared by the town's consulting engineer. I disagree with adding a 25% contingency. This is not a bonding matter. Contingencies related to bonds are there so there is enough money should the applicant fail to do what they were supposed to do. That is not the case here. I think there is an assumption that everything always goes up. Things do go down. To me there is no justification for the contingency factor. We went over the number after Susy Affleck-Childs sent it to us. Their basic estimate for constructing it today we are not challenging. So our position is to go with the number less the contingency and then apply the 16.67% reduction (for the affordable units).

Tom Gay – The other way is to not put a dollar value in the decision at all, but have the payment be real world dollars at the time of the permit, at the point of the event, with no contingency, but provide for the discount.

Chan Rogers – At first blush 25% contingency is outlandish, but considering the crazy economy, who can tell?

Paul Yorkis– I cannot predict when the town of Medway will expend these funds. All I know is when the funds are due.

Andy Rodenhiser – The amount will go up or down depending on calculation at the time.

Bob Tucker – I am ok to eliminate the contingency factor. Determine the value at that time.

John Williams – I am in favor of anything that lets the town get the funds.

Andy Rodenhiser – Do we want to decide to offer an either/or option in the decision? The applicant said they did not want to actually construct sidewalks.

Bob Tucker – Leave the dollar value open until the time of payment.

Tom Gay – I don't want to do the either/or option. We have already talked about all this. I am OK with the Mass Highway standard without the contingency.

Paul Yorkis – I think there was discussion that at some point in time the board would look at this concept in a comprehensive way, and I would really encourage you to do that. And I would be happy to participate and be of assistance. I would encourage you to include Dave D'Amico in those discussions. The complexity of a private contractor doing this work is quite involved. I think there may be other things you want to explore.

Andy Rodenhiser – We would love to have input from all the people who are stakeholders to improve the process.

Tom Gay – I think we have come up with some good stuff about the way to administer donations to that fund. I am OK with discounts for affordable units and calculating the amount of sidewalk payment at the time the payment is made.

It was agreed that Susy Affleck-Childs would do the edits in the decision re: sidewalk construction.

Paul Yorkis – I would like to extend the spirit of cooperation from me and Greg.

A motion was made by Chan Rogers, seconded by Karyl Spiller-Walsh to to approve all the findings – general, affordable housing and additional special findings.

### *Discussion*

John Williams - Allow me a little grandstanding.

Chan Rogers – I would like to raise a question in an open meeting. I find it strange that an associate member is voting.

Susy Affleck-Childs – He can vote on this matter. He is filling in because Bob Tucker cannot vote as he missed two public hearings.

John Schroeder – I would like to let you know about how I feel about this.

Karyl Spiller-Walsh – I move to hear John Williams' comments.

The motion was seconded by John Williams.

The vote was 2 yes, 3 no. The motion failed.

John Williams – Isn't this part of the process?

John Williams – I withdraw my proposal

Andy Rodenhiser – Any further discussion on the findings?

The motion to approve the findings was approved. 4 yes (Rodenhiser, Gay, Spiller-Walsh and Rogers); 1 abstain (Williams).

**VOTE ON THE DECISION – INCLUDING THE CHANGES DISCUSSED TONIGHT  
REGARDING ON SIDEWALK SECTION**

A MOTION TO APPROVE THE DECISION was made by Karyl Spiller-Walsh, seconded by Chan Rogers.

John Williams – I don't want to hold up the process. There are a number of things I don't like about this. I want to ask the board if they need my vote in order for this to go through.

Susy Affleck-Childs – No.

Andy Rodenhiser – Vote your conscience. We may agree or disagree. We need to respect each other's opinion.

Bob Tucker – I don't have a problem if you want to pick apart the process but I think we need to do that in a separate discussion, not as part of a vote on this project.

Vote:

Karyl Spiller-Walsh – yes

Andy Rodenhiser – yes

Chan Rogers – yes

Tom Gay – yes

John – abstain

The Board signed the back page of the decision.

Susy Affleck-Childs – I will file with the town clerk on Wednesday.

**Preparation for Zoning Public Hearing (3-17-09)**

Susy Affleck-Childs – I have prepared sample handouts for two of the more controversial proposals - adult uses and gas stations in Commercial V.

Phil Giangarra – What is the difference between item 2 and 4 in the adult uses criteria? Let me draw some pictures to see if it makes some sense to me.

NOTE Gino Carlucci cannot attend the public hearing on March 17<sup>th</sup> until late.

Susy Affleck-Childs – We will need some presentations on these for the public hearing.

Karyl Spiller-Walsh – I wish we had some visuals to be able to explain the gas station proposal.

Andy Rodenhiser – They (the Avellinos) need to provide testimony that 8 pumps are needed. I want to hear the testimony one way or another and have somebody speak to support and provide evidence to support their position.

Tom Gay – Is this the only spot in the district where it would happen?

Susy Affleck-Childs – No, it could happen anywhere in the zoning district.

Karyl Spiller-Walsh – I have looked at this in much detail – We have talked about a country scale and a small intersection. – We thought 4 pumps could fit – that it would be analogous to the feeling of Medway. Now they are escalating the size. It hasn't solved our problem as to how it would fit on that site.

Andy Rodenhiser – We need to look at the whole district.

Tom Gay – We have written this amendment to allow for a maximum of 8 pumps.

Bob Tucker – We have also reduced the minimum building size as well.

Karyl Spiller-Walsh – When we created the size minimum of 4200 square feet for the retail space, the gas part was going to be more of an accessory use. This is now more equal uses. Who is to say that Medway Gardens might now consider relocating their garden center someplace else and just using the site for the gas/convenience? The emphasis is now on the gasoline pumps.

Andy Rodenhiser – We need to look at this as a district and maintain or retain control.

Phil Giangarra – For the hearing next week could you print out a map of Commercial District V and use that as a handout?

Susy Affleck-Childs – Yes.

John Williams – I thought we were bending over backwards for somebody for a by right use.

Andy Rodenhiser – NO this is by special permit only.

Chan Rogers – Who is going to provide the explanation for each of these at the public hearing?

Susy Affleck-Childs – Perhaps each board member could be a lead person one article?

Chan Rogers – The presentation should include more info on what a special permit is and what powers it gives the Planning Board. We should address the store hours too.

Karyl Spiller-Walsh – I want to comment on the special permit process. When we say we have control, that really isn't the case. The applicant presents to us their first tier presentation of the site and the architecture and uses, and it is usually the closest to their idea that is least expensive or least encumbering. We start where the applicant wants to start. It is a refinement process. It is always a compromise. Don't think the special permit is a golden halo. It is never a perfect solution.

Andy Rodenhiser – To build on what Karyl has said, there is a set of criteria they need to demonstrate that they have met. If they can prove that they have met the criteria, then they have grounds for an appeal of we were to deny the special permit. It is a dance.

John Williams – I think, as a board, we have the power to exercise a little more oversight than we have been.

Andy Rodenhiser – The first application that comes in is usually terrible.

Karyl Spiller-Walsh – Then you move toward what is acceptable.

Susy Affleck-Childs - You can push the bylaw with special permits.

Andy Rodenhiser- Industry standards may not meet our community standards. Findings, we make reference to them, we include the reasons why we found the way we did so it can be supported when we go court. This is why we found what we found. We have to write defensible decisions, even if that takes a lot of time.

Phil Giangarra - Handouts on the infill proposal should be provided for next week's meeting. Could you spend some time talking about the infill housing?

Andy Rodenhiser – There are some parcels of land, for the purposes of affordable housing, that could be developed under a special permit with a whole bunch of criteria. There are about 15 parcels in town. These parcels are presently unbuildable. This change would make them viable for affordable housing.

Bob Tucker – Some of the lots may not be buildable for other reasons.

John Williams – Would those taxes change?

Bob Tucker – The value would change once they got a special permit.

Tom Gay – The same rate, but the value of the land would change.

Gino Carlucci – If it doesn't meet zoning standards it would be assessed very low.

Gino Carlucci – If it is not by right, the assessors can't look at potential use, they can only look at actual use.

Andy Rodenhiser – Assessment is based on actual use.

Susy Affleck-Childs - Does anyone want to be a point person next week?

Karyl Spiller-Walsh – I want to jump in on both sides.

Andy Rodenhiser – Between Bob Tucker and me, we will work together to split these up.

### ***Meeting Minutes***

A motion was made by Bob Tucker, seconded by Chan Rogers to approve the minutes for the Feb. 10, 23 and 13, 2009 meetings. The motion was approved unanimously.

### **2 Ardmore Circle – Request for a lot release**

A motion was made by Bob Tucker, and seconded by Karyl Spiller-Walsh to execute the lot release. The motion was approved unanimously.

### **Reports**

Andy Rodenhiser - We had our initial meeting of the new Economic Development Committee last week. Every person agreed to submit themselves to the process of being approved to be appointed. There are some really bright people and a lot of energy and a good initial meeting. And new people. They want to look at what our existing businesses need – what tools could be used to help?

Chan Rogers – Route 109 – Looks good. The governor will release the \$300,000 if he gets a letter from Congressman Jim McGovern, and that letter was prepared yesterday.

Phil Giangarra – How about the big money for the construction?

Chan Rogers – You have to have the design first before you can get on the list. The term shovel ready means the design is already done and complete, and we are not anywhere near that.

Susy Affleck-Childs – The Organic Farm Review Team has met twice.

Bob Tucker – We also felt the town should establish an organic farm liaison committee to provide some oversight .

Karyl Spiller-Walsh – Any proposal to rear livestock yet?

Bob Tucker – Not now.

John Williams – What are they going to do for a well?

Bob Tucker – I would guess that there is a well on the site. They will probably look at town water ultimately.

Susy Affleck-Childs – WE received one proposal for 9 Walker Street from South Shore Habitat for Humanity.

Andy Rodenhiser – I would like to bring the board up to speed as well on 2B Oak Street. After the 2-24 town meeting, the folks from the Historical Commission and Dave D’Amico were talking about going in and assessing 2B Oak Street. I went up there and met with Dan Hooper from the Design Review Committee. He served on CPC from the Planning Board in the past. He wants a good conclusion for this site. At one of the discussions there was a talk of Camp Sunshine proposing a building at the back of the property. In that discussion, the use of the property from a private or public usage was discussed. Karyl Spiller-Walsh and Dan have talked. Karyl has prepared a concept plan of what has been discussed relative to 2B Oak Street as a property for Historical Commission.

Karyl Spiller-Walsh – The Thayer house is small, but historically interesting. If you keep on the site, what will its function be? If we opened up the house and simplified the interior, and then put a connector onto the back to a new meeting facility, we could maintain the integrity of the historic house with a function room on the back for meetings that could be leased for occasions – with a giant stone patio – there are monies that could cover the construction of a not so small room on the back.

Chan Rogers – The senior center with the new addition has quite a bit of space for meetings.

Tom Gay – We just went to a wedding in Georgia in an historical building with an old barn. They possibly run 100 weddings a year. It was beautiful.

Chan Rogers – Unfortunately the mentality re: use of public facilities doesn’t make it convenient for private weddings

Andy Rodenhiser – I think the opportunity might change if there was something nice.

Chan Rogers – Have you ever been in Medfield’s new senior center? Much more grandiose than ours, and they rent it to private parties for private events.

Tom Gay – I think it is because of a lack of facility to do it in here in Medway. As nice as the senior center was, it is not a place that will lend itself to that kind of use. But an addition to an historic facility that looks like an old barn with nice outdoors space, I think you could attract nice events.

Karyl Spiller-Walsh – With tents outside . . . stone walls . . . view of the pond.

Andy Rodenhiser – I could see an Oktoberfest on the grounds.

Tom Gay- Who will come up with the money to do this? CPC is not going to run a facility. The town is not going to finance that kind of facility to be constructed.

Karyl Spiller-Walsh – One thing this does, it gives the Thayer House some purpose in connection with something else.

Phil Giangarra – Camp Sunshine apparently has a benefactor that is willing to put some money into the site. That building could be built for very little town money. They think they can do it for 0 town money.

Andy Rodenhiser – There hasn’t been any leadership . . .

Karyl Spiller-Walsh – This is just a sketch. It helps people envision the possibility. It gives the house a job.

Andy Rodenhiser – Commercial kitchen, handicap bathrooms, and whatever is needed for Camp Sunshine.

Bob Tucker – They were looking at the back portion of the lot. There are multiple functions that can take place there.

Andy Rodenhiser – I think Camp Sunshine wants to preserve the meadow and stay out of the way.

Andy Rodenhiser – Does anybody have objection or feedback?

Chan Rogers – My gut feeling about the selectmen is “forget about it”.

Chan Rogers – The Council on Aging had a meeting today regarding the use of its facility.

Susy Affleck-Childs – I would be interested in knowing more about that.

Tom Gay – We are talking about two different kinds of facilities.

John Williams – You would need some sort of economic engine or viable entity there supporting it most of the time. I don’t see the citizens of Medway putting that together.

Karyl Spiller-Walsh – I understand the CPC does have funds.

Tom Gay – I think it would have to be developed for a specific purpose in mind.

Bob Tucker – There are very specific requirements on what CPC funds can and cannot be spent on.

Karyl Spiller-Walsh - The Thayer house needs to be rehabbed. They are going to have to put money into it. As is, it has very limited uses.

John Williams – The Holliston town hall has been used by Medway folks/groups. The Medfield space was built as a senior center and is rented out.

Karyl Spiller-Walsh – This is a totally unique site – river, bridge, historic house, and it is not duplicated anywhere, and it lends itself to this. A not so giant leasable space overlooking the pond with a view and a vista on the water – I would rent it for a party for me. – It would be an ideal for small weddings or a meeting place.

Andy Rodenhiser – The effort is noble and you have our support.

Karyl Spiller-Walsh- I am just asking for your thoughts and feedback.

### **Discussion of Master Plan Update**

Susy Affleck-Childs – I am suggesting that you move the public hearing to March 31<sup>st</sup> and cancel the March 24<sup>th</sup> meeting.

Tom Gay - I will be gone from 3/28 to 4/8

Susy Affleck-Childs – How much buy in do you want to have?

John Williams – I am concerned about how much of the plan comes from the survey vs. individual people's ideas on the committee.

Chan Rogers – I think you ought to look at holding this off to a fall town meeting.

Karyl Spiller-Walsh – Let's separate the facts from the interpretations.

Andy Rodenhiser – If you don't know the participants and the work that is going on, you need to see what is happening and its credibility. I think you need to know the people who are working on this thing, and that is part of their character. They have worked hard to not be subjective.

Karyl Spiller-Walsh – It will be apparent when you read it. As we look at the results we will look at the numbers that came back, and the interpretations of those numbers which turned into policies for the future of Medway. It will be apparent as we read it.

Andy Rodenhiser – I want you to be careful what you have as your own beliefs about a process that has been very rigorous without you having had any input or involvement in that process.

John Williams – I just want to ensure transparency. There were sections of the survey that they could draw some opinions from. I wanted them to reach in and be specific as to where the goals came from.

Andy Rodenhiser – You can read the surveys today.

John Williams – You have to talk about a goal and say how it became a goal. Whose view, was it drawn from the survey data. I thought they could have done a better job of defining where the goals came from.

Andy Rodenhiser – I guess I count on the survey results, and the people who are doing the interpretation of those survey results, as well as comments from the public. As a group of people that have been working on this they represent a pretty wide association of past groups and a very good knowledge of Medway. They are taking data and comments and developing trends, and seeing where it is going. They have tried to articulate that in Jim's presentations.

John Williams – My concern is whether the goals tie back to the survey data.

Bob Tucker – Jim's presentation was very big picture.

Chan Rogers – Don't we have to fulfill their interests?

Bob Tucker - Let's start with March 31<sup>st</sup> and see how many sections we can go thru in an evening.

Andy Rodenhiser – John, would you really reach out to Jim so there isn't a bomb being dropped on him?

**Other Business**

Chan Rogers? – Why are we having John comment so much on this stuff. He is an associate member.

John Williams – I think we should have a coffee, you and I.

Chan Rogers – Knowing there is going to be a 4 to 1 vote, why do we spend time talking. All of our time is gratis. If a vote is going to be 4 to 1, I think 20 minutes is plenty.

Andy Rodenhiser – If that happens, then make a motion to call the question, and we will see what people want to do.

Chan Rogers – I feel that sooner or later he is going to be on the board and we are going to discuss some of these things. I have been thru several master plans. They have never been a consensus.

John Williams – Who asked for consensus?

Chan Rogers – I want to understand his perspective. I feel some of it was naïveté.

Karyl Spiller-Walsh – John was responding to a discussion on master plan issues. It brought up a lot of questions. At what point are they facts, and at what point are they interpretations that they ran with? These things have a huge impact on the progress of the town and the bylaws. What do we allow? What don't we want to see? Things were grey and fuzzy. There were questions John had about what was being discussed.

Andy Rodenhiser – If John and Chan want to get together and talk privately about philosophical matters, that is fine. But if you get 3-4 of us together, we can't do that.

Chan Rogers – We are elected people and we can't have a discussion without it being recorded.

Andy Rodenhiser – Or posted. We need to respect John's opinion.

Chan Rogers – I respect his opinion if he is putting in time. You know I don't mind being blunt

Andy Rodenhiser – As chair I want to encourage debate.

Chan Rogers – You have a problem of being chairman in that you have to accommodate everybody on the board.

Andy Rodenhiser – I want to keep it fair,

Chan Rogers – Re the master plan, it is never going to be a full consensus. It is not a fixed document. It is a general guideline.

Karyl Spiller-Walsh – It is a consensus of all the population.

Bob Tucker – Of the people who responded to the survey.

John Williams – To clarify what I gleaned from our meeting. There are 2 things. There was a kind of generality of what the points were and no specific views of the survey data. What were the general themes from the survey data? That is one piece. I put that in my email to Susy.

Then we have all the people that are involved that have ideas that they want to set as goals. I think you owe the readers the transparency to state whether the goals came from the data or from the people involved.

Andy Rodenhiser – I am certain I am going to get that. If you look at the last master plan, you will see that.

John Williams – If I read a goal, I want to know where it came from.

Andy Rodenhiser – If we are going to spend this kind of time on a subject, then go to these meetings, and make sure about the e-mail you sent Susy Affleck-Childs. If they come here with a document that doesn't meet their expectations, share your perspective so they get a flavor of what you want.

John Williams – I was under the impression they were going to forward this to us beforehand.

Susy Affleck-Childs – They are. That is why I am suggesting we put it off a week to give us all more time to review.

Tom Gay – Are we canceling the 24<sup>th</sup> and going to the 31<sup>st</sup>?

AGREED.

Andy Rodenhiser – Then we can look at it some more at our meeting on April 14<sup>th</sup> and reserve out April 21<sup>st</sup> and April 28<sup>th</sup> as well

A motion was made by Chan Rogers, seconded by Bob Tucker Motion to adjourn. The motion passed unanimously.

The meeting was adjourned at 10:08 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

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

Revised DRAFT – March 3, 2009  
5:02 p.m.

**PLANNING & ECONOMIC DEVELOPMENT BOARD DECISION**  
**Williamsburg Condominium**  
**Open Space Residential Development (OSRD) Special Permit –**  
**Open Space Residential Development (OSRD) Concept Plan –**  
**Affordable Housing Special Permit -**

Name/Address of Applicant: Broad Acres Management Trust  
Greg Whelan, Trustee  
1352 West Main Street  
Millis, MA 02054

Name/Address of Property Owner: Broad Acres Management Trust  
Greg Whelan, Trustee  
1352 West Main Street  
Millis, MA 02054

Engineer: Faist Engineering, Inc.  
600 Charlton Street  
Southbridge, MA 01550

Land Surveyor: O’Driscoll Land Surveying, Co.  
46 Cottage Street  
Medway, MA 02053

Architect: Michael Blanchette  
49 Main Street  
Medway, MA 02053

Landscape Architect: TO DESIGN, LLC  
114 West Main Street, Suite 201  
New Britain, CT.

Plan Dated: August 20, 2008, last revised January 28, 2009

Location: 66A, 70, 70R and 72 West Street

Assessors’ Reference Map 2, Parcels 7B, 6-1-B, 6-1-2, and 6-1-3.

Zoning District: AR-II

Purpose: To construct an Open Space Residential Development (OSRD) with eighteen (18) dwelling units (*including 3 affordable dwelling units*) on a 13.86 acre site and permanently preserve 8.7 acres as open space, pursuant to SECTION V. Sub-Sections T. and X. of the Medway Zoning Bylaw.

**PROJECT DESCRIPTION**

The subject property, a 13.86 acre site, is located at 66A, 70, 70R and 72 West Street in the Agricultural Residential II zoning district. The site is comprised of four parcels on the north side of West Street, west of Fisher Street, adjacent to the Medway Veterinary Clinic and across from Holbrook Street. The property is owned by Broad Acres Management Trust of Millis, MA. The site includes wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls.

The applicant proposes to develop a condominium community to be known as Williamsburg Condominiums consisting of nine duplex buildings for a total of eighteen residential dwelling units including three affordable dwelling units. Each dwelling unit has room for four off-street parking spaces. The three affordable dwelling units will be considered to be low or moderate income units which shall comply with the requirements for inclusion on the Subsidized Housing Inventory prepared by the Department of Housing and Community Development pursuant to M.G.L., chapter 40B, section 20-23 (the “affordable housing units”).

Site improvements include construction of an approximately 1,134 foot long one-way sixteen foot wide private road/driveway, approximately 1,200 linear feet of interior sidewalks/pathways, connection to Town sewer and water services, associated stormwater drainage facilities and 8.7 acres of permanently preserved open space to be accessible to the public with three designated visitor parking spaces. An additional four guest on-street parking spaces are also provided. Site access and egress will be from West Street.

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

- Open Space Parcel A - .97 acres including a vernal pool (*to be owned by the Williamsburg Condominiums Trust*)
- Open Space Parcel B – 7.68 acres
- Developable Area Parcel - 5.21 acres includes all 18 dwelling units, roadway, sidewalks and stormwater facilities (*to be owned by the Williamsburg Condominiums Trust*)

## **PROCEDURAL BACKGROUND**

In accordance with the provisions of Section V., Sub-Section T. and X. of the Medway Zoning Bylaw and Section 9 of Chapter 40A of the Massachusetts General Laws, an application dated August 22, 2008 for an Open Space Residential Development (OSRD) special permit was filed by Broad Acres Management Trust with the Planning and Economic Development Board and the Town Clerk on August 22, 2008. The companion application for an Affordable Housing Special Permit was submitted on 9-23-08.

The public hearing was scheduled to begin on September 23, 2008, at which time comments would be received from the general public, municipal boards and/or departments and the Planning and Economic Development Board’s consultants. Notices of the public hearing were published in the *Milford Daily News* on September 9 & 15, 2008. Notices were sent by certified mail to abutters and the Planning Boards of all adjacent towns on September 4, 2008.

On September 3, 2008, a transmittal memo from the Planning and Economic Development 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, Open Space Committee, Police Department, and Water/Sewer Department, and the Town's consulting planner. The memo noted that a public hearing was scheduled to begin on September 23, 2008 and requested comments by that date.

The Planning and Economic Development Board convened the public hearing in the Sanford Room of Town Hall on September 23, 2008, and continued it to October 28, December 9, January 13, January 27, February 10, February 13 and February 23, 2009 at which time the public hearing was closed. At the public hearing, comments were received from the general public, municipal boards and/or departments, PGC Associates (the Town's planning consultant), 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 Special Permit were present at all sessions or have provided a certification pursuant to General Laws c. 39 section 23D.

All matters of record were available for public review in the office of the Planning and Economic Development Board and the Town Clerk for all times relevant thereto.

**EXHIBITS – PLANS and DOCUMENTS** - The following exhibits were submitted for the Board's review and deliberations. The application package consisted of:

- an application and related materials for an OSRD and affordable housing special permits;
- a plan entitled "Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying of Medway, MA.
- OSRD Project Narrative prepared by Paul Yorkis, Patriot Real Estate
- Development Impact Report dated August 22, 2008 prepared by Faist Engineering.
- Certified list of abutters within 300 feet of the site.
- Request for waivers from the *Subdivision Rules and Regulations, dated 8-22-08.*
- Proposed building elevations – Units A, B, C. No date or source specified.

Subsequent to the application package, the applicant submitted the following additional items.

- Revised "Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying of Medway,

MA. – Revised September 15, 2008, October 14, 2008, November 24, 2008, January 28, 2009 and February 23, 2009.

- Letter from W. Phillips Barlow, To Design, LLC dated 9-22-08.
- Letter from David Faist, Faist Engineering, dated 10-14-08 in response to the 9-23-08 comment letter from Medway Police Sergeant Jeffrey Watson and to discussion at the 9-23-08 public hearing.
- Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
- Revised architectural elevations Units A-F, undated, source unspecified, received December 15, 2008.
- Revised architectural elevations Units A-F, dated January 26, 2009, prepared by Michael Blanchette, architect.
- Letter dated January 13, 2009 from Paul Yorkis in response to the 1-8-09 review letter from the Medway Design Review Committee
- Revised request for waivers from the *Subdivision Rules and Regulations*, dated 2-20-09 and 2-12-09.

#### **Other Information/Evidence**

- Medway ZBA Comprehensive Permit Decision, June 16, 2005 for subject property
- West Haven Estates (40B Project) Site Plan Layout – Drawing C-1 by Faist Engineering, May 5, 200
- Certifications pursuant to General Laws, c. 39, section 23D from Planning and Economic Development Board member Tom Gay for the 9-23-08 public hearing and from Planning and Economic Development Board Associate Member John Williams for 1-13-09 public hearing.

#### **Review Letters**

Gino Carlucci, PGC Associates (Medway Planning Consultant) – Review letters dated August 25, September 18, October 24, 2008 and January 8, 2009

Sgt. Jeffrey Watson, Medway Police Department – Review memo dated September 23, 2008

Medway Open Space Committee – Review letter dated October 29, 2008

Medway Design Review Committee - Review letter dated January 8, 2009

Fire Chief Paul Trufant – Review memo dated February 6, 2009.

DPS Director Dave D'Amico – Email memo dated 2-11-09 regarding sidewalk construction.

## **PUBLIC HEARING TESTIMONY**

### **Professional Commentary**

David Faist, Faist Engineering, Southbridge, MA  
Gino Carlucci, PGC Associates, Franklin, MA

### **Applicant Comments**

Greg and Mary Lou Whelan  
Paul Yorkis, Patriot Real Estate

### **Citizen Comments**

Jeff Swenson, 68 West Street  
Rhea Berry, 68 West Street  
Jim Wickis, 74 West Street

### **Municipal Boards/Committees**

Affordable Housing Committee  
Conservation Commission

## **FINDINGS**

To make its findings, decision and conditions of approval, the Planning and Economic Development Board carefully reviewed the proposed plan, dated August 8, 2008, as revised from time to time and last revised February 23, 2009 and all the materials, studies and documentation presented by the applicant, the Board's consultants, letters and testimony 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 and Affordable Housing provisions 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

A. 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 Planning and Economic Development Board, on \_\_\_\_\_, made the following **GENERAL FINDINGS**, as conditioned by this decision, regarding this application in accordance with Section V. Sub-Section T. Open Space Residential Development of the Zoning Bylaw:

1. Purpose and Intent – The Planning and Economic Development Board finds that the proposed Williamsburg Condominium OSRD as conditioned by this decision meets the purpose and intent of Subsection T.1 of the Zoning Bylaw in that the development:
  - a) Uses flexibility and creativity in its design as a more compact development;
  - b) Protects community water supplies by protecting the riparian zone of Hopping Brook;
  - c) Minimizes disturbance on the site by limiting it to less than 38%.
  - d) Permanently preserves 8.65 acres of mostly sensitive lands;

- e) Uses land more efficiently in its compact design;
  - f) Furthers the goals of the Medway Master Plan by and Open Space Plan by preserving open space along a waterway;
  - g) Facilitates construction and maintenance of housing, streets, utilities and public service by developing the site in a more compact style and providing private maintenance of roadways and infrastructure.
  - h) Preserves and enhances community character by preserving open space and diversifying the housing stock;
  - i) Does not protect agricultural land because none is present on or adjacent to the site;
  - j) Protects real property values by providing buffers to adjacent property;
  - k) Provides housing types (duplexes) that increase the diversity of the community's housing stock.
2. Site Eligibility – The Planning and Economic Development Board finds that the site meets the eligibility requirements in that it is located in the AR-II district, consists of contiguous parcels, and is presented as a condominium development.
  3. Permit Required – The Planning and Economic Development Board finds that an application for a special permit for an OSRD was submitted by the applicant on August 22, 2008.
  4. Pre-Application – The Planning and Economic Development Board finds that the requirements of Subsection T. 4 are met. An informal, pre-application meeting occurred at the July 22, 2008 Planning and Economic Development Board meeting.
  5. Four-Step Design Process – The Planning and Economic Development 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 W. Phillips Barlow of TO Design, LLC of New Britain, CT was retained to function as part of the applicant's development team. Mr. Barlow is registered landscape architect in the Commonwealth of Massachusetts. The four-step design process is documented in that a Registered Landscape Architect was part of the design team and a Site Context and Analysis Plan identified the sensitive natural resources on the site. House and road locations were then kept away from the resources. Step 4 was not necessary in this case because it is condominium development with no lot lines.
  6. Procedures – The Planning and Economic Development 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 planning consultant.

7. Maximum Number of Dwelling Units - Applying the Yield Plan formula as specified in Sub-Section T.7 to determine the maximum possible number of OSRD dwelling units for this site results in a maximum of 17 units. However, since three affordable units are being provided pursuant to SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing, the applicant is entitled to three additional market rate units (to offset the affordable units) bringing the maximum possible number of dwelling units to 20. The applicant proposes to construct nine (9) duplex buildings for a total of eighteen (18) dwelling units on one (1) lot. The Planning and Economic Development Board finds that the construction of eighteen (18) dwelling units complies with this requirement and the configuration of the 9 duplex units is appropriate for the site since it minimizes disturbance and preserves views of and access to the open space areas.
8. Reduction of Dimensional Requirements – The Planning and Economic Development Board finds that the development meets the Dimensional Requirements as specified in Subsection T. 8 of the bylaw. Items (a) through (d) are not applicable to this project because no subdivision lots are created. The buildings are a minimum of 30 feet apart and landscaped buffers are provided between them. The proposed garages meet the requirement that no more than 50% of the garage doors shall face the street from which the unit is accessed. The requirement that garage doors that face the street shall be set back a minimum of 5 feet from the front façade of the principle building is met except for a maximum of two Type F one-story building style units. The Planning and Economic Development Board as conditioned herein (Condition 10. c) hereby waives this requirement only for those specified units in order to increase the variety of housing types that may be offered within the development because the constraints of the site would not accommodate the Type F one-story units within the proposed site development configuration.
9. Open Space Requirements – Subject to conditions noted below, the Planning and Economic Development Board finds that the proposed Williamsburg Condominiums complies with the Open Space Requirements as specified in Subsection T. 9. The minimum total open space required for this site is 6.93 acres which is 50% of the total site area of (13.86 acres). According to the plan by Faist Engineering, the applicant proposes to designate two parcels of 7.68 and .97 acres for a total of 8.65 acres as open space. The planned open space area constitutes 61.96% of the tract's total area.
  - a) *The percentage of the minimum required open space that is a resource area as defined and regulated by the Medway General Wetlands Protection Bylaw shall not exceed the percentage of the total site that is a resource area; provided however, that the applicant may include a greater percentage of resource areas in any proposed open space beyond the minimum required.*

Of the entire 13.86 acre site, 3.19 acres (22.85%) is comprised of wetlands, flood plain and riverfront area. Therefore, no more than 22.85% (1.58 acres) of the minimum required open space of 6.93 acres can consist of these resource areas, leaving a requirement for 5.35 acres of uplands. The development includes 5.66 acres of uplands.

- b) *The open space shall be contiguous.*

The open space is contiguous across the site driveway.

- c) *The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, parks, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes.*

The open space is suitable for wildlife habitat, conservation, outdoor education and passive recreation.

*The open space shall be accessible to the public. The Planning Board may require a minimum number of parking spaces to facilitate such public access.*

Open Space Parcel B is accessible to the public and 4-3 parking spaces for public use are provided. Open Space Parcel A is available to the residents of the condominium development.

- d) *The Planning Board also encourages the use of open space to provide active and passive recreation in the form of commons, parks and playgrounds to serve the needs of the development and surrounding neighborhoods.*

~~Open Space~~ Parcel C A may will include a small playground for use by the residents of the Williamsburg Condominium development.

- e) *Certain items shall not qualify toward the minimum open space area:*

None of the provided open space consists of any of the excluded areas of surface and subsurface stormwater management and wastewater treatment facilities, utility easements, land within 15 feet of a dwelling unit, a community building or median strips or landscaped areas of parking lots.

- f) *Ownership of Open Space*

The open space will be owned by the Town of Medway and/or the Williamsburg Condominium Trust.

- 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.*

The Planning and Economic Development Board approves the two open space parcels as depicted in the plans.

10. General Design Standards – Subject to the conditions noted below, the Planning and Economic Development Board finds that the proposed Williamsburg Condominiums OSRD complies with the General Design Standards of Subsection T. 10 as follows:

- a) *The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.*

The Planning and Economic Development Board finds that this standard is met.

- b) *Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.*

The Planning and Economic Development Board finds that this standard is met.

- c) *The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.*

The Planning and Economic Development Board finds that this standard is met.

- 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.*

The Planning and Economic Development Board finds that this standard is met.

- e) *The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.*

Subject to the Condition # 8 a) herein regarding relocating and rebuilding existing stone walls, the Planning and Economic Development Board finds that this standard is met.

- f) *Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.*

Since the development consists of nine two-family/duplex buildings, the Planning and Economic Development Board finds that this standard is met.

- g) *Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning Board.*

The Planning and Economic Development Board approves the use of shared private driveways for the dwelling units.

- h) *Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space.*

Since twelve of the proposed eighteen units have direct access to Open Space Parcel B. and the remaining six have easy access to it, the Planning and Economic Development Board finds that this standard is met.

- i) *A fifteen foot (15') wide visual buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, acceptable to the Planning Board, shall be located along the perimeter of the OSRD tract, unless a reduction is otherwise authorized by the Planning Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements.*

The 15' wide buffer is provided so the Planning and Economic Development Board finds that this standard is met.

B. 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 Planning and Economic Development Board, on \_\_\_\_\_, made the following **AFFORDABLE HOUSING FINDINGS** regarding this application in accordance with Section V. USE REGULATIONS, Sub-Section X. Affordable Housing of the Medway Zoning Bylaw. The Planning and Economic Development Board finds that the Williamsburg Condominiums OSRD, as conditioned by this decision, complies with the Affordable Housing Requirements of Sub-Section X. as follows:

1. The plan includes the construction of three affordable dwelling units on the subject site. As the total number of dwelling units is eighteen, this meets the requirement that at least 15% of the dwelling units in a multiple unit residential development are affordable.
2. Siting of affordable housing units – Subject to the provisions of Condition # 6b, the Planning and Economic Development Board finds that the affordable units are suitably sited within the development.
3. Minimum design and construction standards – Subject to the provisions of Condition # 6g, the Planning and Economic Development Board finds that these standards are met.
4. One market rate bonus unit is authorized.

C. 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 Planning and Economic Development Board, on \_\_\_\_\_, made the following **ADDITIONAL FINDINGS** regarding this application.

1. The construction of sidewalks along the West Street frontage of this development is not practical due to the location of a certified vernal pool on Open Space Parcel A.
2. In June 2005, the applicant received a comprehensive permit from the Medway Zoning Board of Appeals for the same parcel of property. To avoid having two inconsistent development permits on the same property, the applicant has agreed to voluntarily withdraw his chapter 40B permit upon approval of the OSRD Definitive Plan. This proposal for an 18 unit OSRD project is an appropriate alternative to the previously approved 40B development for this same site because it provides open space to the Town, its impact on the sensitive natural resources of the site is reduced, and the project still produces three affordable housing units.

**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*. Formal action on the requests for waivers will be addressed once the applicant submits the OSRD Definitive Plan and the Planning and Economic Development Board acts on that submittal. During the course of that review, the need for other waivers may be identified. In acting on any waiver request, the Planning and Economic Development Board may impose conditions, safeguards and limitations in the best interest of the Town of Medway. Based on the information presently available, the Planning and Economic Development Board provides the following guidance regarding the waiver requests. In reviewing and acting on waiver requests, the Board considers the project as a whole, including conditions and other requested waivers, in order to achieve the purposes of the Zoning Bylaw.

The following list includes the regulations from which waivers have been requested and one additional regulation from which a waiver needs to be considered.

**Section 5.7.19**                      **Proposed Layout of Electric, Telecomm, Gas, & Cable  
TV Utility Lines is to**                      **be shown on the definitive plan.**

*Explanation* –The applicant requests a waiver from this regulation as it is not possible to show these locations on the definitive plan. NSTAR is the utility in the Town of Medway that prepares the initial design for underground utilities for electric, phone, and cable service; Verizon and Comcast follow the NSTAR design. NSTAR does not begin the

design process until it receives three (3) copies of the endorsed plans. The underground utility services will be shown on the as-built plans.

*Guidance* – Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.6.3                      Partial Bond Release – The Board shall not grant a partial release from such security for the partial completion of improvements until certain items are installed, inspected and approved by the Board or its agent.**

*Explanation* – Applicant requests a waiver from this regulation as Williamsburg Way will be a Private Roadway when constructed.

*Guidance* – The Board is not inclined to grant this waiver. The future OSRD Definitive Plan decision will specify minimum construction work to be completed before any performance guarantee is adjusted.

**Section 6.8.1                      Street Acceptance: Legal Description, Deeds, & Easements**

*Explanation* – Applicant requests a waiver from this regulation as Williamsburg Way will be a Private Roadway when constructed and therefore these items are not needed.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.2                      Street Acceptance/Infrastructure Acceptance Fee**

*Explanation* – Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed, the Town will not be accepting the road as a public way and therefore, the requirement for a street acceptance fee does not apply to this development. Therefore, no fee is needed.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.3                      Street Acceptance Plan**

*Explanation* – The Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, the requirement for a street acceptance plan does not apply to this development. Therefore, a street acceptance plan is not needed.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.4                      Pre-Acceptance Inspection & Review by Other Town Boards**

*Explanation* – The Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development.

Therefore, the various town boards and departments do not need to conduct such inspections.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.6                      Street Acceptance - Planning Board Recommendation**

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Planning Board does not need to make any recommendation regarding street acceptance.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.7                      Street Acceptance Town/Meeting Warrant**

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, this matter does not need to be included on a warrant for town meeting consideration.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.8                      Street Acceptance/Board of Selectman Establish Roadway Layout**

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Board of Selectmen does not need to approve a roadway layout.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.9                      Approval of Street Acceptance Plans**

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore no action to approve a street acceptance plan is needed.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.10                     Street Acceptance/Town Meeting Acceptance**

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting

this roadway as a public way, this requirement does not apply to this development. Therefore no action is required at a Town Meeting.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 6.8.11 Street Acceptance/Recording of Street Acceptance Plan**

*Explanation* – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. As no action will be taken by the Board of Selectmen, Planning Board, or Town Meeting, no recording is necessary.

*Guidance* - Based on the information presently available, this waiver request has merit and appears to be reasonable for this particular site.

**Section 7.9.1.e Use of Local Street construction standards for subdivisions of six and more lots/dwelling units.**

*Explanation* - The Applicant requests a waiver from this regulation. Although the roadway will serve eighteen dwelling units, the roadway will be private and will not conform to all of the construction standards for a *Local Street*.

*Guidance* - Based on the information that has been provided, the Planning and Economic Development Board cannot provide any guidance to the applicant on this waiver request. Although the applicant has requested that the Town's Local Street construction standards not apply to this development, the applicant has not specified what construction standards are proposed instead.

**Section 7.9.4 The minimum right of way width of any permanent private way, neighborhood, minor or secondary street will be fifty feet.**

*Explanation* – A waiver from this regulation will be needed. The roadway will be a permanent private way to be owned by the Condominium Association. However, because the roadway is planned to be one way only and sixteen feet wide, the applicant plans for only an eighteen foot right of way to allow for some minimal future expansion of the paved area if needed.

*Guidance* - Based on the information presently available, this waiver has merit and appears to be reasonable for this particular site.

**Section 7.9.7.g Minimum Paved Roadway Width - 26' for a Local Street & 18' for a Private Way**

*Explanation* – The applicant requests a waiver from this regulation. Williamsburg Way is planned to be a one-way, Private Roadway with a pavement width of fourteen feet at the entrance increasing to sixteen foot width for the remainder. The roadway layout will be eighteen feet allowing for future expansion of the pavement from sixteen to eighteen feet.



**CONDITIONS OF APPROVAL** – The following conditions shall be binding upon the applicant and its assigns or successors. Failure to adhere to these conditions shall be cause for the Planning and Economic Development Board to hold a public hearing in order to determine whether the Special Permit shall be revoked or whether the violation warrants any other action relative thereto. The Town of Medway may elect to enforce compliance with this Special Permit using any and all powers available to it under the law.

1. **Limitations** - Notwithstanding any future amendment of the Medway Zoning Bylaw, MGL c. 40A, or any other legislative act:

a) The maximum number of dwelling units to be constructed under this Special Permit shall be eighteen (18). All three (3) affordable units shall have 3 bedrooms.

b) The tract(s) of land on which this OSRD is to be located shall not be altered or used except:

- 1) as granted by this Special Permit;
- 2) as shown on the Williamsburg Condominiums Special Permit Concept Plans OSRD, dated August 20, 2008, last revised January 29, 2009 to be modified and recorded as referenced herein; and
- 3) in accordance with subsequent approved plans or amendments to this Special Permit.

c) The entire tract of land and buildings to be constructed shall not be used, sold, transferred or leased except in conformity with this Special Permit.

2. **OSRD Concept Plan Modifications** – Before the Williamsburg Condominiums Concept Plans OSRD are endorsed by the Planning and Economic Development Board and recorded with this Special Permit at the Norfolk County Registry of Deeds, the plans dated August 20, 2008, last revised February 23, 2009 shall be further revised to incorporate the following items:

- a) Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
- b) Revised architectural elevations by Michael Blanchette dated 1-28-09
- c) Light post selection
- d) The title page will list all plan sheets
- e) A standard signature block shall be provided on each sheet.
- f) The Primary Development Parcel shall be labeled Parcel C.

3. **OSRD Definitive Plan**

- a) This special permit and the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD are subject to the submission and approval of a Williamsburg Condominiums OSRD Definitive Plan and compliance with all conditions of a Certificate of Planning and Economic Development Board Action approving the Williamsburg Condominiums OSRD Definitive Plan under the Medway Planning Board's *Rules and Regulations for the*

*Review and Approval of Land Subdivisions and the Site Plan Rules and Regulations in effect at the time of application.*

- b) No clearance or construction shall begin on site and no building permit shall be issued before the Planning and Economic Development Board has approved or conditionally approved and endorsed the Williamsburg Condominiums OSRD Definitive Plan.
- c) The Williamsburg Condominiums OSRD Definitive Plan shall substantially comply with the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD (as specified in SECTION V., Subsection T. 12. of the Zoning Bylaw).
- d) Notwithstanding any other requirements, the following items shall be incorporated on the plan set for the Williamsburg Condominiums OSRD Definitive Plan:
  - 1) General color palette and mix.
  - 2) Street name.
  - 3) The location and specifications for a playground on ~~Open Space~~ Parcel A or on the primary Development Parcel (C)
  - 4) Detailed landscape plan including specific plans for landscaped buffer areas between the structures and elsewhere on the site, locations where stone walls will be disturbed and relocated or used. The plan will identify significant trees to be saved/retained and the locations for new street trees to be installed along the roadway.
  - 5) Detailed design for a landscape barrier to screen the 68 West Street between the access roadway and the house and behind the house.
  - 6) Materials specifications for the exterior of the dwelling units.
  - 7) Maintenance plan for the both open space parcels including mowing, removal of underbrush.
  - 8) Bench location (in the northwest meadow) and design.
  - 9) Specifications that stone wall construction shall be consistent with the existing stone walls on site and shall be replicate a rustic, dry laid construction style.
  - 10) Location and materials specifications for construction of a pathway from the Visitor Parking Lot running approximately 200 feet into Parcel B.
- e) The Williamsburg Condominium OSRD Definitive Plan decision will include provisions for performance guarantees, construction inspection,

construction phasing, project completion requirements including as-built plans and engineering certification.

- f) The landscape plan, building materials specifications **for exteriors** and any designs submitted to the Planning and Economic Development Board as part of the OSRD Definitive Plan process shall be reviewed by the Design Review Committee for its recommendations and shall be prepared to the satisfaction of the Planning and Economic Development Board and subject to its approval.

#### 4. Open Space

- a) Open Space Parcel A shall remain as open space to be owned by the Williamsburg Condominiums 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) 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. 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. Notwithstanding the provisions of Condition 4 a. herein, this condition does not require nor specifically allow the Williamsburg Condominium Association to construct additional trails on Parcel B.
- c) Prior to the conveyance of Parcel B to the Town, the applicant shall provide a pathway/trail on Open Space 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.
- d) A mini playground for use by residents of the development shall be provided on ~~Parcel A~~ ~~or~~ Parcel C (the primary development parcel).

#### 5. Stormwater Drainage System - The planned stormwater management system for the Williamsburg Condominium development shall comply with the current Massachusetts DEP Stormwater policy. The stormwater drainage system shall be designed to include appropriate Low Impact Development (LID) best management practice techniques including the use of rain gardens; roof runoff collectors and other suitable techniques to minimize the project's impact on resource areas, reduce stormwater discharge to the street, and maximize the recharge of stormwater into the ground, subject to the following limitations/conditions:

- a) substantial landscape screening shall be provided at any locations where rip rap is used.
- b) any detention basin shall be designed to be integrated into the site's topography and natural features such that the contours are softened and a naturalized appearance is achieved.

#### 6. 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) As part of the Definitive Plan process, the applicant shall prepare **or cause to be prepared** an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, Massachusetts Department of Housing and Community Development and Broad Acres Management Trust, 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) As part of the Definitive Plan process, 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, 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.
7. **Water Conservation** – As part of the OSRD Definitive 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.
8. **Preservation of Site Features**
- a) *Stone Walls*
    - 1) The applicant, its successors or assigns, and the contractor shall make the maximum effort to retain the site’s existing stone walls. Where a road or path must disturb a stone wall, the applicant shall rebuild the wall in the same style and/or use the removed stone elsewhere on the site.
    - 2) There is a prominent stone wall on the southern border of the property which should be preserved and repaired or enhanced where needed. If possible, a corresponding stone wall should be installed on the opposite side of the roadway using old stone from the stone walls that have to be removed elsewhere on the site to duplicate the general style of the existing stone wall. If sufficient old stone exists, the same approach should be used at the entrance roadway as well.
    - 3) Wall construction or reconstruction shall be completed in a highly rustic, dry laid, unfinished fashion.
  - b) *Upland Meadow* - The Upland Meadow on Parcel B shall be retained.
9. **Sidewalk Construction**
- a) 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 and to fulfill its responsibility to support sidewalk construction in Medway, the applicant or its assigns shall make a payment to the Medway Sidewalk Improvement Fund in the amount of \$ \_\_\_\_\_. 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.
  - b) Interior sidewalks shall be designed as a continuous plane across the driveway opening with the driveways meeting the grades of the sidewalks rather than the sidewalks simply ending at each driveway break.
10. **Architecture**
- a) The duplexes may be constructed such that different unit types may be combined in one building.
  - b) The development, when completed, will include all 6 unit types.

- c) In Type F units with 2 garages, at least one garage shall not face the street.

11. **Parking** - As there is very limited room for on-street parking, each dwelling unit shall provide at least 4 off street parking spaces which may include garage spaces.

**12. Condominium Management**

- a) A Williamsburg Condominium Association shall be established and be responsible for the upkeep and maintenance of the roadway, drainage system and both Open Space  
Parcels A and B.

- b) Prior to the issuance of an occupancy permit for any unit in the development, the following documents shall be recorded at the Norfolk County Registry of Deeds.

- 1) Williamsburg Condominiums Master Deed including Bylaws, Rules & Regulations, and the Stormwater Operation and Maintenance and Management Plan
- 2) Declaration of Trust of the Williamsburg Condominium organization
- 3) Open Space/Conservation Restriction applicable to Parcel A.

**13. Ownership/Maintenance of Common Areas**

- a) All roads, drainage facilities and Open Space Parcel A shall be owned and maintained by the Williamsburg Condominium Trust. It is the intent of the Planning and Economic Development Board and the applicant that the roadway system and drainage facilities will not be accepted by the Town of Medway.

- b) The Planning and Economic Development 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 the operation and maintenance of the following:

- 1) roadways and parking areas
- 2) stormwater management system
- 3) snowplowing/sanding and other road maintenance and repairs
- 4) landscaping
- 5) street lighting
- 6) Open Space Parcel A

Such services shall be the responsibility of the Williamsburg Condominium Association.

- c) Open Space Parcel B shall be maintained by the Williamsburg Condominiums Association including 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 ~~Town Administrator's office or his/her designee.~~ Director of the Department of Public Services. The Association will notify the Town Administrator or his/her designee 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.

14. **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 Condominiums concept 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.

15. **Signage** – The Williamsburg Condominium development will not include any development identification signage except for standard private way street signs.
16. **Restriction 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.
  - b) There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
  - c) Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.
17. **Payment of Balance of Fees/Taxes** - Prior to Planning and Economic Development Board's signature of this special permit, the Applicant shall pay the balance of any outstanding plan review services provided by any outside consultants retained by the Planning and Economic Development Board who assisted in the review of this project 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 and any penalties and back charges resulting from the non-payment of taxes for all property included in this development are paid in full.
18. **Recording of Plans and Documents** - The following documents shall be recorded at the Norfolk County Registry of Deeds before the Williamsburg Condominium OSRD Definitive Plan and application are filed with the Town of Medway.
  - a) Williamsburg Condominium OSRD and Affordable Housing Special Permit Decision
  - b) Williamsburg Condominium Concept Plans OSRD dated August 20, 2008, last revised February 23, 2009 to be further revised as specified herein.
19. **Modifications** – No modification shall be made to the Williamsburg Condominiums OSRD Definitive Plan and development without modification of this Special Permit or as set forth herein. The approval of the Planning and Economic Development Board under then applicable zoning bylaw requirements shall be required for any modification of the record plans, whether substantial or insubstantial. The Planning and Economic Development Board reserves its right and power to modify or amend the record plans and the terms and conditions of this Special Permit upon request of the Applicant, his designees or assigns. It shall be within the Planning and Economic Development Board's sole discretion to determine whether any proposed modification is substantial and what constitutes such. Substantial modifications shall be subject to the same review standards and procedures applicable to the original application for this Special Permit including a public hearing. The Planning and Economic Development Board may authorize insubstantial changes without a public hearing. If the Applicant petitions for amendments to the Definitive OSRD Plan or this Special Permit, the applicant must submit all plans and information to the change as required by the applicable *Rules and Regulations* in effect at that time.
20. **Project Completion**
  - a) This special permit shall lapse if substantial use thereof has not commenced within two years of the filing of this decision with the Town Clerk, except for good cause, in the event of an appeal, or if construction is not continued through to completion as continuously and expeditiously as is reasonable. For substantial use to have commenced, construction of the entire length of the private roadway must be underway

or completed. For construction to continue toward completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than one year or in the case of a permit for construction, if construction has not begun except for good cause.

- b) The applicant, its successors or assigns, shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the OSRD Concept Plan, to the satisfaction of the Planning and Economic Development Board, within five years of the date this decision is filed with the Town Clerk. A request to extend the completion time limit must be made in writing to the Planning and Economic Development Board at least thirty days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications to the OSRD Definitive Plan.

21. Upon the expiration of the twenty day appeal period after the approval of the OSRD Definitive Plan, the applicant or its assigns shall submit a letter to the Medway Zoning Board of Appeals requesting that its comprehensive permit granted on June 16, 2005 for the subject property be declared null and void.

**LIMITATIONS** – Other approvals or permits required by the Medway Zoning Bylaw, Medway General Bylaws, or other governmental boards, agencies or bodies have in jurisdiction shall not be assumed or implied by this Special Permit Decision.

#### **DECISION/VOTE**

After reviewing the application and all information gathered during the public hearing process, the Medway Planning and Economic Board, at a duly posted meeting on \_\_\_\_\_ voted \_\_\_\_\_ to \_\_\_\_\_ an Open Space Residential Development Special Permit and an Affordable Housing Special Permit to Broad Acres Management Trust and to \_\_\_\_\_ the Williamsburg Condominium OSRD Concept Plan prepared by Faist Engineering and O’Driscoll Land Surveying dated August 20, 2008, last revised February 23, 2009 to be further revised as specified herein and attached hereto as Exhibit A, to develop an 18 unit OSRD (9 duplex buildings) including 3 affordable dwelling units, subject to the CONDITIONS and LIMITATIONS specified herein. This approval is transferable to successors in title of the subject property, or assignees.

This decision is based on the following factors as specified in SECTION V, Sub-Section T. 11. of the Medway Zoning Bylaw.

- (a) The proposed OSRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan by siting the 9 two-family buildings (18 dwelling units) within a compact area allowing more than 60% of the site to be preserved as open space while also reducing construction and maintenance costs.
- (b) The OSRD as proposed results in the permanent preservation of 8.65 acres of open space (Open Space Parcels A and B) including wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls.

- (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 only 5.21 acres (37.3%) of the 13.86 acre site.
- (e) The OSRD furthers the goals and policies of the Medway Open Space and Master Plan by preserving open space, protecting water resources, providing a diversity of housing types and providing 3 affordable housing units.
- (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.
- (h) The design of the buildings with the OSRD is consistent or compatible with traditional New England architectural styles as described in the Medway Design Review Guidelines, and as positively recommended by the Design Review Committee.
- (i) The OSRD is compatible or in harmony with the character of adjacent residential neighborhoods in that the architectural style of the units is in keeping with New England character. Furthermore, and development is set back considerably from the street.
- (j) The OSRD will not have a detrimental impact on abutting properties and residential neighborhoods. The location of this development is on West Street, a thru street between Routes 109 and 126 and there are few directly abutting residences.
- (k) Any impacts of the OSRD on abutting properties and residential neighborhoods have been adequately mitigated with the 15 foot landscape buffer and the access roadway is skewed as far away as possible from the abutting residence at 68 West Street.
- (l) The OSRD protects and enhances community character by using New England architectural style and increasing the diversity of housing options in Medway.

**Voting Planning and Economic Development Board Member**      **Grant/Not Grant**

Andy Rodenhiser  
Cranston (Chan) Rogers  
Karyl Spiller-Walsh  
Thomas A. Gay  
John W. Williams

**APPEALS** – Appeals of this decision, 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 Williamsburg Condominiums Concept Plan OSRD. A copy of said recording must be returned to the Town Clerk and the Planning and Economic Development Board to complete the file.

**MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD**

Date Approved: \_\_\_\_\_

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

\_\_\_\_\_  
Andy Rodenhiser

\_\_\_\_\_  
Cranston (Chan) Rogers

\_\_\_\_\_  
Karyl Spiller-Walsh

\_\_\_\_\_  
Thomas A. Gay

\_\_\_\_\_  
John W. Williams

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: Affordable Housing Committee  
Planning Boards of Bellingham, Franklin, Holliston, Millis, Milford, and Norfolk  
Board of Assessors  
Building Commissioner/Zoning Enforcement Officer  
Board of Health  
Board of Water/Sewer Commissioners  
Department of Public Services  
Design Review Committee  
Fire Chief  
Open Space Committee  
Police Safety Officer  
Town Administrator/Board of Selectmen  
Town Counsel  
Zoning Board of Appeals  
Greg Whelan, Broad Acres Management  
Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering



**Medway Planning & Economic Development Board Meeting  
Tuesday, March 17, 2009  
Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Tom Gay, Karyl Spiller-Walsh, Chan Rogers, Bob Tucker

ABSENT: John Williams, Associate Member

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant

The meeting was called to order at 7:10 pm by Chairman Andy Rodenhiser.

**CITIZEN COMMENTS** – None

**ZONING PUBLIC HEARING**

NOTE - Andy Rodenhiser made some introductory comments explaining the public hearing process and how the hearing would proceed.

A motion was made by Karyl Spiller-Walsh, seconded by Chan Rogers, to dispense with the reading of the public hearing notice. The motion was approved unanimously.

The public hearing notice is attached.

NOTE – Chairman Rodenhiser asked the audience which articles they were most interested in discussing. Those articles were: Adult uses in Business/Industrial zone, Gasoline sales in Commercial V., and infill affordable housing in ARII.

**Adult Uses**

Andy Rodenhiser provided an explanation of the proposal. See attached.

A letter dated 3/17/09 from Planning Consultant Gino Carlucci regarding the secondary impacts of adult uses was read into the record. A copy of the letter is attached.

Bob Tucker – One thing to keep in mind is the whole reason we are going through these steps is to not run into some of the difficulties that have come before some of our neighboring towns like Milford and Mendon. We want to avoid a problem. We are not promoting an adult use establishment in Town. We do want to control it should that ever happen.

Andy Rodenhiser read a letter from Ann Carlson of Falmouth who owns property at 26 Main Street. A copy of the letter is attached.

Joe Musmanno, Chairman of ZBA, 1 Summer Hill Road – I have a few comments with regard to this. The first 3 items in the article seek to delete existing adult use language (in various zoning districts – Commercial I, III and IV). There is another piece of language that should be deleted in SECTION I of the Zoning Bylaw. I don't know why it was ever put in there to begin with.

Susy Affleck-Childs – I know where he is referring to.

Joe Musmanno – I will go out on a limb here in item 4. The language here is similarly out of place. Generally, we don't have clauses like this in the bylaw. It is irregular. Having the additional language raises the chance for a challenge. I would suggest that you remove the text beginning with "which . . . ."

Joe Musmanno – Regarding item 5. i) Adult Uses Dispersal, Separation and Design Standards, I am surprised that items 3 and 4 in 5 i) are still here. I would ask very carefully about this language, specifically the listing of places of worship and day care center have been stricken down for various reasons. I would encourage extraordinary diligence. I believe the courts have struck down language this language. I can cite from memory the US court case regarding separation of church and state. I am also concerned about day care center location issues. These are serious problems. I believe they have come up in other instances. As you are aware, some towns have determined that the best way is to concentrate them.

Joe Musmanno – Re: 5 i) 5. – I checked this reference to G.L. 272. I cannot find those notes that are referenced.

Joe Musmanno - In item #6, you have heard me caution you before, when it comes to style, color, materials, etc. there is a general problem that the zoning bylaw has no authority to address these matters. In the industrial I district, if a petitioner came to me and said he was frustrated by design standards, I would have trouble with stating what the style of a building is in the industrial I zone.

Joe Musmanno – Re: #8, I have a problem with having a limitation on not having an adult use in a building with any other uses. Might get jammed up. A use is deemed to be taking place on the parcel. Regulating whether it occurs several times doesn't work.

Joe Musmanno – Would an individual be able to make an argument that with two tenants in a building, one operating an adult use and the other not operating an adult use, the non-adult use might be able to object?

Andy Rodenhiser - #8 – I think we mean "any other adult uses". The intent of dispersal is what we were seeking. I am guessing the word "adult" is missing.

Joe Musmanno – They would still be subject to the distance requirement.

Susy Affleck-Childs – Yes.

Joe Musmanno – I am prepared to interchange with you more on this topic if you like.

Other comments on adult uses

Phil Giangarra, 24 Green Valley Road – Mr. Musmanno objected to the phrase in any direction to residence, school, place of worship. Would the objection be the same if the language said "any existing"? I would think that would remove the objection of the courts.

Andy Rodenhiser – Regardless of what you may think, we are really going to rely on legal counsel, but the fact that Joe Musmanno has brought it to the forefront, we are going to question the attorney to make sure that beyond our due diligence, we want to have something to know this is the best standard.

Karyl Spiller-Walsh – Let's ask town counsel about changing the word as Phil Giangarra suggests.

Candace Bearce, 44 Coffee Street – You talk about day care, churches, etc. What about a dance studio? Is that one that should be listed?

Andy Rodenhiser – We believe a dance studio is considered to be a school. That would be determined by the Zoning Enforcement Officer, then the Zoning Board of Appeals.

Donna Barnes, 43 Coffee Street – I have a lot of concerns. Our property abuts the industrial park, and as you know, the Rosenfelds put up that stockade fence to block the view. I would welcome anyone to come and sit on my deck and look at the 40' mountain of dirt. I am not saying anything against Fasolino, but the value of our property is a concern. The dump trucks as anybody who lives on Coffee Street knows are out there pounding the gates at 7 am in the morning.

Andy Rodenhiser – I am empathetic completely with your concerns. The existing use that is there is something that is not necessarily germane to the public hearing tonight, but I don't want to diminish what you are saying.

Donna Barnes – All these things contribute to impact on our property values.

Andy Rodenhiser – Let me give you some background. Anything that is not on a busy street, Route 109 frontage, or exit right near the highway where you are going to have a high traffic count, that is an area of concern to us for these adult uses. We did not want to locate anything there. We have taken some steps to try to encourage more development in the industrial park. We have recently adopted PDS for the undeveloped sites to get the area more viable. It is eligible for 180 day permitting and state grants to try to help them move development along in there. It is our hope that the pile of dirt will go away.

Donna Barnes – But this is just adds to the impact on our properties, the value of our property. If my house was for sale and someone happened to come out to see what was around me, the chances of them buying my property are probably slim to none. This just compounds that. That is why I bring that up. I feel it directly impacts the value of our property.

Kathleen Killilea, 1 Richard Road – I had a few questions. I understand the intent. I have some question on some of the boundaries. In the other zones where the use exists now, what is considered too small?

Andy Rodenhiser – If we make the district too small of an area, then we run the risk of it being challenged.

Kathy Killilea – I am concerned about this area. There are people in this area. Are we going to make it too attractive and actually draw folks there? The Brentwood neighborhood would be horribly impacted.

Andy Rodenhiser – The fact that they wouldn't have frontage on Route 109 is a deal breaker.

Chan Rogers – They look for a highly visible location, as well as traffic count.

Andy Rodenhiser – As well as truck traffic.

Kathy Killilea – My concern is the proximity. 250 feet away is not very far for those areas.

Chan Rogers – If you make it a bigger buffer, you are in essence disallowing the adult use.

Todd Thompson, 46 Coffee Street – I am opposed to this. This is affecting housing values, changing the laws, reducing the potential price of our home. I have a problem with the foliage or the greenage area requirement - 50 foot of heavy vegetation. Right now there is already a requirement for a 30 feet green zone and I can still see all the way back through. This is a vague terminology. It is hard to enforce.

Andy Rodenhiser – We have actually increased the requirements in there. What you see in the zoning bylaw today is not reflective of what was in place when development began to occur (in the Industrial I district). We negotiated on a site plan for an increased greenery and a fence because we didn't have the ability to mandate or require the Rosenfelds. We have since made some improvements. When somebody does come in for an application the new standard is stronger. We are going with 20 additional feet with the standard that would apply to these uses.

Todd Thompson – That doesn't do anything because of the contour of the land.

Andy Rodenhiser – That is something we would address in the site plan process.

Todd Thompson – Similarly, the intent of a solid structure of a fence? Fences may not be enough.

Karyl Spiller-Walsh – The only time they get relief is when the trees are 30 years old. Then at some point you will get some blockage. Right now they are immature.

Todd Thompson – This just says 50 foot vegetation. It is all subjective. It doesn't really help.

Elaine Kessler, 4 Richard Road – I would like to clarify some things. Is there a business that is looking to come in?

Andy Rodenhiser – No.

Elaine Kessler – So, you are looking for a plot that is large enough to accommodate their establishment. There is not another plot in town that could work? There are some other plots but they might be more appealing to traffic.

Andy Rodenhiser – That is correct.

Elaine Kessler – In using this area, you are trying in fact to discourage this from happening.

Andy Rodenhiser – That may be your interpretation, but I wouldn't say that.

Elaine Kessler – I suppose this area is good because it is back off the street. I guess I would hope that when you put a business out there, is that being policed, or checked, or monitored so it is not forgotten? I wonder if those big mounds of dirt are really allowed.

Andy Rodenhiser – We have a town charter. We are now a planning and economic development board. We are specifically working to increase positive valuable business assets we have in town. With the new committee, our mission is to increase the commercial tax base. We have to address this as a community, or if not, we will end up with it being forced on us.

Elaine Kessler – Let's say there is a company that wants to come and locate there. What is the process? Where we would have a huge amount of input on that? What would that process be?

Andy Rodenhiser – The site plan process.

Elaine Kessler – We could have input?

Andy Rodenhiser – Yes. It would probably one of the most rigorous site plans we ever did.

Elaine Kessler – Whatever you put in this article, nothing is etched in stone there?

Andy Rodenhiser – This is the bylaw. This is the minimum standard.

Elaine Kessler – Can you increase the standards?

Andy Rodenhiser – If they meet the parameters that are laid out, they are entitled to locate there. But then they have to get a site plan approval from the Planning Board. The site plan process would involve the Design Review Committee based on architectural guidelines.

Elaine Kessler – How much input would we have as residents? To what degree can we say 250 feet is not enough? Why can't we increase it to 500 feet?

Andy Rodenhiser – If we increase it to 500 feet, then we reduce the zone so small it is not enough of an area to really do something. The town's attorney sent it back to us and told us it was too small. We would likely be subject to an appeal.

Bob Tucker – That's when you run the risk of an applicant coming in and putting a business in anywhere.

Elaine Kessler – This is at the cost of my neighborhood. You are saying there is not a bigger place where this could work. You are saying you, Brentwood, bear the brunt. That is where our concern lies. I just don't want it. Why here?

Andy Rodenhiser – Because it is the most appropriate location. If we were to have it somewhere else, we would be looking at a different group of people sitting in this room.

Chan Rogers – What we hope for this area is that a commercial and industrial use will come in that has a positive impact on the community, jobs, good neighbor, etc., buffer zones, etc., parking areas that are shielded. So we are hoping for a much higher and better use than the pile that is out there. We can't make Fasolino stop how he operates.

Andy Rodenhiser – And we are taking steps through the Economic Development Committee. We are reaching out to the industrials to really have it developed as a higher value to the town than a dumpster storage area or piles of dirt.

Mark Cerel, 6 Franklin Street – I am here as citizen and as a municipal attorney. I brought this issue to your board's attention in the first place. The fact of the matter is the types of establishments you want to regulate are protected by both the federal and state constitutions. They don't want to be in an industrial park or in an out of way place. So by allowing it there, you are probably insulating yourselves. I can understand your concerns. The likelihood that you will have one of these uses is pretty slim because of this new location. Right now, you are at risk. What you are doing is the way to go. I would be happy to help explain this more.

Bob Tucker – Have you seen any communities that are going through litigation?

Mark Cerel – There have been a lot. There is an ongoing battle in Fall River or New Bedford, and in Revere. You don't just get challenged on the zone. You also get a civil rights challenge thrown at you, and damages that mount to tens of thousands of dollars. You need to act proactively and establish a reasonable area in terms of area and accessibility and usability.

Chan Rogers – Are you saying it would be better to use the other industrial park (west side of town)?

Mark Cerel – That area is another candidate. But again you don't want it on a major thoroughfare where it would reflect on what your town looks like. There is a stretch along Route 20 in the central part of the state where there are many of these uses. But I am informed that Brockton zoned an area near the sewage treatment plant and they actually have an adult use business there. But I am not aware of other industrial parks where these types of uses have actually located.

Colleen Cove, 42 Coffee Street – I understand the whole theory. My concern is from being on Coffee Street for the past 20 years. It seems like there are many issues that come up regarding the Fasolino property. We have the buffer zone for distance but whoops we forgot about height and noise. We now have those towers that are up there, and cords up there to hold up these towers. These are things of concern to those who live there. The world discovered Coffee Street as a cut thru when Medway Commons was being built. Because it is in the woods, it is not heavily trafficked. It is a secretive place. If something goes in there, how do we protect our children? If it does, what are you going to do to protect us?

Andy Rodenhiser – We would address those issues during the site plan process.

Joe Musmanno – There is little local control on those radio towers.

Mark Cerel – Those kinds of towers for ham operators are exempt.

Colleen Cove – The stabilizing cables are being tied to pine trees.

Andy Rodenhiser – I would suggest you contact the building inspector to file a complaint.

Andy Rodenhiser – Any type of zoning infraction. Anything that has a written complaint has to be investigated.

Bob Heavey, 6 Sanford Street – I have some questions, how big is the area that is being considered for the proposed change?

Andy Rodenhiser – Susy, how big is the area here?

Susy Affleck-Childs – We can calculate that.

Bob Heavey – Have you contacted the Police Department regarding this? I wonder what the cost to the town will be to manage this. That could cost the town a lot.

Mark Cerel – There are two separate sets of regulations. There is zoning that permits it generally. Then they will need to get a business license from the Board of Selectmen.

Andy Rodenhiser – The zoning enables it to happen, but if it does occur, then the licensing of the establishment occurs with the Board of Selectmen.

Bob Heavey – After this hearing and you go to town meeting, and it is approved, supposing Rosenfeld comes in and does something else, and the space gets used up. Do we have to start the whole (adult use) process all over again?

Andy Rodenhiser – No.

Bob Heavey – Could this area sustain other uses plus adult uses?

Tom Gay – We wanted to make it for multiple uses.

Andy Rodenhiser – But not next to each other.

Bob Tucker – If that zone were to be built out with a higher and better use, you don't have to recreate a new adult use zone somewhere else in town.

Bob Heavey – What would the hours of operation be?

Andy Rodenhiser – That would be part of a licensing.

Bob Tucker – That would be the Board of Selectmen.

Andy Rodenhiser – There is no intention to have this used for adult uses. But it is our hope and desire that this passes at town meeting.

Bob Heavey – I liken this as the one they have in Stoughton. It is right on the main street. They had a shoot out a year or two ago right on the street in front. It does bring in an element.

Andy Rodenhiser – We don't want it anywhere in Medway.

Bob Heavey – We need to watch out for the neighbors. In the article in the Milford Daily News, it was sort of misleading. I don't think the distance (of this area) from 495 would really be a disincentive.

Andy Rodenhiser – We are at risk right now as a community.

Adele McWade, 34 Coffee Street – I feel as though this is all I do. I have lived here a long time. I feel I come down here and complain. We seem to be the dregs of Medway. Everything that goes wrong is on Coffee Street. Is there going to be an end to this? Now we have to be worried about our grandchildren. How much can you live in a town? We feel beaten.

Andy Rodenhiser – The locations and the uses of these things are generally located in areas that kind of evolve or develop. We are growing constantly. It is the nature of development.

Adell McWade – Our end of town always has to deal with this. That industrial park has been nothing but trouble.

Andy Rodenhiser – We are trying desperately to improve the industrial park.

Adell McWade – When people up on Ellis Street bought their big homes, they didn't expect this.

Andy Rodenhiser - The only way you can stop things is if you buy the real estate. We cannot stop development. All we can do is regulate it within the constraints of what is permissible. That is what this public hearing is about.

Adell McWade – It seems to me, I feel, why can't we say we don't want a zone like that at all?

Andy Rodenhiser – As an elected official we have to do what is in the best interest of the town. I don't want to be sued because of first amendment rights. The town has paid legal dollars on our behalf. Framingham had a Board of Selectmen and various boards that took a position against SMOC, and they are in federal court being sued for damages they have inflicted.

Tom Gay – I feel for you about concerns for your own neighborhood. I have lived here my whole life. I think anyone who lives in any neighborhood can feel like their neighborhood has been hit. I can tell you the same kind of stories on my land, sewer trunk line, subsidized housing across the street. After 54 years I came down here and said, "How can I help?" And that is why I sit here today. It is not because I feel I can stop things. But let's make the process benefit the whole town. There is no good place for some of these things that have to happen, but it doesn't negate the fact that they have to happen. I have to believe that we are taking the right steps as we have spent lots of time analyzing properties, and zoning and proximities and sizes.

Andy Rodenhiser – And considerable legal dollars to go back and forth with our attorney. Even then we have folks who bring stuff up to us.

Resident??? – Why is the industrial park on Route 109 better for this than the west side industrial park (near 495)?

Andy Rodenhiser – This industrial park is further away from Route 495. All we have to do is provide a space. We don't have to make it easy or attractive.

Tom Gay - What we are trying to get is somewhere where we can control it and regulate it. The reality is that it could be anywhere.

Resident??? – This thing is above and beyond anything I ever thought I would have to live through.

Vincent and Heidi Sia, 18 Main Street – I would like to question the board on their precluding the industrial park on the other side of town. Please give us a clearer explanation re: access to 495.

Andy Rodenhiser – I used the word discourage. The thought process is that if an adult use is allowed in the industrial park that has frontage on 495, then the driving public might see signage on route 495.

Vincent Sia – I don't know the town's zoning. I don't know if there are as many residences that about the 495 business park as there are here.

Andy Rodenhiser – I would expect you would see an adult use up at that location if it was allowed.

Vincent Sia – In section 5, i), 3 is the 500 feet between buildings or parcels?

Tom Gay – It is between buildings.

Andy Rodenhiser – Joe Musmanno has inquired whether items 3 and 4 can even be included because they may be unconstitutional.

Vincent Sia - I had understood it was school and place of worship.

Mark Cerel – The issue is whether it needs to be away from a school or church.

Andy Rodenhiser – Joe Musmanno thought that considerable portions of 3 and 4 had been struck down.

Mark Cerel – This is an extremely complex area of law. There is both federal and state law. The US Supreme Court, and lower federal courts, and Mass Supreme Judicial Court have weighed in under the State Constitution. There is broader protection in Mass vs. federal. The confusion is because the starting point is a protected expression under the First Amendment and the Mass

Constitution. After that, separate courts dealt with whether you could have reasonable distances from churches. That was upheld in certain cases, but it wasn't an issue of whether there were other places to go. Other cases dealt with the size of the area. When you go on the ground, there has to be a reasonable space left. We grappled with this same issue in Franklin. The only problem you have potentially is the day care center which, as you know, is also an exempt use. If one were to locate in this industrial zone, you may end up eliminating the possibility of this area being used for adult businesses.

Heidi Sia – Can we keep the word residence? Our property is no longer zoned residential. We no longer have protection. All the problems come right up to the door. People might be coming in and parking very close. The parking lot is right up to my property. We would like to see a bigger buffer zone.

Mark Cerel – You could insert “existing” residence in some fashion.

Heidi Sia – Is there any way to protect us with this?

Andy Rodenhiser – But you use the other property for business.

Heidi Sia – Both are residences. There are trucks on the back of one property.

Andy Rodenhiser – We are going to continue the public hearing. We will share your request with town counsel.

Heidi Sia – How would the green buffer zone work for us?

Gary Jacob, 4 Broken Tree Road – In listening to this discussion, it occurred to me that you might want to add some specific buffers for parking. Not only the building had some buffer but also that parking would have some buffer areas too.

Andy Rodenhiser - We will continue the public hearing to April 14<sup>th</sup> at 7:15 pm for those that are leaving tonight.

### **Gasoline Sales in Commercial V Zoning District**

Andy Rodenhiser – The article addresses gasoline sales in the Commercial V district. This amends the existing text to revise the special permit provisions. It would increase the number of gas pumps from 4 – 6 (8 to 12 locations), reduces the minimum size of a convenience store, enlarges the size of the canopy, and provides for signage limitations. Are there any comments from the board?

Bob Tucker – There was an e-mail we received from Adam Signore.

NOTE – Bob Tucker read the email communication. It is attached.

Gwen Hendry, 13 Highland Street – I am a member of the DRC. We spent almost a year talking about this district several years ago. We had a recommendation which became a bylaw which was voted by town meeting, and we had Gino Carlucci write this bylaw. I am not sure why we

are back here except that the people who own the property have changed their mind and want to get some more money out of it. A larger store and smaller gas station is going to say small town, country corner. If you put the emphasis on the gas station and the pumps, it is more of a highway feel. This corner is an entrance to the Rabbit Hill National Register Historical District, so I feel that it would be completely out of character to have that many gas pumps and a great big canopy on that corner as proposed. I object to changing the bylaw, and increasing the pumps, and decreasing the size of the store. I want the emphasis to be on the people and not on the cars. I think that is in a concordance with the Master Plan while still in concordance with Economic Development.

Joe Musmanno – It took me few readings to understand what I believe was your objective. To insist that the convenience store is a primary use and the gas station is accessory. The main place that my board encounters such a challenge is with accessory family dwellings. I was thinking about the square footage limitations. I didn't know if the 2400 sq. ft. minimum is the way to go. Perhaps a better approach would be a relationship or ratio, where the area of the store exceeds the area of the pumps by a ratio greater than 1. I would caution you against thinking that 2400 is just okay. I would lay a bet that someone would propose an expansion of the zoning district. The language defining 2400 minimum and not contemplate issues if the zone were larger could be troublesome.

Joe Musmanno – in paragraph b you have language that allows for some discretion. Again, I wish to issue my standard concern re: paragraph c. I believe these are unenforceable, arbitrary, and capricious, and expose the Town more than it protects it. I would sooner suggest that the process by which the recommendations are made are already in place. I don't think your interests are served.

Andy Rodenhiser – We have talked to town counsel. She has advised us as long as we have design guidelines, it affords us protections.

Joe Musmanno – I understand your position. The primary phrase of concern is traditional New England architectural style. I think I could see difficulty with that. I could see cases where it would work out just fine. I understand I am not offering you a clear solution. I like to raise concern where I perceive there to be ambiguity.

Joe Musmanno – Separately, I have an overarching problem with the bylaw that we don't have real good light guidelines. I don't think that leaving lighting standards to just site plan is good enough.

Bob Tucker – I am working on a lighting bylaw.

Andy Rodenhiser – I am going to a lighting class this weekend.

Gary Jacob, 4 Broken Tree Road – This time I am speaking more as a member of the Design Review Committee. But neither Gwen nor I are speaking officially for the group. My concern here is that should the bylaw be adopted as is, all three of the other corners could conceivably end up as gas stations. And you see many intersections around the state where that happens. This wouldn't just apply to that one corner (southeast). It impacts well beyond that one corner. I understand the ratio might be worth looking at.

Chan Rogers – Why would you feel that more than one site could go for a gas station?

Gary Jacob – When you rezone, it is possible to get gas stations on all three corners.

Andy Rodenhiser – A lot of things would have to happen.

Gary Jacob – The rock may be a major problem.

Donna Hainey, 6 Little Tree Road- I want to reiterate what Gwen Hendry said. She took my speech. Being on the Historic Commission and where we are (on Little Tree Road), I feel this is the gateway to the Rabbit Hill District. Do we want a 6 pump gas station here? Do we need another gas station in town? My question is is it going to be a gas station? I guess it is a done deal.

Andy Rodenhiser – No it is not. We put this forth to have this discussion.

Tom Gay – What is presently allowed is not consistent with what is being built today.

Donna Hainey - There is a lot of rock there. The gas station that they put in Bellingham (Irving Station on Route 126), would that ever be anything that we would have to contend with? It is pretty ugly.

Andy Rodenhiser – In that instance it is in an aquifer protection district. They were required to have an above ground tank by the town.

Donna Hainey – We would like to see some other use of the property. We have contended with the lighting, parking and the empty building. You need to consider the children. Is this going to be a benefit for Medway? I am totally against this as well.

Mike Daniels, 9 Little Tree Road – I came down. I have never been a meeting. What does the town take into consideration with safety to the children? I have a 6 month old.

Andy Rodenhiser – The way the permitting process works, the zoning change would make it possible. Then, when the applicant submits an application, they go through an approval process with site plan review.

Mike Daniels – Kids that live near a gas station have a higher risk of cancer. You are pushing to have more tax revenues over that?

Andy Rodenhiser – The owner of the property has made request to this board to increase the number of pumps possible.

Mike Daniels – Is the town for it or against it?

Andy Rodenhiser – Town meeting has to vote on this. It requires a 2/3 vote.

Andy Rodenhiser – This board may decide at the end of the meeting what to recommend.

Karyl Spiller-Walsh – I was hoping for something tonight from them (the Avellinos).

Mike Daniels – I live right behind the garden. I am a new homeowner, moved in 2005. Just to put a massive gas station in there is crazy.

Andy Rodenhiser – I don't think any of us are in favor of 6 pumps.

Mike Daniels – This is a very congested area. I think this would be a disaster.

Andy Rodenhiser – You can't expect that some development won't occur there. It is at the intersection of two state highways.

Mike Daniels – There is always traffic there. The town should take that into consideration.

Andy Rodenhiser – We are working to improve Route 109.

Mike Daniels – They dug up the road, and to get onto Rustic Road, it is still now affecting my vehicle, a year later.

Chan Rogers – The utility company is held up. Nobody can get the utility company to move the poles.

Mike Daniels – What is to say that they won't do that with a gas station?

Tom Gay – It took them 5.5 years to get Millis done. It took 4.5 years to get the street in Franklin done. It is a product of those kinds of contracts. You have to wait.

Chan Rogers – I have been involved with that intersection for 4 years.

Mike Daniels – Stuff like that brings a sore to the area. You dig up the road and it is not fixed. People in the neighborhood, we would like to have that fixed.

Tom Gay – You are kicking in an open door. I have to decide what car to drive when I go visit my dad on Cottage Street. We had a resident and business owner come here and ask us to consider changes to a whole district. We carefully considered those things, and the evidence they put forward. We hoped they would come here with some documentation to back up their request. I think we have to separate some of these issues and focus.

Mike Daniels – You guys are doing a good job. Who is to say they start to work on it and they don't finish?

Andy Rodenhiser – There is a bond when contractors do work in public streets. We can go and make temporary repairs.

Andy Rodenhiser – This would need 2/3 vote to approve.

Mike Daniels - You had said it would not be official.

Andy Rodenhiser – We may decide to not recommend town meeting approval.

Karyl Spiller-Walsh – A little history. The Planning Board helped create the Commercial V zoning district. We were an advocate for that corner. We wanted it to be conforming. We went back again to town meeting a few years later to create specifics for Commercial V to allow a gas station with 4 pumps. The Design Review Committee spent a year thinking about how this would look and be consistent with the town and the needs of the applicant. Nobody ever said at that time that it (4 pumps) wouldn't be big enough. We spent a year looking at sizes and proportions with gasoline pumps. We wanted to have an auxiliary gas station to a primary retail building. Evidently there aren't any takers for a gas station the size we envisioned. Now we hear that. It was my feeling we jumped too soon to get to this point. I was hoping that we would have some sense from the proponent (the Avelinos) as to how it would fit. With them not coming forth with some ideas or concepts that would promote a further change, I am left feeling that possibly even more outrageous things might happen. Why is it not possible that the owners of Medway Gardens could lease their entire parcel there and farm someplace else in Medway? That entire site could become a gas station. If we pass this amendment, we would be allowing that to happen.

Mike Daniels – The one thing I would like to say, I hear this all the time, when the gas was shooting up, the person that owns the store, the gas company, I think we should have a convenience store. Does the town make more money with a gas station or a convenience store?

Andy Rodenhiser – You have heard Mr. Musmanno say accessory use vs. primary use. We intended that a convenience store would be a primary use. The site is really written more suitably for a bank. I have lobbied Middlesex to do so, but then they bought Strata. It is our desire to see property used for highest and best use. We had an advocate for a change. We put in on the warrant. We are here to hear testimony. We will make a recommendation. Then it will go to town meeting. We may not recommend it, but it will still be voted on at town meeting.

Chan Rogers – Town meeting form of government is the most undemocratic form around.

Mike Daniels – I would appreciate if you would take this into consideration. There are 30 kids under the age of 10 years within 1000 feet of this site.

Eric Alexander, 3 Cottage Street – I would like to be blunt. I would advocate the Planning Board recommend against this change. Gas stations are already allowed in the district, and I guess I would like to speak more broadly. I understand that broadening of perspective. But I am very uncomfortable from general with the tinkering of language in a district due to commentary of one owner and the perceived economic viability of a site based on a single advocate.

Robert Condon, 3 Rustic Road – I am certainly opposed to this; massive scale, the disruption to the tranquility in our neighborhood. We have a Commercial District here, but we also have 3 newer housing developments that circle that. We want to consider the needs of those residents. We shouldn't decrease peace and serenity of those of us who are paying taxes on our homes.

Andy Rodenhiser - There isn't a proposal before us at this time. When they brought it before us a while ago the gas station was accessory to a primary retail use. We said no to it at that time.

And ultimately we were trying to be cooperative, and make it allowed use under the conditions by which we could apply some community standards that we could live with, but that never came to fruition. They have now come back and said it can't be done with just 4 pumps. We told them to bring some written testimony, and asked them for that.

Rob Condon – With our change to new energy policies, why do we even need to build large scale? How would it impact the other businesses?

Andy Rodenhiser - I think there is great merit to what Eric Alexander says about not tinkering with something for the benefit of one applicant. I will fix something that is broken. I haven't seen any evidence that this is broken.

Chan Rogers – It may be why auto companies are going out of business.

Tom Gay – I think we have as much responsibility to look at these things if a single person comes in, and see if there is cause to change it. The rest of the people have a voice whether or not that is true. I think we need to balance both sides of the coin.

Bob Tucker – That is why we do this process. Trust me when I say that we have beaten each other up about getting to this point.

Karyl Spiller-Walsh – It has been vicious!

Tom Gay – I would caution everyone on this board, we would be uncomfortable to make a decision to make this change ourselves, and just as uncomfortable to withhold an idea from being considered. The process is part of our job.

Andy Rodenhiser - That is why we mail out the postcards to tell you. We don't have to do that. It is important that you participate.

Mike Daniels – This is already on the warrant?

Bob Tucker – Yes, these items have to be submitted far ahead to be included. We can recommend changes, or withdraw, or reject.

Bill Hoye, 7 Little Tree Road - I want to go on record as opposing it. I know this is piling on at this point. I went through this process before. I did show up for the town meeting and saw the Avellinos. To me it is clearly a gas station, which is what the request is for. For the entire district, the expansion goes against the original intent. It only increases argument on the issue of safety of children by whatever percent. What if Mark Smith (Restaurant 45) decided he wanted to sell?

Andy Rodenhiser – I would think that if this went through, we would probably then make a change, and not allow any more.

Joe Musmanno – Once it is in, you can't just do that. If you tried to do that you might end up with a flood of requests.

Bill Hoye – Does the town tax gas stations differently than a convenience store?

Bob Tucker – It is the same rate.

Bill Hoye – Is it fair to say a gas station would bring in more revenues?

Chan Rogers – The town taxes at the same rate

### **Signs in Business/Industrial Zone**

NOTE – Bob Tucker summarizes the proposal to establish new signage requirements for the Business Industrial district.

Joe Musmanno – I didn't study the details of this table in comparison with the other tables. I did want to comment on something that jumped out at me – that is the one per approved curb cut for development sign. I imagined an additional quandary. If I came to you with a site design that separated my ingress and egress and you would have to allow double signs? I would strongly encourage you to revisit this.

Bob Tucker – This was developed because of a tenant with multi cuts that did not have a means to connect between one section of property and another section.

Joe Musmanno – I know this property. I think I know the situation you are referring to. I think this approach would introduce more problems than solving that one would be worth.

Bob Tucker – What kind of problems are you envisioning?

Joe Musmanno – For a normal development with multi-tenants with several curb cuts, why would we entertain multiple development signs for those circumstances? This language would mean that the people that have zero access could get a sign.

Andy Rodenhiser – The experience that you have dealing with this type of thing is not our experience.

Joe Musmanno – When the sign bylaw was revamped several years ago there was a lot of discussion about internally lit signs, with more references to those types of various different signs especially. I was under the impression that this was on the goals list?

Andy Rodenhiser – Do you have a suggested change?

Joe Musmanno – Why does the current one per site rule fail?

Andy Rodenhiser – This is a multi-tenant site with multiple curb cuts. To give direction to where to enter for certain businesses.

Bob Tucker – It is also a consideration for safety as well. – So we you can

Joe Musmanno – What would prevent an owner from doing an ANR to separate the parcels? You need to sew up that loophole. In the end, you have to look at how this would work. I don't think we can accept one sign per curb cut.

Tom Gay – I have got to think on that some more.

Joe Musmanno – I stand by my comments. Thank you very much.

Andy Rodenhiser – We need to think on that. We should consider fractured access.

### **Infill Affordable Housing**

NOTE - Andy Rodenhiser provided a summary and Eric Alexander, chairman of the Affordable Housing Committee distributed a map showing possible locations in ARII.

Andy Rodenhiser - Any comments that anyone would like to make?

Eric Alexander, on behalf of the Affordable Housing Committee – We would like to say we certainly hope we can count on your support. We hope you will endorse this at town meeting.

Bob Tucker – I know you handed out a map showing possible locations.

Eric Alexander – All of these may not be eligible. We are cognizant of the fact there are other conditions that might preclude development, other considerations that would prohibit development such as wetlands. We are also restricting eligibility to lots that have appropriate access. This is not intended to eviscerate any standards.

Eric Alexander – This is another option for affordable housing.

Phil Giangarra – What is the normal lot size?

Andy Rodenhiser - Half acre (22,500 sq. ft.) and 150 linear feet of frontage.

Phil Giangarra – Are there any other parcels other than these?

Eric Alexander – Conceivable, but highly unlikely.

Andy Rodenhiser – The source of data is our assessors' info

Phil Giangarra – I noticed by Alder Street, there are two there shown on the map. That is part of the overall bottle cap area.

Eric Alexander – It would be by special permit.

Chan Rogers - These are only potential sites.

Phil Giangarra – So, this is not by right?

Andy Rodenhiser – Correct. It is by special permit.

Gary Jacob – If there are lots that are larger could someone subdivide to create new lots?

Eric Alexander – Originally, we had thought of that but the Planning Board wasn't comfortable, so we took that out.

Joe Musmanno – I actually want to comment in favor of your providing that it applies to parcels of record as of January 1, 2009.

Joe Musmanno – The calculation for setbacks only contemplates having adjacent parcels. Perhaps all of the lots around a possible infill lot are vacant. What would you do then?

Eric Alexander – I believe they all do abut developed properties.

Andy Rodenhiser - Was that checked?

Eric Alexander – It was not. However, in looking at the map, I have not determined that there are any instances where there are 3 adjacent lots that would be eligible.

Eric Alexander – It is not the intent of the AHC to develop the bottle cap lots as affordable infill housing lots.

Gary Jacob – You should put something in to exclude the bottle cap lot areas.

Tom Gay – Perhaps we could define infill lot as having to have an adjacent lot that is already developed.

Andy Rodenhiser – Eric, will you come back on the 14<sup>th</sup> with some more info and work on some potential fixes?

Eric Alexander – Yes.

Joe Musmanno – Did the board consider this in contrast to the cost of the town purchasing these lots one at a time?

Eric Alexander – As a new Affordable Housing Committee, we are looking at several options to spur Affordable Housing development for ways for the town to better manage and control Affordable Housing units. One of the things we are considering is looking for opportunities to do just that kind of thing.

Joe Musmanno – I know that such things have been discussed. It occurs to me if this step works the way we would like it to, the value of those properties will go up.

Eric Alexander – The value of the property will be limited by the maximum “affordable” sale price.

Andy Rodenhiser – Please come back with a proposed solution.

## **OSRD Changes**

Bob Tucker summarized 14 minor but important changes.

Andy Rodenhiser - Any comments or questions or opposition, or support or clarification?

No comments

## **Planning Board Definition**

Duane Walzer, 11 Green Valley Road – Why is this needed?

Andy Rodenhiser – The Charter changed our name to Planning and Economic Development Board.

Duane Walzer - I have some questions, as far as this adult entertainment area. It sounds like what you are planning is on having one adult entertainment area to offset constitutional arguments under freedom of speech. It also says you could be vulnerable to challenges. So you are proposing part of the industrial district? If you have it zoned for industrial, wouldn't that preclude adult entertainment?

Andy Rodenhiser – That is the default position. If you haven't zoned for it, somebody else could make that determination.

Duane Walzer - It is the town that is defining that adult entertainment area? Is there a minimum space that must be allocated?

Andy Rodenhiser –There is not a statutory minimum. There is a reasonable amount.

Duane Walzer - Does freedom of speech include all of these listed items?

Andy Rodenhiser – Yes.

Duane Walzer - Can you restrict it further by not allowing for all of these uses?

Phil Giangarra – The area is limited.

Andy Rodenhiser – You can't limit only bookstores here. If you did that, brass pole joints would go elsewhere.

Resident??? – I would be against something like this. I think of Medway as a family oriented type of town.

Bob Tucker – Currently in town right now, there are only two locations that can meet the standards.

Andy Rodenhiser – In the absence of having a reasonable size, you are subject to a challenge. That might result in a ruling that an adult use could locate anywhere in the community.

Bob Tucker – We would like to define where it would go.

Andy Rodenhiser – But not having it located along a major roadway, we are less likely to have somebody locate who is counting on a high traffic count.

Man – By having this in east Medway it is least likely to be desired. Thank you.

Andy Rodenhiser - We are continuing this public hearing until 7:15 on April 14, 2009.

### **OTHER BUSINESS**

Susy Affleck-Childs – I am distributing to you a letter from Ted Cannon, attorney for Greg Whelan requesting full release of the bonds for Country View Estates and Broad Acres Estates. WE now have 45 days to respond to this.

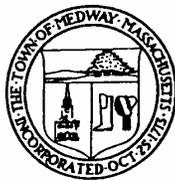
A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to approve the minutes of the March 10, 2009 meeting. The motion passed unanimously.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh, to adjourn the meeting. The motion was approved unanimously.

The meeting was adjourned at 10:40.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant



TOWN OF MEDWAY  
Planning Board  
155 Village Street  
Medway, Massachusetts 02053

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

March 10, 2009

## **Proposed Zoning Bylaw Amendment Industrial District I – Adult Uses**

The Planning and Economic Development Board has proposed an **amendment to the Medway Zoning Bylaw pertaining to the Industrial I. zoning district which is comprised of the properties on Marc, Jayar and Industrial Park Roads** in the east Medway industrial park. The text of the proposed amendment to the Medway Zoning Bylaw pertains to allowing *adult uses* to locate in the Industrial I zoning district subject to very specific limitations, restrictions and protections.

You may be wondering why the Planning & Economic Development Board would even consider proposing this.

The exercise of free speech through so called “adult entertainment uses” is protected by the First Amendment to the U.S. Constitution. It is also protected under Article 16 of the Massachusetts Declaration of Rights. Municipal zoning bylaws may limit *adult entertainment uses*, but they *cannot* prohibit them outright. When a municipality does not provide certain locations within the community where *adult uses* may reasonably operate, it is essentially denying that form of free speech. The local zoning bylaw is then vulnerable to a constitutional challenge which may result in *adult entertainment uses* being able to operate *anywhere* in a community that is zoned for similar uses (such as retail, movie theaters, nightclubs).

To provide some background, the existing *adult use* provisions in the Medway Zoning Bylaw were approved by Town Meeting in April 1997. *Adult uses* are presently allowed in Commercial District I (Medway’s primary business district on both sides of Main Street/Route 109 east and west of Holliston Street), Commercial District III (historic Medway Village area along Village Street) and Commercial District IV (on Village Street around the Police Station); all are subject to certain dispersal, separation and design standards. However, those restrictions are such that there is only one location in Medway where an *adult use* could possibly operate - an approximately 20,000 sq. ft. area most of which is either within the actual Route 109 right of way or within the 50 ft. minimum building setback area on either side of the right of way from 114 – 117 Main Street. That area is less than .02% of the total land area in all of Medway.

In light of recent *adult use* proposals in other communities and various court rulings during the 10+ years since Medway first adopted *adult use* provisions for its Zoning Bylaw, the Planning & Economic Development Board is concerned that the miniscule size of this area may put Medway in some jeopardy. We feel the Medway Zoning Bylaw should be amended both to provide a reasonably sized area that is suitable for *adult uses* and to incorporate enhanced standards and limitations to protect the community from the negative secondary effects that *adult use* businesses can have.

We have thoroughly evaluated various areas within the community where *adult uses* might be located. We have identified a location where *adult uses*, if established, would have the least impact on Medway residents, the business community and the traveling public. That area is the Industrial I zoning district. We feel this area is the best for the community for the following reasons:

- It does not have frontage on Route 109.
- It is adjacent to relatively undeveloped land to the north, west and east.
- It is accessible only from Route 109.

The proposed amendments include very specific criteria and standards for distance, screening, signage and building appearance for any *adult use* business that might locate in the Industrial I district.

The Planning & Economic Development Board has submitted this proposal for inclusion on the warrant for the 2009 Annual Town Meeting which is scheduled for Monday, May 11, 2009 at Medway High School. A 2/3 vote of Town Meeting is required to amend the Medway Zoning Bylaw.

Prior to Town Meeting's consideration of any proposed amendment to the Medway Zoning Bylaw, the Planning & Economic Development Board is required to hold a public hearing to inform the community and solicit comments on the proposed changes. ***The public hearing to consider this and other proposed amendments to the Medway Zoning Bylaw will take place on Tuesday, March 17, 2009 at 7:15 p.m. in Sanford Hall at Medway Town Hall, 155 Village Street.*** The Planning & Economic Development Board values your input as a member of the community. Residents are encouraged to attend the public hearing and express their opinions on this and any of the other proposed amendments to the Medway Zoning Bylaw. Written comments are appreciated and may be forwarded to the Planning and Economic Development board at our regular or email address.

After the public hearing is closed, it is the responsibility of the Planning and Economic Development Board to consider all testimony and comments and to evaluate the relative pros and cons of the proposed amendment in order to prepare an official recommendation to present to Town Meeting on May 11th.

Please contact Susy Affleck-Childs at Medway's Planning and Economic Development office if you have any questions.



TOWN OF MEDWAY  
Planning Board  
155 Village Street  
Medway, Massachusetts 02053

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

CORRECTED - February 24, 2009

**NOTICE OF PUBLIC HEARING**  
**Proposed Amendments to Medway Zoning Bylaw**

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 Tuesday, March 17, 2009 at 7:15 p.m. in Sanford Hall, at Medway Town Hall, 155 Village Street, Medway, MA to receive comments and deliberate on proposed amendments to the *Medway Zoning Bylaw* (last update published September 18, 2007, subsequently amended in June and November 2008) which are to be considered at the May 11, 2009 Annual Town Meeting. The subject matter of the proposed amendments is indicated below. The warrant article numbers have not yet been determined.

**Definitions** - In SECTION II. Definitions, add a definition for *Planning Board*.

**Open Space Residential Development (OSRD)** – In SECTION V. Sub-Section T. Open Space Residential Development, make a series of amendments in paragraphs 2, 4, 5, 6, 7, 9, 10 and 12 and correct a paragraph numbering error.

**Sign Regulation** – In SECTION V. USE REGULATIONS, Sub-Section R. Sign Regulation, delete the reference to Business/Industrial District in the heading to Table 5 and insert a new Table 7 specific to the Business/Industrial District.

**Adult Uses** – In SECTION V. USE REGULATIONS, delete Sub-Section G. 2 (h); delete Sub-Section I. 3 (h); delete Sub-Section J. 3 (h); and add a new item i) to Sub-Section M. paragraph 1 and a new item i) to Sub-Section M. paragraph 2 with provisions allowing the location of adult uses in the Industrial I zoning district subject to certain dispersal, separation and design standards.

**Commercial District V** – In SECTION V. USE REGULATIONS, Sub-Section K. Commercial District V. delete paragraph 1. I) (1) in its entirety and replace it with revised provisions for special permits for automotive service stations/local convenience uses.

**Agricultural Residential District II** – In SECTION V. USE REGULATIONS, Sub-Section F. Agricultural/ Residential District II, add a new paragraph 9 to allow by special permit, the construction of affordable homes on designated infill lots.

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 [www.townofmedway.org](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: [medwayplanningboard @townofmedway.org](mailto:medwayplanningboard@townofmedway.org). For further information, contact Medway's Planning and Economic Development office at 508-533-3291.

*Andy Rodenhiser*  
Planning Board Chairman

To be published in the *Milford Daily News*: Monday, March 2, 2009 and Tuesday, March 10, 2009.

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**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)  
pgca@comcast.net

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March 17, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

**Re: Secondary Impacts of Adult Uses**

Dear Mr. Rodenhiser:

Since I may be unable to attend tonight's hearing on the warrant article pertaining to adult uses, I wish to provide some information regarding the importance of adopting that article. As you know, the current provision for adult uses in the Town's Zoning Bylaw provides a very limited area within the C-1 district that is of questionable viability. This leaves the Town vulnerable to having adult uses located anywhere in Town. The new article, in recognition of First Amendment rights to have adult use businesses, provides a more viable area for such businesses while regulating them and limiting their concentration.

The importance of these regulations cannot be overstated. Unregulated and concentrated adult use businesses have well documented secondary impacts that would negatively impact the Town. I have reviewed several studies prepared for other communities around the country that document these secondary impacts. The studies I have reviewed include the following:

- "Summary of Land Use Studies Relating To Secondary Effects of Adult Business" – Prepared for the City of Benicia, CA. It is undated, but summarizes studies from around the country including studies from Amarillo, TX and Los Angeles in 1977, through a study from Toledo, OH in 2002.
- "Report on the Secondary Impacts of Adult Use Businesses in the City of Denver" – Prepared for the Denver City Council in January 1998 by multiple city departments, this report studied adult uses within the City.
- "Town of Southeast Adult Use Planning Report" – Prepared for Southeast, NY, this August 18, 2005 report examined studies from other towns and cities in New York in conjunction with a zoning provision they were considering.
- "Secondary Effects Study of Adult Oriented Businesses" – Prepared by the Saratoga Springs Planning Board on March 7, 2007, this study reviewed secondary effects of adult uses as part of a comprehensive study that led to the recommendation to adopt a zoning ordinance with appropriate regulations.

These studies have several common themes. Among the common secondary effects are increased crime rates, negative impact on property values, traffic, noise, litter and general neighborhood appearance. These impacts were greater in smaller communities than in cities, and when such uses were grouped together, they tended to create a “skid row” effect.

Therefore, the proposed article to permit adult uses in the Industrial I district with requirements that they be separated from the adjacent residential neighborhood by both distance and physical barriers, as well as the requirements that they be separated from each other and from other businesses in the same building are important elements in minimizing the secondary impacts from adult uses.

If you have any questions or need any additional information, please feel free to call or email me.

**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.**

RECEIVED  
MAR 19 2009

Wynn 1, ...

TOWN OF MEDWAY  
PLANNING BOARD

Dear Town of Medway Planning Board -

Our family has owned a house at 26 Main St, for 64 years. In that time the town took 2 Acres of land from our father (Robert Carlson) to bring Coffee St. to Main St, and paid him the tidy sum of \$80.-

We, his children have been told we can't divide our 1/2 acres for house lots - while houses spring up all over town. And now in the Bump called the Industrial Park - further insults to decent, hardworking people - a proposed Adult Zone.

While the Rosenfeld family is building million dollar houses where they live at South End Pond in Uxelles - they're allowed to be slum landlords in our neighborhood.

We are ABSOLUTELY opposed to your Amendment. Free speech? Is that why you can't say Christmas in school?? Put it near the Police Station, so they can monitor the upscale traffic.

Anne Carlson  
Box 212  
West Falmouth, MA  
02574

Sincerely  
Ann Carlson  
Marilyn Carlson  
Richard Carlson  
Robert Carl

From: Adam Signore  
To: Medway Planning Board  
Date: March 9, 2009

Subject: Comments to the Medway Planning Board on proposed changes to District V. zoning bylaw, paragraph 1.1.

Hello Andy and the MPB,

Please review my comments below for inclusion in any discussion about the proposed changes and any general discussion on the District V. zoning bylaws. With respect to comments I have made on canopies, signage and lighting, I am not fully versed on the complete zoning ordinances and comments made might be addressed in other sections of bylaw already.

***Increase to 6 pumps:***

- With respect to the proposed change to allow 6 pumps I feel that this change should not be allowed. Filling stations of a larger size would not be suited to the mixed residential/commercial nature of the zone. Consequently I would add that any increases to sq. ft. allowances should not be implemented.
- Larger filling stations are suited for a strictly commercial zone where a more “neighborhood” establishment is appropriate in the District V. zone. I believe not approving this change would keep a better balance between economic development and residential concerns.
- If the intent of ¶1.1 §c on architectural design is to enable enforcing design more suited to the mixed nature of the zone then the increase to 6 pumps would be a contradiction to that intent.

***Signage and Canopy changes:***

I am in full agreement that any canopy should not have a lighted exterior but there seems to be a lot of guidelines about lighting that should be included. Specifically relevant because of the mixed nature of the zone:

- A maximum height of the canopy should be set as to be no higher than the height of the associated building. In the case of sloped roofs this would NOT mean to the ridge line but rather the soffit level.
- The height of any canopy should be restricted so that the radius of light from installed lighting does not fall beyond the property on which it is located. To avoid any residential “light trespass”.
- Light fixtures in the canopy should also be recessed and diffused sufficiently so that residential "light trespass" is again avoided.
- No light fixture should be placed in such a way as to make any light emitting surface visible from a residence or adjacent property (i.e. no direct view of floodlights).
- light emission should be shielded and angled in such a way as to direct all light toward the Earth's surface, away from reflective surfaces as well as directed away from adjacent properties
- The restrictions should also be rewritten to apply to lampposts.

I would also hope that landscape or fence residential buffers are required because that would also limit reflective light pollution.

Thank You,

Adam Signore  
28 Summer St.  
508-533-7856  
adam@signore.net

**March 31, 2009  
Special Meeting  
Medway Planning & Economic Development Board Meeting  
Sanford Hall – 155 Village Street**

PRESENT: Karyl Spiller-Walsh  
Chan Rogers  
Andy Rodenhiser  
John Williams, Associate Member

ABSENT WITH NOTICE: Tom Gay  
Bob Tucker

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Barbara Saint Andre, Petrini & Associates, Town Counsel

Chairman Rodenhiser called the meeting to order at 6:30 pm

**Citizen Comments** - None

**Discussion – Country View Estates and Broad Acres Estates - Request for Bond Release**

Ted Cannon, attorney representing Greg Whelan  
Greg Whelan

Ted Cannon – You have my letter under the statute. The road work and utilities are done according to the rules and regs, so we are asking for the bond to be released. Greg Whelan would anticipate some funds would remain in the expense account, but other than that, the funds should be returned to us.

Andy Rodenhiser – You had assured me that before you would request the bond that the work would be all completed.

Greg Whelan – That was before I found out that it was illegal for you to keep the bond.

Ted Cannon – All road deeds have been signed except one. Greg Whelan and his wife have done a very good job.

Andy Rodenhiser – Which one has not?

Ted Cannon – Diane Borgatti.

Barbara Saint Andre – She did speak to me. She had some reservations.

Ted Cannon – As far as the mortgagee sign-offs . . .

Greg Whelan – We are diligently working to try to get that done.

Andy Rodenhiser – Is there a matrix?

Greg Whelan – None of the lenders have signed off. I don't see why we need those.

Ted Cannon – So the road can be transferred over by a deed to the town vs. a taking. We would turn over all the deeds to the roads. Once the town has those, those folks would be all set.

Barbara Saint Andre – Who were they made out to? We thought you would give us one Master deed.

Ted Cannon – Diane Borgatti hasn't deeded her interest.

Greg Whelan – She thinks she is losing property.

Karyl Spiller-Walsh – In what way would you have property loss?

Barbara Saint Andre – We would argue that if you have a street, you can't use it for anything. Everybody has an easement over it. It can't be used for anything else. That would be my point of view. I think a public way is an asset.

Karyl Spiller-Walsh – In what way wouldn't it be an asset?

Greg Whelan – Every bank lent on those properties thinking it would be a public way. So why would they be upset if it became one? I don't understand.

Ted Cannon – She acquired the lot as shown on the plan. She is concerned she would be left with less land. She was deeded the lot as shown on the plan.

Greg Whelan – I don't understand.

Andy Rodenhiser – Why not just have a survey done to show her that there will be enough?

Barbara Saint Andre – One other issue is the easements for drainage and sewer. Another thing, the way the deeds are set up, they have a running description of metes and bounds. I am not sure that it is necessary. I am not going to verify each. Is it OK if we work on that?

Greg Whelan – All of these easements revert to the plan.

Barbara Saint Andre – The easements were not reserved when the lots were deeded out. Put aside the Streifers. There is some drainage easement and a sewer easement. From my point of view, I am more concerned about the sewer aspect of it. Have you had any opportunity to speak to them? Are there any objections?

Greg Whelan – We have not spoken to any of those people. My wife has been working on that. She got the 24 deeds done other than Diane Borgatti, and now she is looking at 12-14 for the easements. We have not set those up.

Greg Whelan – I don't have a problem with continuing to do that. I understand from Ted Cannon, that whenever their office is involved in accepting a road, the other towns do a taking.

Ted Cannon – The practice in some towns is that they do a taking. It is a form of title insurance. Be that as it may, that is what we are looking for. That would resolve all these issues and make the problem go away.

Karyl Spiller-Walsh – What is the expense to the town to do this?

Barbara Saint Andre – It is not difficult; basically, it would involve another step. First you would have to get town meeting authorization, and have the Board of Selectmen change their position. You list all the owners, and notify all the owners and mortgagees. We went through this with the sewer project. Then the issue is whether there are any damages. I don't believe there would be any when a town takes a street. The only issue is whether there would be with any of the easements.

Karyl Spiller-Walsh – It is a huge legal expense?

Barbara Saint Andre – Yes. You have to do the titles, draw up the instruments, send out notices, etc.

Karyl Spiller-Walsh – The economic burden becomes the Town's as opposed to the applicant doing the leg work.

Andy Rodenhiser – What is the Board of Selectmen's position?

Barbara Saint Andre – We had one meeting with them on this. The town has not historically done eminent domain. Their initial response is that they do not want to go down that road.

Ted Cannon – I can understand their position going forward, but this is an older subdivision approval. But back when this was approved you didn't require these things.

Andy Rodenhiser – The Streifer issue and the pedestrian access issue both seem untenable for the town and for you.

Greg Whelan – Neither one of those people will talk to me. I don't expect he (Ken McKay) will cooperate either (re: the pedestrian easement on his property).

Andy Rodenhiser – At some point in time you had control over those parcels, and those got conveyed without the benefit of specific easements.

Greg Whelan – That is not true.

Ted Cannon – There is not a recorded easement document. They took the property subject to the definitive plan.

Barbara Saint Andre – There is a problem. When you convey without an express easement being conveyed, an implied easement is not clear title. You are much better off to have an easement on

record. That is what we were looking for. Those are not on record. There is the potential to argue that there are implied easements. It is preferable to have clear title. I keep saying I am more concerned about the easements vs. the streets as the streets are pretty well defined. You have these easements everywhere. If you take the streets and don't have the drainage easements, a new owner can challenge. I am more concerned about that than the roads.

Barbara Saint Andre – They (the Streifers) have indicated they are willing to give the town an easement.

Andy Rodenhiser – With a higher standard of maintenance.

Andy Rodenhiser – Who does that?

Barbara Saint Andre – I had hoped they would get the easement from the lot owners. You want to get mortgage sign off for clear title. If the bank never forecloses, it is not an issue, but not having the deed is an issue.

Karyl Spiller-Walsh – I remember having some discussion with Dave Damico.

Greg Whelan – She (Irene Streifer) has it in her mind that the hole needs to be maintained. She will never go away.

Andy Rodenhiser – That is why we don't want to take this on.

Ted Cannon – RE: claims for damages, they can't say they weren't aware. Their deeds do reference the easements on the definitive subdivision plan.

Karyl Spiller-Walsh – I have a concern about the lack of coherent understanding for what it takes to maintain a detention pond.

Greg Whelan – She has it in her head it has to be maintained at a higher level.

Greg Whelan – The taking is what I want because that makes it go away.

Andy Rodenhiser – If the BOS were to reverse what they have told us, what is the risk?

Barbara Saint Andre – The cost and the risk of claiming damages.

Andy Rodenhiser – Is that a risk?

Barbara Saint Andre – It is a risk for the town, absolutely.

Ted Cannon – Once you have signed off on this, the bond has to be released.

Ted Cannon – Greg Whelan is willing to have some money kept in the expense account.

Andy Rodenhiser – I don't think we are inclined to give it up. Barbara, what are the issues?

Barbara Saint Andre – There are easements in both subdivisions that are at issue.

Chan Rogers – The plans were recorded?

Ted Cannon – There was not a separate easement document recorded. The deeds referenced the plans.

Andy Rodenhiser – Ken McKay claims that his plan does not show any pedestrian.

Greg Whelan – That was because the pedestrian easement was put on record for that property before Ken McKay ever owned this property.

Andy Rodenhiser – That is news to me. Why have you held off on that? Give us the documentation.

Greg Whelan – Maybe I didn't know this back then, but I know this for a fact. I can do that, absolutely.

Ted Cannon – We will turn over that information.

Andy Rodenhiser – How about just a list of who has consented?

Ted Cannon – We can assemble that for you.

Andy Rodenhiser – The one that remains a problem is the Streifers.

Greg Whelan – I need the money.

Andy Rodenhiser – It is not the citizens of Medway's responsibility to pay Town Counsel for the mess.

Ted Cannon – Greg Whelan will put a list together and turn it over to you. He cannot put it all together to package up and just give the road over to the town.

Andy Rodenhiser – To find out that they haven't even spoken to the folks about the easements is troubling.

Greg Whelan – The main thing is that this issue has nothing to do with the bond.

Andy Rodenhiser – I understand that you believe that.

Ted Cannon – The statute is clear. Construction of the improvements is completed. The bond is required to be released. We will leave some funds in the expense account. We will prevail. We will seek costs, and we would urge the board to consider the request. There are two separate statutes on bond release and road acceptance. We will seek remedies.

Andy Rodenhiser – If the town bears some type of cost maybe we can seek

Karyl Spiller-Walsh – I see the bond as a concern. There is a dollar amount to be expended. Can the bond amount be used to pursue the legal clean up for what they haven't been able to produce?

Barbara Saint Andre – There are two separate pots. One is for the bond, and one is for the expenses.

Karyl Spiller-Walsh – Is there a ball park figure for the legal expenses?

Barbara Saint Andre – I don't want to do that.

Chan Rogers – What consequences

Ted Cannon – It is really in the town's best interest to get the road.

Chan Rogers – The homeowners who bought there expected the road to be public.

Greg Whelan – They all sue me personally. It doesn't matter.

Greg Whelan – It would behoove me to take care of these easements.

Barbara Saint Andre – The easements are the highest priority.

Greg Whelan – I will do what I have to do.

Ted Cannon - Thanks.

Andy Rodenhiser – Can we rescind our approval of this subdivision?

Barbara Saint Andre – You can't do that now unless you got the ascent of all the owners and mortgagees.

Andy Rodenhiser – Well, then we just don't accept it.

Barbara Saint Andre - One option is to not accept these streets. Can we seek redress from him? I think we will need to have an executive session to discuss threatened litigation.

### **Master Plan Public Hearing**

Jim Wieler

Dave Kaeli

Rob Pomponio

Mark Cerel

Jim Wickis

Ron Wilson

Bill Wright

Andy Rodenhiser – Nice work, all you guys. Great document!

Jim Wieler – I think we are expecting a few more members of our committee. I am chairman and here is the committee. What I thought I would do is to go through this quickly and go through the 7 sections and talk about the goals we have established and some of the findings. Allison Slack cannot be here tonight. I believe you have a brief from her. Then I would like to open this up for discussion. It is a sizeable document. We started in December of 2007 – put out a survey, pretty good response to both the mail-in and online versions. There was a coalescing of the written comments to form our goals throughout this process – in each of the sections you will find some background info re: what we have done since the 1999 Master Plan and the issues that came out of the survey and then our goals.

The introduction talks about the strong signals we got. Fiscal management in town, because of the action of the Board of Selectmen, the new charter and the Department of Revenue we have turned that corner pretty well in hand. The other thing that came through was drinking water quality and quantity. Traffic and pedestrian safety was another thing that was a major issue. One thing, our public service folks got very high marks in terms of citizen satisfaction. – very important and very satisfied – police and fire fighters – One of the things that we have found, learned, is that we need more integrated planning and budgeting across all boards. We need to specifically target areas for economic development. We need to act to improve water quality and quantity. As we grow that will be a major limitation. Continued protection of open space is very important. We have some traffic safety and affordable housing issues we have addressed in some detail –

### **Land Use Section**

Jim Wieler - If you have glanced through you can see that we need to make our maps and graphics more readable – it is hard in printed version – lot of very interesting information about how we have grown. – We don't have enough commercial development. 88% of our revenue is from residential tax base. The goals in terms of land use – encourage open space protection. We have done a number of good things in the past with the Community Preservation Committee recommendations. One of the big bugaboos – 95% of our land mass is zoned as residential. When people wander and look, what they see is really potential house lots. that land not really protected - we need to pursue open space. The second goal is to encourage economic development, to redevelop areas of town that we can develop commercially in a dense fashion, and rezone areas that may be good for commercial and industrial grown. Third goal is to protect water resources and work with ConCom, Water/Sewer and Board of Selectmen to make sure the well sites are well protected.

To support those goals, there is a whole host of specific action items – that may be another discussion.

### **Open Space Section**

Jim Wickis - In 1999 the Master Plan identified open space as important for the town. Accomplishments since that time included passage of the Community Preservation Act, setting up a Community Preservation Committee, acquisition of 22 acres of open space (Adams St, 2B Oak St, and Winthrop St) and zoning bylaws were passed. The current situation in town – slightly less than 5% of Medway is protected open space. That is the second lowest % of all adjacent towns. In the survey, citizens rated open space as important, but were less than satisfied

with the current status. Passive recreational facilities are important but not sufficient. Protected open space – important but not satisfied, and efforts to protect – important but not satisfied.

Another item is about quality and quantity of drinking water. Open space does provide for better recharge than developed land.

The Town has some open space parcels and relatively poor access to them. That needs to be corrected.

The heart of the issue is that about 36% of Medway's land is undeveloped. What is going to happen to that land? Our recommendation – some should be devoted to protected open space; in addition, land development for residential use seems to put a burden on town.

Medway is more desirable if it has a balance of residential, commercial and open space.

John Williams - I liked the passage on page 20, and the balance. This helps make the argument for future purchases of open space.

Mark Cerel – That is an example of open space paying for itself.

Jim Wickis – I would recommend the acquisition of land parcels with high open space values, such as high ecological values, and also encourage land donations and conservation restrictions to be given to the town or to a land trust. Develop the Medway link trail. Educate citizens regarding open space values, and develop mechanisms for stewardships.

### **Economic Development Section**

Bill Wright - The big part of it is a balancing act. We would like to see the benefits of more economic development, yet we want to maintain the rural character. The economic development section goes hand in hand with the land use section. In our section we talked about our accomplishments over the last 10 years, ranging from rezoning 20 acres, the sewer project running to the industrial park that will stimulate further development, and then, in conjunction with the 43D approvals, the state recognition of Medway as one of the more desirable towns for technology development. We have been ranked in the top 5 the past 2 years.

A couple of things – as far as going forward and current conditions, if you look at page 32, regarding goals and objectives, the first thing being mentioned on the survey is what do you like least - the most frequent response is high taxes. That ties back to page 30, table 8, which compares Medway to surrounding towns regarding the percent of revenue derived from the residential tax base. There is some positive momentum started

The goals and objectives were then trying to accomplish those main points from the survey. How do we do the balancing act? Rural character, yet maximize land for economic development to defray residential tax dollars.

John Williams – I struggled with this section and the goals, especially 2 and 3. When you look at the survey results there seems to be some contradictions. What support is there in the survey

results to support the smart growth initiatives? Is there any other survey data that would suggest that this is a good goal for Medway?

Bill Wright – I am a little confused. Progress had been started in the area. That area does abut the industrial park and is close to Route 495. That fits with the premise of trying to keep economic development in groups together. We saw that as being consistent.

John Williams – More direct, I have trouble correlating the survey data with the actual idea that we should take Oak Grove and turn it into high density residential. It doesn't jive with the survey results.

Jim Wieler – When we discussed the Oak Grove study, we left that open. That was the UMass study. It wasn't anything specific we recommend. Not everything you see in here will be directly from the survey. What we can and cannot do is by statute. In terms of the online survey, we asked about priorities. People responded that redesigning the Medway shopping center was a high priority. There are very few places where we can develop commercial and industrial. Some of this comes from what we know.

Mark Cerel – Either you increase revenues or reduce expenditures.

John Williams – I would be more comfortable with the goal from 1999 that Oak Grove should be mixed use.

Mark Cerel – I don't believe we would disagree.

John Williams – Smart growth is a very controversial subject. Folks in Easton voted down a change that would allow for it – We in Medway haven't had the discussion. I think that is yet to be decided.

Mark Cerel – Depending on where smart growth is. If you are going to have a smart growth district in your downtown – I would rather see you make a deal with a developer – out in that area – you alluded to a dense housing

Mark Cerel – I was shocked at how little of our affordable housing is really affordable vs. Housing authority projects.

Andy Rodenhiser – The UMass study was looking at housing as a buffer between single family residential and commercial/industrial development.

Mark Cerel – That was an academic exercise. A bunch of years ago Professor Herr looked at the Medfield State Hospital Site. They looked at creating a village. It may or may not look at reality.

Andy Rodenhiser – We have a post office over here (Medway village). This is its own kind of little village here. We have the plaza area with neighborhood around it.

Mark Cerel – Up to 1960, Medway was just a collection of villages, which actually is an interesting model. They were supported by neighborhoods. With commercial development, in

many respects, it is better than what we have now. Even up where the police station is there was a commuter line. There were little stores in that area, little mixed commercial areas that were supported by the surrounding neighborhoods, and a train line.

Jim Wieler – We don't want to make a judgment about the Oak Grove area and the housing component.

## **Housing Section**

Jim Wieler – I am here for Alison Slack tonight. The basics are that most of the housing in Medway is out of reach for lower and middle income people. How do we address that? I think the survey indicated that people would like to see some affordable housing, but they don't want to have to pay for it, but have developers pay for it with mixed use. That is kind of tough in today's environment. She does make the case in the affordable housing section. There is a connection between affordability and economic development. That is one thing we can do as we look at Oak Grove and at the Commercial I area. Where do kids in their 20s live? It would be nice if there was a broad range of ages in our community. In the section, we talk about how we can focus our affordable needs and look at friendly 40B projects, if we are clever and do show good effort that we can get some decent results. We make the point in the Master Plan; affordable with smaller v. big A – subsidized vs. workforce - The Affordable Housing Committee is working on a housing production plan. That is a work in progress. That will evolve and come forth.

Andy Rodenhiser – This almost seems like integrated planning. This all seems like stuff we can share with other boards.

Jim Wieler – So, going on to the specific goals. One is for the Medway Affordable Housing Committee to specifically identify the housing needs, and to establish the organizational infrastructure for the Affordable Housing Trust Fund and the committee. We need to identify locations, types and of housing stock that would be needed. The Planning Board needs to help with making zoning changes that would be needed. We need to explore creative development opportunities

Mary O'Leary – 85% of the houses in Medway are owner occupied. We need apartments in Medway. That is why any of that integrated commercial and housing is important. They (40B rental developments) can count 100% toward the 10% goal. The Community Preservation program is 3 pronged. It seemed that the results of the Master Plan are very focused on open space. We need to attach some affordable housing. We do have a project coming online, but it almost feels like you are spinning your wheels. Everybody says, let the builders do it. The zoning changes have been good, but we do need, even in fair market value, there just are not enough apartments in town.

John Williams - I love goal #2. And to your comment about more apartments, I look at the survey data. We have to get a better job of getting out that message. The second lowest score is the availability of variable types of housing. The Master Plan is supposed to be a guide. At what point does the societal need for affordable housing outweigh what people say is not as important?

Jim Wieler - I think we are in the minority in terms of going out and doing a survey. By no means does this have to be a popularity contest. There are things we know as a community that we need to do – that are very unpopular – hard work – there is another one – people don't really know where the Charles River is – education things. We take the survey as guidance, and there are other things we know we need to do.

Andy Rodenhiser – You kind of get to a point in town where the state has created laws with exemptions for people to build things. We know we need certain things. they force it on us – by virtue of a 40B, and you lose all say in terms of what you want to do – making deals for friendly 40B – but we also need through legislative efforts, where we can make choice, to make a commitment to it, we are demonstrating our will to address these things.

Mark Cerel – Friendly 40Bs; you need to be careful about letting the developers do it. It is still always about profit. There was one in Woburn that ranged as high as 500 units.

Jim Wieler – Apartments where they count 100%.

Mark Cerel – Scale is important.

Andy Rodenhiser - And not creating a traffic nightmare.

Mary O'Leary – The recent 40Bs in Medway have never come through to fruition. If they do go forward, they are not going to be 40B. It is kind of a frustrating committee to be on.

Andy Rodenhiser – Thanks for your service.

Doug Heely, 8 Mann Street – Thanks to all. It seems like the Route 109 strip mall is pretty key. Are the owners of the mall on board?

Andy Rodenhiser – Gino Carlucci and I have met with them several times and their attorney. They are not convinced of the community's desire and the political will to change things. We have made some changes to their benefit. We are at a point now where we can say we have demonstrated our commitment to you. What are you prepared to do now? One of the classes I took a few weeks ago at the conference was about creating a business improvement district. Get the owners to create a district, and then go to a landlord and say this is what we want this to look like. We have talked with them about making parking restrictions a little easier during construction. We have met with a whole large group of 30 people or so from various groups to guide that development along. Take Holliston Street to Pond Street and make a major improvement.

Doug Heely – If you were to go forward with something like that is there a direct relationship to offset with more open space? It seems like the Smart Growth concept doesn't work if we lose open space.

Mark Cerel – Smart Growth is really focusing on an already developed area.

Doug Heely – Keep the density here. What stops it?

Mark Cerel – Buying it to preserve it.

Jim Wieler – This is a very long process. We are talking about providing options for the land owners, whether it is our bylaws or state program.

Mark Cerel – It is engrained in the American land law that people have a right to do what they want, the property subject to reasonable regulation. If you go too far, it becomes a taking, and compensation has to be paid.

Andy Rodenhiser – It is critical to maintain our Community Preservation Committee. That money can accrue into a fund with some state match to build a war chest for when the parcels become available.

Jim Wieler – Or conversely you provide some incentive for a developer.

Dan Hooper – Have you seen the concept plan for the whole strip? There is in concept accommodations for small mini parks as breaks.

### **Historic, Natural and Cultural Resources**

Rob Pomponio – Medway, as it was set out historically, was centered around industries. We moved from agricultural to industrial, and now we move to commuting. We are seeing the remnants of that without having one focusable town center. The redevelopment of Route 109 gives us a chance to refocus the heart of our town. It puts forth a vision that encourages people to walk or bike, be involved in town instead of having to get in the car and drive to a mall. We should work towards that vision. We can get there. We need to get the word out around the town. If I think of what makes me proud of the town, it is the people; and I want to be proud to live here. The buildings – we have a unique opportunity.

Rob Pomponio – That rural character came up time and time again within the surveys, and write-ins. People really do value that. That is why people have moved here or stayed. If you go through the section, Jim had me very heavily condense the history of Medway. We can be very proud of our history and the industries that helped build the town. From the 1999 Master Plan there were goals that were achieved. Stellar examples: the preservation of vital records, National Register Historic Districts, Medway Village Historic District, 250 historic buildings, the Thayer Home Place Preservation Project that has been ongoing for a number of years, historic open space, Evergreen Cemetery which is significant for Revolutionary and Civil War. If we look forward we would like to preserve our historic assets and our natural resources, the quality of our water, having open space protect our watershed, and making sure there is clean safe water to drink access to open spaces and our conservation land. Through efforts of the ConCom, the Community Preservation Committee and Open Space Committee, we are making some very positive gains and being proactive in preserving a lot of these resources. We also talk about preserving or being more energy efficient. We tried to set forth a vision of this as we talk about our public facilities - green standards and look at energy efficiency – our 4<sup>th</sup> goal is to protect natural resources – protect community spirit – we have done a lot to go forth to preserve our historic resources –

Andy Rodenhiser – Through this recent National Register District, and even with Rabbit Hill, are those areas eligible for grants?

Rob Pomponio – Mass Preservation and federal grants.

Andy Rodenhiser – What can we do? Gino Carlucci does a lot of consulting for us. Can we make his services available to the Historic Commissions?

Rob Pomponio – I would love that. Having someone that is adept at preparing proposal would be helpful.

Andy Rodenhiser – I look at some of our districts, people may not be able to maintain their homes

Rob Pomponio – For people who are tuning in at home, they can check the Mass Historic web site, and search it and look at what those incentives are, especially if they are in the Rabbit Hill or Village District.

Andy Rodenhiser – Maybe you guys can get together after the meeting. Get this info out on a wider format. Preserve things.

Rob Pomponio – We can make all those avenues available via web links on the web page. Boards and committees, we can have that posted.

## **Public Facilities**

Jim Wieler - There are a couple of different portions – Dan Hooper, Ron Wilson, and Diane Borgatti worked on this. In the survey, we talked more about public facilities. Big concerns about water. We went through and talked about the wells, and the attributes of the wells, and where we currently are with the wells. With our new well coming on line in about 2 weeks.

Andy Rodenhiser – Is there any effort on the Water Department's part to make a more proactive effort to the residents regarding why no irrigation is allowed?

Ron Wilson – The reason is this area is in a watershed.

Andy Rodenhiser – Is there an effort to educate?

Mark Cerel – As part of the conditions on the DEP's midterm renewal of the town's water withdrawal permit, it is in there.

Ron Wilson – And now the selectmen has taken that over. I have been told that that is their responsibility.

Jim Wieler - Bottom line, with our planned wells, we think we might be getting close to water demand at build out. We are bumping up against our permitted use, and we are within 10% of our allocation. We need to concentrate on water conservation, preserve the aquifer, and look at inflow and infiltration violations.

Andy Rodenhiser – Is that a new plan?

Ron Wilson – No. We have had engineers in, and had plans several times. We were following it up until recently. We can't hire anybody anymore. All the hiring is in the hands of the selectmen.

Chan Rogers – What I think may happen, too is that the selectmen will be responsible for appointing a board of water and sewer commissioners, and have people who are technically qualified to carry things out – I heard today that I am automatically elected because there is no competition.

Mark Cerel – In the same way that there needs to be a plan for upgrading roads and sidewalks you need to have a plan in place to camera certain lengths of sewer and do repairs. The issue is stuff leaking in, not out. We need to keep water from going into the pipes.

Ron Wilson – Up until this past year, we had a contractor come in every 2 years and check, and we hired people to repair leakage.

Jim Wieler – Our day to day flow is .72 million gallons a day. With the addition of the sewer for the 495 business park, we are within 10% of our maximum for sewage treatment. The Master Water Plan is underway. That contractor gave me comments.

Goals #3 - water conservation measure

Goal #4 – increase effective capacity

Andy Rodenhiser – When I had attended a meeting at the Water and Sewer Board, I was told the reason we have watering restrictions in place is that we have to demonstrate to the Department of Environmental Protection that we are doing something. If you don't have a formal conservation program in place, the Department of Environmental Protection wants you to have other restrictions. Is that correct?

Ron Wilson – They are trying to control it by controlling the amount of water that the Water Department pumps. They calculate that you can pump 65 gallons per person per day. If you go over that you are in trouble.

Mark Cerel – There are two state regulatory mechanisms: old grandfathered wells, and those that came on line after water resource legislation. Those get permits which are good for 10 years. Mid-cycle, DEP decided to bring in all the communities and review their permits and impose additional restrictions. And that is what has come about. Medway was one of the first communities which had to accept what the Department of Environmental Protection is mandating. Medway accepted those conditions to get their withdrawal permit.

Andy Rodenhiser – We need to communicate to our citizens why we cannot water our lawns.

Ron Wilson – We sent that out in a letter that we have to put out on the condition of the water system.

Andy Rodenhiser – People think we are out of water.

Mark Cerel – The legal framework in this state is pro-developer. You can't use not having enough water as a justification to deny a market rate or 40B development. That is another reason why you need to guide development.

Mark Cerel – You can't just put a moratorium into effect.

Ron Wilson – There is enough water available in the town for the town to reach maximum build out. It is whether the state will allow you to put in the wells, take out the water and do the treatment.

Ron Wilson – The new well we are starting up will pump close to 500 gallons a minute. The state will only license us for 350 gallons. That is the limit.

Jim Wieler – On schools, they are doing a Master Plan for the schools. With all four enrollment projections, it looks like it is slowing down. So what do we do? Use the schools and open them up for more community use. Look at existing school facilities and assess the town's need across other boards. Can we put some town offices in a school? For goals and objectives for schools section is green focus, energy management systems.

Dan Hooper – We are directly addressing survey responses to concerns about the cost to run the town - The schools are the biggest energy users by the town. The biggest component of town spending could be tied to energy use. There is a mandate to lower energy costs.

Jim Wieler – It could save \$280,000 a year.

Dan Hooper – We should also take a look at life cycle costs with new buildings. That frame of mind relating to energy costs didn't play a role in the design of the older schools.

Ron Wilson – There is very poor control of the heat in that school.

Dan Hooper – My kids have gone to Burke School. Windows are open in the winter.

John Williams - Do you know if the facilities management has reached out to NSTAR?

Andy Rodenhiser – That is underway now.

Jim Wieler – Jim McLean brought the whole thing forward to the school committee. Also need to improve computer technology and access within the schools. Wireless – you can have mobile centers of learning and classroom sharing. Investigate regional opportunities to look at facilities and fields. That is one of the goals. Also look at things we can do to use other facilities in other towns.

Dan Hooper – Town buildings and facilities. Specific to the facilities that exist now, we are fairly well situated. A large portion of our town buildings have been built in the last 20 years. The main concern is the town hall. It is the oldest, and the one in most need of attention, technology, space, parking, heating. As far as the rest of the buildings, even the fire department,

even as the second oldest, it is pretty good. But the town barn is probably in the most urgent need.

Mark Cerel – That would be an issue in and of itself. Look historically where these facilities were sited. The barn is where the dump used to be. It was much later that we realized there was an aquifer underneath. Now you have a Department of Public Works facility that is within the protection zone of your wells, and that raises all kinds of implication with the Department of Environmental Protection and the Environmental Protection Agency. It puts the town at risk. Relocate it somewhere. You have to upgrade it and get it out.

Ron Wilson – Anything you spill at that location, it takes about a year to get to the Oakland Street well.

Andy Rodenhiser – Contingent liability of the dump. Has anyone looked at that?

Mark Cerel – It has been a dirty little secret for years!

Andy Rodenhiser – Is anyone looking at it?

Ron Wilson – The Water Department brought it up to the Board of Selectmen about 15 years ago, and within a year we picked up soap at the well.

Mark Cerel – The Department of Environmental Protection does a survey of landfills that haven't been closed.

Andy Rodenhiser – Is that under a brown fields thing in the Master Plan anywhere?

Dan Hooper – The town dump is an excellent issue. The facilities in most dire need are town hall and barn; goal 2 is a maintenance plan for town buildings; emphasis on energy management for all town buildings; need for a permanent location for a youth center – hasn't gained much ground – some peripheral discussion in conjunction with 2B Oak Street potential – I think this is going to be in a number of different sections that will be pursued further

Jan Fish – If we are looking for a youth center, what we have heard is that we should be looking at the schools.

Rob Pomponio - From the 1999 Master Plan to today, the only thing that prevents us from doing many of these things is recruiting enough volunteers within the community to come forward and make it happen. People have to get involved. My plea is if this is something that concerns you, please come forward.

Andy Rodenhiser – There is a group looking for volunteers to help bring a boys or girls club here to Medway to use underutilized facilities.

Jan Fish– Could you put that on the cover of the Master Plan?

Dan Hooper – The primary purpose of the facilities is for education. If the facilities are not meeting the needs for education, let's start there first, and then fill in for other needs.

Mark Cerel – It might be something to look at from an inter-municipal perspective – large indoor fields/spaces such as inflatables where the cost of construction is not huge – so that if you pull together from several towns, it might work.

Mark Cerel – I would like to go back to this building here. Let's cut to the chase here. Let's move on. We should explore whether to look at this building. When Medfield was looking at salvaging their town hall, the driving force was that a lot of unused space was available in the building. They brought in an engineering and architectural firm to evaluate the building to see if there was usable space. The determination was made to rehab the building and get twice the space they had. Could we put a third floor in here? We need a feasibility study to evaluate – Perhaps the Community Preservation Committee could fund such a study.

Dan Hooper – We have another municipal facility behind us here - a flat roof, tin building – there is a structure, in terms of square footage and land mass is way underutilized. Maybe there could be more of a consolidated a town hall functionality. We are consolidated to the max. Maybe some of them could be relocated behind here

## **Transportation Section**

Dave Kaeli –A couple of things to start off. The first thing was to review where we were in 1999. Major items – the Holliston and Main Street intersection was upgraded with new light and signal. We went back and looked at traffic accident data from the Police Department. That change made it a much safer intersection, and many accidents are down. We can go through the whole Route 109 corridor and see where the hot spots are. Good data. That has helped us to look back. What else came out of the 1999 plan was the need for Public Transportation to the trains, and transportation for seniors. There have been significant improvements there with the GATRA shuttle. The other thing that was highlighted back then was the absence of a sidewalk Master Plan. In 2002 a Master Plan was written but never endorsed or implemented.

Andy Rodenhiser – Who has that?

Dave Kaeli – Dave D'Amico wrote it.

Dave Kaeli – In terms of current conditions, traffic and pedestrian safety is based on the Department of Public Works' ability to clear, repair and maintain. That takes money. The budget for the Department of Public Works (Public Services) is sacrificed for various reasons. Dave D'Amico is extremely frustrated. At every point it is almost futile to have a Master Plan for roads and sidewalks, but this is what we are recommending. So what further recommendations can we do?

We need to improve traffic safety on Route 109. Major issue is the number of curb cuts at Medway Plaza. CI redevelopment plans will address this. There are problems with the location of some cross walks where they are now, as you look at the line of sight, and some of the turning lanes into such locations as Dunkin Donuts. Cross walks are not in the best locations. You could do things to repair that by changing the grade of the road. – Complete study – look at curb cuts, look at volumes – We need to increase the sidewalks and trails in Medway. – We identify specific locations where there should be some, and we need to be able to link subdivisions.

Some progress has been made. – This needs to be continued. Open Space Committee is going to be working hard on a comprehensive trail system for the town. – The Community Preservation Committee is behind that – We need better signage for our crosswalks. We need bike lanes. We also have to figure out how to connect to neighboring (adjacent) towns-

Public transportation - GATRA service works well. We can also look at Metro West Regional Transit Authority that goes up to Natick. That would be a simply to connect. Consider shuttle service from Medway to Bellingham. Work with SWAP for a Logan park and ride. – Discussion re West Medway fire station –

I just want to say, it was nice we had the info on accidents. The police were very helpful to provide that, and they had the information technology to generate that info.

Chan Rogers – The police do have very good traffic accident records. The Route 109 Committee has turned this data over to the state. Right now, it is being put on the TIP for all the way through. TIP is Transportation Improvement Project. It is the official list of projects throughout the state to be undertaken. The critical accident situation is to fix the Franklin, Milford, Main Street intersection. But Shaw Street is caving into the Charles River. 4 trees. There goes Dave's budget for the intersection.

Dave Kaeli – I wasn't sure how to write that into a plan as it is not guaranteed it is going to happen.

Chan Rogers – To use the dirty word, federal earmark, for Route 109, hopefully, we will be able to get something done in the next 2 years.

Dave Kaeli – I wasn't sure how to incorporate that hope for that. I guess the first step has happened.

Charlie Myers – I want to thank you guys for all your work. I read the report. It is a great document. I would like to see if we could add some other things in there. I would like to see a task assigned to review zoning regulations and building code so we can accommodate hybrid vehicles and fuel cells, and become a town that is anticipating fuel cells and hydrogen infrastructure. What do we allow for in our building codes and zoning to provide for this? We could create a special form for the building inspector regarding alternative fuels.

Andy Rodenhiser – I think they have an action item on this.

Charlie Myers – It is not complete enough. There is no assigned task that says review building code, or look at zoning.

Mark Cerel – Building code is a state issue. The town cannot influence that.

Andy Rodenhiser – During Site Plan review we could look at this.

Charlie Myers – A fuel cell system that is in a refrigerated trailer makes no noise. So we have restrictions on deliveries on certain hours on the morning. If that vendor was using a different vehicle they could deliver at any time.

Jim Wieler – These are great points. Where would we stuff it?

Rob Pomponio – Page 5 of Appendix A.

Charlie Myers – I am suggesting you be more specific with details.

Charlie Myers – Another area was an annual reporting mechanism, so if the town is taking energy reduction activity, by department, I would like to see some annual accounting ability along those lines.

Charlie Myers – If we go to the building inspector, there is some educational technology steps that should be taken there so that the town workers have the ability to review (the new technology). Keep their education levels. Does the police and fire department get the appropriate training for this? I think there are some additional tasks that should go in on that. We do we have to provide training for emergency responders.

Andy Rodenhiser – Do those training programs exist?

Charlie Myers – Yes, but from a variety of locations to pick them up. We should get into the Green Communities program. Anybody using a town vehicle should be looking at hybrid vehicles. The more language we put it, the more we can get rebates from the state.

Gino Carlucci – On the building code, there is about to be an optional supplement to the building code that addresses additional energy component. That may be coming available shortly. And secondly, there is land use reform legislation. There is a sort of an opt-in option that requires something very similar to a Master Plan with an energy component. It would behoove us to beef that up.

Charlie Myers – I recently attended a ZBA hearing and proposed that they go with a fuel cell technology. They didn't have the language in our zoning bylaw that would allow all that. The ZBA could have done something if there was language.

Mark Cerel – if you have a wireless overlay district, you can impose those kinds of conditions for granting a special permit.

Jim Wieler - I want to thank Charlie Myers for being the first to post the 1999 Master Plan on his web site ([medwaytoday.com](http://medwaytoday.com)).

Charlie Myers – What is long and short term? There are some technology things we need to address, putting a wireless system into the schools and the town so that all are connected. Is there a network goal to attain the highest level of technology available?

Andy Rodenhiser – As far as a next step, what are your thoughts?

Jim Wieler – Susy Affleck-Childs has been collecting comments. I have received comments from FinCom and Dave D'Amico and Mark Cerel just gave it a serious editorial read. I will parse these sections back out to the individual section leaders.

Jim Wieler – I am thinking about hiring a technical writer to format it, so it is ready for print.

Andy Rodenhiser – You mentioned the map detail as being an issue. If we have it in electronic format, make it more readable. I expect Tom Gay would be willing to help out.

Jim Wieler - The online document will be in color.

Dave Hooper – We need to look the font size, especially on the legends.

Andy Rodenhiser – It has to be more readable. Also once it is all formatted and edited, put in internal references to other sections.

Jim Wieler – I saw a couple of members of the Board of Selectmen. We need to get in front of them too.

Jim Wieler - Any comments? If so, please get them to Susy Affleck-Childs, and she will forward them along to us. A marked up hard copy is fine.

Andy Rodenhiser – I would like Gino Carlucci to look at the version and identify things we might need to add for goals that would be good for grants.

Susy Affleck-Childs – I would hope we could get the various boards to buy in.

Karyl Spiller-Walsh – We have a Design Review Committee meeting Monday night. Do you have any thoughts for a cover? Would you appreciate some help on that?

Jim Wieler – Yes.

Rob Pomponio – What we hoped to present was a unified vision of where we could go. You can see a lot of interconnectivity between a lot of the goals. As a town we can approach it as one thing – broader perspectives –

Andy Rodenhiser –all threads that kind of weave together –

Susy Affleck-Childs – I would ask that you be as specific and clear as possible in the table of recommendations so people who read this in the future understand more what is desired.

Jim Wieler – We have had a great committee.

Andy Rodenhiser- you guys have been motoring and working hard –

Chan Rogers – I was involved on the Hingham Planning Board in 1964 when we did a plan. We are getting a bargain. The town is paying very little and you are far more comprehensive. I look at the survey as a guide. You have done a tremendous amount to capture the survey direction. You are to be commended tremendously for your professional input.

Dave Kaeli - One thing about the survey – it was written by people who have thoughts about what is important – so it may not always have been completely objective - it was limited by the scope of the questions asked.

Andy Rodenhiser – all meetings were posted, open to the public and minutes posted

Karyl Spiller-Walsh – I appreciate your excellent presentation – very clarifying –

Thanks to all . . .

### **Other Business**

Susy Affleck-Childs – Here is a letter from Mark Louro at VHB re: Speroni Acre. I would suggest that we have Mark Louro here and invite the neighbors, and the builder. Do it all on one night. Have Mark Louro explain what the problems are.

A motion Karyl Spiller-Walsh moved that the minutes from March 17, 2009 be approved. Chan Rogers seconded the motion. The motion passed unanimously.

Perhaps an early meeting on April 14, 2009, let's say, open early at 6:00 pm.

Karyl Spiller-Walsh – Could somebody contact Ms. Borgatti about the easement stuff to maybe hear some voicing of her concerns? I can do that. I am wondering why she is hesitant.

Andy Rodenhiser – That is between her and Greg Whelan.

Chan Rogers – I think she is blocking the whole street from being accepted.

Andy Rodenhiser – Karyl, if you want to reach out to her, go ahead.

Karyl Spiller-Walsh – I am sure they have some basis for their concern. I will do that.

Andy Rodenhiser – And report back to us at the next meeting.

Karyl Spiller-Walsh – Regarding the Speroni Acres stuff, we need to know what the scale of excess is, if he could indicate whether it is really excessive. Is it just dribbling over the top?

Andy Rodenhiser – At the CPTC meeting in Worcester last week, I picked up a packet of info on lighting standards – I will give it to Bob Tucker.

Gino Carlucci – We talked a little bit about the Commercial I District. I have been working diligently looking at the development potential of each parcel for the PDF grant, comparing what is there and some alternatives.

Andy Rodenhiser – Are you going to look at setback recommendations especially with Route 109. Let's have some type of visual reference.

Gino Carlucci – I have individual parcels shown with an existing building and with a new building.

Andy Rodenhiser – I was called by someone who had some concerns about the adult uses proposal. I suggested he drop off the info to Susy Affleck-Childs.

Susy Affleck-Childs – He did call but he has not dropped off any information.

A motion to adjourn was made by Chan Rogers, seconded by Karyl Spiller-Walsh. The motion was approved unanimously.

The meeting was adjourned at 9:45 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

**Medway Planning & Economic Development Board Meeting**  
**Tuesday, April 14, 2009**  
**Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Chan Rogers, Bob Tucker, Karyl Spiller-Walsh, John Williams,

ALSO PRESENT: Susy Affleck-Childs  
Barbara Saint Andre

The meeting was called to order by Chairman Andy Rodenhiser at 6:20 pm

A motion was made by Bob Tucker, seconded by Chan Rogers, to go into executive session to discuss strategy with respect to litigation and to return to open session for the rest of the meeting.

Roll Call vote

Andy Rodenhiser – YES  
Bob Tucker – YES  
Karyl Spiller-Walsh – YES  
Chan Rogers – YES

The motion was approved. The board went into executive session at 6:25 p.m.

The board reconvened from executive session at 7:05 pm.

Tom Gay present for rest of meeting.

Andy Rodenhiser – Good evening. We already opened the meeting and went into executive session. We have now returned.

**Citizen Comments** – None

**Country View Estates/Broad Acres Estates – Discussion re: Bond Release**

Ted Cannon, attorney for developer Greg Whelan – Good evening, my apologies. I tried to call Susy Affleck-Childs about 6 pm. I wanted to ask for a continuance to the next hearing date. We expect to have most of the outstanding easements in hand by then. I think we will have a more fruitful discussion at that time, rather than have a rehash of 2 weeks ago. We would rather come in with them in hand.

It was agreed to reschedule the discussion to April 28, 2009 at 9 pm. Also agreed that Ted Cannon will talk with Barbara Saint Andre before then.

**Other Business**

Andy Rodenhiser – The discussion re: street acceptance issues for Ishmael Coffee Estates has been continued as well, to the April 28<sup>th</sup> meeting.

Andy Rodenhiser – Just a reminder to you that we will also begin the public hearing on the Daniels Village ARCPUD project at the next meeting. Barberry Homes is under the impression it is going to be a one issue show. They were questioning the validity of the \$2500 plan review expense invoice Susy sent them.

Bob Tucker – I would like a copy of that memo.

Andy Rodenhiser – I would like to delay endorsing the Williamsburg Condominium OSRD plan tonight.

### **Proposed Zoning Bylaw Amendments – Public Hearing Continuation**

Susy Affleck-Childs – We have a recommended further edit on the draft OSRD amendments. See Attached. This would modify the proposal for an 8 acre minimum size for an OSRD project to allow smaller parcels to use the OSRD option when those parcels abut the Charles River, Hopping Brook or Chicken Brook.

Gino Carlucci – The formula for determining the number of lots excludes those areas.

Andy Rodenhiser – If you have a 7.99 acre parcel, with open space in the 200 riparian zone, will we still have enough for open space?

Karyl Spiller-Walsh – I see it as a kind of possible reducing the amount of open space that will go with the parcel. Right now the riparian zone is not included in the open space formula.

Gino Carlucci – The only thing it changes is the basic minimum parcel size.

Karyl Spiller-Walsh – There is some talk about smaller parcels. It is too bad. This is kind of halfway.

Tom Gay – I think this is true to the spirit of what we are trying do.

NOTE – Board agreed to go with the suggested further amendment.

Tom Gay – I think it is worded awkwardly. I would like to see it broken up into two sentences.

NOTE – Check with Gino Carlucci for final edits.

### **Sign Regulations for Business Industrial**

Susy Affleck-Childs – Based on the discussion at the last meeting, the key issue was allowing for two development signs. What we have suggested is allowing for one development sign by right and a second development sign by special permit from the ZBA, based on safety issues. See Attachment.

Okay

Andy Rodenhiser – Have you run this by Joe Musmanno?

Susy Affleck-Childs – Not yet.

Andy Rodenhiser – Please send it to him.

### **Commercial V**

Andy Rodenhiser – We were looking for some type of commentary from the gas companies about the necessary size.

Joe Avellino – These companies don't do this. They don't want to give us anything. My realtor could have written a letter, but I just figure that is just a letter he wrote. I don't know if that holds much merit. These are the experiences we have had. If we want to have a gas and convenience store we need to be able to show them the bylaw allows for more than 4 pumps.

Andy Rodenhiser – It is allowable by special permit for 4 pumps – we were looking for some evidence that it needs – All we have is your verbal explanation.

Joe Avellino – I don't know if I could get a letter except for making one up. I have asked Tedeschi and Hess, and they have all refused to give me anything.

Andy Rodenhiser – Does the board have any questions?

Bob Tucker – I think we have hashed through this a number of times now,

Andy Rodenhiser - Do the residents have any questions?

Bob Tucker – Opinions?

Andy Rodenhiser – The Planning Board will end up making a recommendation to town meeting.

Susy Affleck-Childs left for a few minutes to help Suzanne Kennedy.

Resident – a reason people move to Medway is the small town community feel. My question is about size and scope. At what point, where is the tipping point? I passed a gas station on Route 126 on my way here, and that was huge. That seems overwhelming. What is the philosophy?

Neighbor – It would at least be overwhelming in that space/location.

Andy Rodenhiser – I think these guys (Avellinos) want to leverage a deal for the corner that would allow them to develop the rest of the area more fully as a modern greenhouse. Several years ago, they showed us a Dutch style greenhouse that was fairly expensive. The resources to do that would come from this tenant. They want to recapitalize Medway Gardens to be more of a player in the business.

Joe Avellino – That is still the plan. It is still up to the Planning Board, what this thing looks like. The canopy has restrictions to 2400 sq. ft. and I think in the old (current) by-law it was 2200.

Andy Rodenhiser – I am concerned that you

OTHER Avellino – WE have spoken to folks from the gas retailers association – They told me that any info is proprietary. Those are not public studies. Unless we have a tenant that is really serious, they are not going to divulge the information to any Joe who asks for it. Getting any objective information has been really tough. It is proprietary. I have been told that by members of the gas retailers association. So again, we could write letters from our attorney or realtor. Unless we could get a serious tenant, we won't have a letter, but we need to get a tenant here first before.

Joe Avellino – Tedeschi said they would start negotiating if the bylaw passes. But they would not put that in writing.

Gino Carlucci – I did a quick internet search this afternoon. “First Research” which does analysis of different industries, - the first page was visible and it has some information about the industry – combined sales, info, then it says - % of sales – average sizes – with number of pumps –

\_\_\_\_\_ Avellino – I have done a lot of internet research, but nothing pertinent to 4-6 pumps.

Joe Avellino – Read Tedeschi's web site. They say they want a 4000 sq. ft store with 4 pumps at their web site. But they want more at our site because of the ledge.

Andy Rodenhiser – Ledge is the issue.

\_\_\_\_\_ Avellino – It is by special permit, it is still subject to your review.

Karyl Spiller-Walsh – Special permit is always a compromise.

Andy Rodenhiser – Mass General Law always governs. If you feel aggrieved you can appeal a decision.

Donna Hainey, 6 Little Tree – What I am concerned is for the other corners in the district. That doesn't mean that the other corners could not put up a gas station on that corner for competition. The ramifications are great. Secondly you keep changing the law to suit the applicant. You should listen to the residents of this area.

Andy Rodenhiser – We only made a modification for this once.

Donna Hainey – But you are doing it again.

Andy Rodenhiser – Where you live is the intersection of two state highways, and you will most likely see a continuation of Commercial V down Route 126, and you may see an expanded use south of you in the industrial zone – even though that is where you live, we can't prevent people from developing their property.

Donna Hainey - We understand that.

Eric Alexander, 3 Philips – It is important that you clarify for the citizens that you are considering a change to the zoning bylaw that was proposed to you and you are making a decision whether to recommend its approval.

Andy Rodenhiser – The Avellinos approached us about making the modification. We were looking for something in writing to document the need.

Joe Avellino – You can't think that 5 minutes of internet research that might say what the standards – it is going to take \$250,000 to break that ledge.

Andy Rodenhiser – This isn't just about your site. It is about the district. We can't do zoning specific to your site. The fact that your site has ledge is your problem. We want to promote economic development in town where it is appropriate. Not everything is ideal for all parcels. Trying to sink 30,000 gallons of gasoline tanks presents its challenges.

\_\_\_ Avellino – What difference does it make for the cost of construction to the residents?

Andy Rodenhiser – You are hearing them say it is a concern about scale. The return on investment (for the gas company) is about the number of pumps and that impacts scale.

\_\_\_ Avellino – We could present a site plan for a strip mall, and that would be a legal by right. That would be a much larger scale operation than what would be allowed here. That would be a lot larger than what we are talking about here. We want to try to not have to do that by leasing out the corner and using the gain to build our business. We like the corner and this town. Right now we have aging infrastructure, and we want to do something about that, and that is why we are here – to try to build our business.

Joe Avellino – to stay in business – Who knows what is going to be there if we aren't there. We aren't trying to deface the town. If they cut down on the size of the convenience store and set up the gas pumps in 2 rows of 3, the scale would be better. Hess was doing 3 rows of 2 pumps each. People think of one big long huge setup. I think you have the problems of scale figured out. I don't see that there is anyway around here. You say 2400 sq. ft. canopy. I just don't understand what the big discussion is about size and scale. It is up to you guys. We are trying to do the right thing for everyone, for ourselves, and for the town of Medway Planning Board.

Citizen – What is the role between the Planning Board, ConCom and the Environmental Protection Agency?

Andy Rodenhiser – The Environmental Protection Agency regulates at a federal level.

Citizen – If we were looking to increase the amount of pumps and tanks, does that have any impact? What is the role of the Planning Board?

Andy Rodenhiser – The permitting of the underground storage tanks is permitted by the fire department and is regulated by state law. As long as they met the conditions of the code, they can do that.

Citizen – I have concerns about health risks. I have found some studies and connections between gas stations and cancer.

Andy Rodenhiser – Is it related to the larger size of a gas station, you could give that testimony at a public hearing on a site plan.

Bob Tucker – You could go to the conservation commission – I would encourage you to go to everybody.

Andy Rodenhiser – It might not even have to go to ConCom. They might not even need an order of conditions if there are no wetlands on site.

### **Affordable Housing/Infill**

**Eric Alexander** – At the last public hearing, Joe Musmanno made a great catch with respect to the language on setbacks. In the previous draft the minimum setbacks would be determined by calculating average for adjacent and across the street. Joe Musmanno wondered what you would do if those were vacant. I went back and made a little bit of a change to the language that essentially indicates it would be the 3 closest lots on the same side of the street and across the street providing it had a principle structure. If not, the next closest. So the setback would be determined by the 3 closest.

Tom Gay – Reads fine to me.

Karyl Spiller-Walsh – Does it change the number of lots that might be eligible.

Eric – It does not. I don't think any would have been an issue.

Bob Tucker – Who will present this at town meeting?

Susy Affleck-Childs – I would expect the Affordable Housing Committee to present and the Planning Board to make its recommendation.

Eric Alexander – We would like that opportunity. Be glad to answer any questions.

Andy Rodenhiser – Lets keep Mark Cerel in the loop on all this. Can we meet with him?

Bob Tucker – I like it.

Karyl Spiller-Walsh – I like it.

AGREED.

### **Adult Entertainment – Industrial I zoning district**

Susy Affleck-Childs – I provided Town Counsel Barbara Saint Andre with notes from last meeting.

Barbara Saint Andre – One of the issues that was brought up was whether you can have separation standards with churches. You can. The Supreme Court did uphold a bylaw of the City of Renton, Washington. (1986). Whenever you look at one of these, you have to look at whether there is a legitimate reason for the bylaw. As we are talking about free speech, some area has to be made available (for adult uses). You can separate it from various uses. We are looking at secondary effects of these types of uses. They found it was a reasonable bylaw with the separation standards.

The important thing throughout the bylaw is to emphasize that you are trying to reduce secondary effects of adult uses. You have to keep in mind that there has to be some reasonable area for people to set up these types of uses.

Andy Rodenhiser – the Dance studio issue?

Barbara Saint Andre – A dance studio is not a school so far as I know under 40A section 3.

Susy Affleck-Childs – We spoke with Bob Speroni whether a dance studio was a “school” per the Industrial I zoning district provisions. I have a note from Bob. See attached. Bob feels that a dance studio is allowed in that district because it is general business, not because it is a school.

Andy Rodenhiser – If a church were to buy one of those commercial buildings and start to have services in there, would that negate the ability to for an adult use to operate there.

Barbara Saint Andre – It would depend. It would have to meet the dispersion standards.

Gino Carlucci – Even if it were exactly in the middle, I think it would be enough room.

Andy Rodenhiser – If something like that were to happen and we found ourselves without enough space . . .

Barbara Saint Andre – Then you should look at allowing it in other areas in town. If the area is too limited, it could be challenged. If overturned, they can go anywhere. You have to be careful of that.

Andy Rodenhiser – Any comments from the public?

Bob Tucker – I think we have heard anything – I think we have gotten all.

Andy Rodenhiser – Are we comfortable closing the public hearing?

Gino Carlucci – I would like to introduce the info from internet from FIRST RESEARCH re convenience stores and Gas Stations Industry Profile.

8:10 pm –Barbara Saint Andre leaves.

Gino Carlucci – What I was really looking for was canopy information. There was some discussion about using a proportion of building to canopy to come up with a (relational) standard – I didn’t find anything but I did a couple of calculations – 55% convenience store to 45% canopy size. I have some photos of a gas station in Kittery, Maine.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to close the public hearing on proposed amendments to the Medway Zoning Bylaw. The motion was approved unanimously.

### **Other Business**

Minutes of March 31, 2009 meeting – Hold over to the next meeting.

Gino Carlucci – I have a report to give you under the Priority Development Grant – this is for the Commercial I district discussion. This is a parcel by parcel review of development potential with intent of 40R.

Andy Rodenhiser – This is unbelievable. This is amazing. This is unreal.

Gino Carlucci – It took a lot longer than I thought, but my son made all these maps.

Andy Rodenhiser – This should get mailed to all the property owners as a potential, to encourage them to make better use of their property.

Karyl Spiller-Walsh – Is there a total map?

Gino Carlucci – I could probably do that.

Gino Carlucci – This is conceptual without any engineering. In the 80 acres, 8.32% of the area is covered by buildings now. Current zoning allows up to 30% lot coverage. Usually you can't ever get to that because of parking requirements. Total amount of commercial space currently is roughly 290,000 sq. ft. This covers everything in Commercial I except for Medway Commons.

Gino Carlucci – The main thought on this was to make sure that it would fit – the assumption I used one parking space per was 325 sq. ft of floor area. A 9'x18' parking space is 160 sq. ft. The extra would allow for aisle space.

Karyl Spiller-Walsh – What happens with setback?

Gino Carlucci – They are generally pulled up closer to the street. There is no specific distance, just closer to the street.

Gino Carlucci – Under this scheme, we would get 778,000 sq. ft of commercial space, more than double what we have now and that would still only take up 22% lot coverage. With parking it would be 50 acres. That leaves 30 acres for drainage, landscaping and pocket parks.

Andy Rodenhiser – It would be neat to knit these together, to see an overall, and perhaps boxes that would represent green spaces or parks. Need some sense of proportion. This gets them a lot more square footage. Use perimeter pad sites.

Gino Carlucci – This made the blanket assumption that second floor was housing, 1,000 sq. ft. each – could generate as many as 862 housing units. It could be offices as well. That would push the leasable space up over 1,000,000 sq. ft.

Bob Tucker – Certainly gives people something to think about.

Andy Rodenhiser – Could we meet with Diversified again?

Andy Rodenhiser – What do we need to do with parking with a mixed use? Is parking addressed sufficiently?

Gino Carlucci – I used the assumption of 325 sq. ft of floor space needs one parking space. I did not do a specific layout. It could come out to be less. I said that this is all conceptual and that maybe it would be safe to assume that 75% of what this is possible. Because it is not a specific site layout, based on gross formulas, even doubling the commercial space is something. It doesn't account for economics and market demand, but this is a long term thing.

Andy Rodenhiser – If we were to utilize some of the principles that were discussed at the Economic Development Committee where you use bait to try to attract development, perhaps we use the contract with TTR and make those services available; and maybe get grant money from Mass Development and get their professional services through their house contract with VHB to make it available to the developer to reduce their upfront cost, and move forward on that basis.

Andy Rodenhiser – Is it possible to share this with the Economic Development Committee?

Susy Affleck-Childs – Absolutely, they are on a steep learning curve.

Andy Rodenhiser – This could show them the potential and stimulate some creative thought.

Karyl Spiller-Walsh – It would be nice to have it all on a map to project the new – This gives us something to work with.

Andy Rodenhiser – One big parcel map - We could have some discussions on setbacks –

Andy Rodenhiser – What about parallel parking and angular parking relative to the width of the street and it being a state highway?

Gino Carlucci – They are doing it in Millis.

Andy Rodenhiser – And Wellesley, too.

Susy Affleck-Childs – There is not universal acceptance that allowing for parking on Route 109 in Medway is a good idea.

Andy Rodenhiser – Business Improvement District could perhaps provide for snow removal.

Phil Giangarra – You wouldn't want one curb cut per business, so there would need to be some streets behind the buildings. Does this take the roadways into account? So these numbers would have to be reduced?

Andy Rodenhiser – Internal roadways within the development.

Gino Carlucci – And there are still 30 acres left after calculating the buildings and parking.

Andy Rodenhiser – Excellent work, Gino. Amazing.

Bob Tucker – I look forward to seeing the oratory that goes with this.

Andy Rodenhiser – I think we should wait on endorsement of Williamsburg Plan. I think we can wait.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to adjourn the meeting. The motion was approved unanimously.

The meeting was adjourned at 8:40 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

## **Additional Edit for OSRD Amendments**

Draft 4-3-09 (sac)

Paragraph 2.

d) Tract Size – An OSRD shall be on a site that is a minimum of 8 acres in area *provided however, that the Planning and Economic Development Board may approve an OSRD on a tract of land that is less than 8 acres if such property directly abuts the Charles River, Chicken Brook or Hopping Brook and that portion of the property that abuts any of these waterways is included in the open space.*

## **Business/Industrial District – Signage**

Additional amendment – 4/3/09 (sac)

### **Multi Tenant Development**

**Development Sign** – ~~1 per approved curb cut~~, 1 per development; one additional development sign may be allowed by special permit of the Zoning Board of Appeals if it determines that additional signage is necessary to facilitate safe ingress to the site.

## April 14, 2009 EDITS

### **PROPOSED Infill Residences for Affordable Housing**

REVISED 2-6-09 after discussions with Town Counsel, Affordable Housing Committee and Planning Board

ARTICLE                To see if the Town will vote to amend the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section F. Agricultural/Residential District II, by adding paragraph 9 as follows:

#### **9.     Infill Lots and Dwelling Units**

a)     *Purpose* – To increase the supply of housing affordable to households of low and moderate incomes and to preserve and enhance Medway’s traditional neighborhoods by encouraging development at a scale and density compatible with neighborhood character. This furthers the objectives of the Medway Master Plan by guiding development toward established areas, thereby creating opportunities for new investment away from the outlying and more rural and agricultural areas of the community.

b)     *Special Permit Required* – The construction of an infill dwelling unit is allowed only on a designated infill lot for which the Planning and Economic Development Board has issued a special permit, subject to the requirements included herein. Infill dwelling units shall be rented or sold only to a low/moderate income qualified household.

c)     *Applicability* – These provisions shall apply only in the ARII Zoning District as follows to vacant land parcels of record in existence as of January 1, 2009 which do not satisfy the minimum lot frontage and/or area requirements of the ARII Zoning District. Designated infill lots may include lots which may not be protected as non-conforming lots by law because they are in common ownership with adjoining lots.

d)     *Minimum Requirements for a Designated Infill Lot* – A designated infill lot shall meet all of the following standards:

1.     *Area* – A designated infill lot shall have at least 6,000 sq. feet of land area.
2.     *Lot Shape* – A designated infill lot shall have a “Shape Factor” which falls within 15% of the average of the Shape Factor of the lots immediately adjacent to and across the street from the proposed infill lot.

$$\text{Shape Factor} = \frac{\text{the square of the lot perimeter}}{\text{the lot area}}$$

3.     *Setbacks* - The minimum front, side, and rear setbacks for a designated infill lot shall be determined by establishing the average setbacks **based upon the three closest lots with existing principal structures located on the same side as and across the street from the proposed infill lot to be built upon. Vacant lots shall not be used to determine setback.**

4. *Frontage* – A designated infill lot shall have frontage on an existing public way, or private way which provides safe and adequate access. The minimum required frontage for a designated infill lot shall be determined by establishing an average frontage based on lots with principal structures which are located immediately adjacent to and across the street from the proposed infill lot to be built upon.
5. *Utilities* - A designated infill lot shall be required to connect to the municipal sewer and water system in the adjacent street.
6. *Parking* – A designated infill lot shall have an off-street parking area, indoor or outdoor, of sufficient size to allow for at least two parking spaces. No parking area shall be located nearer than 10 feet to the line of an adjoining lot. Unless determined by the special permit granting authority to not be feasible, parking shall be located to the rear or side of the building and not in the front yard. Parking areas shall be suitably screened from abutting properties.

e) *Requirements for Special Permit*

- 1) All minimum requirements for an infill lot shall be documented.
- 2) The infill lot and the proposed building shall be deed restricted as affordable for a period of no less than 30 years and in a manner consistent with inclusion on the Massachusetts Subsidized Housing Inventory (SHI).
- 3) The proposed building and its siting on a designated infill lot shall be similar to and consistent with the neighborhood's character and scale and to the bulk and height of adjacent residences and shall include elements of New England architectural style and will be reviewed by the Design Review Committee in accordance with the *Medway Design Guidelines*. The Design Review Committee shall provide a recommendation to the Planning and Economic Development Board.
- 4) The primary entrance and façade of the infill residence shall be oriented to the adjacent street.
- 5) Infill dwelling units shall be rented or sold to a low/moderate income qualified household.
- 6) A designated infill lot shall be used only to construct a single family residence with no more than three bedrooms.

f) *Other Provisions Applicable to Infill Lots*

- 1) Notwithstanding any other provision, a designated infill lot authorized by special permit of the Planning and Economic Development Board shall not be further subdivided, or reduced in area, or changed in size or shape and may be used only for infill residential uses as defined herein.

- 2) Any infill dwelling unit constructed on a designated infill lot shall not be converted to a two-family or multi-family dwelling and shall not be altered to include an accessory dwelling unit.
- g) *Maximum Infill Residential Use Limitation* – The maximum number of designated infill lots/ residences that may be permitted in the Town of Medway pursuant to these provisions shall be limited to a number equivalent to 1% of the total number of detached single-family residential housing units located in the Town of Medway as established annually by the Board of Assessors.
- h) *Rules and Regulations*
  1. Upon the adoption date of these provisions, the Planning and Economic Development Board shall establish and maintain *Rules and Regulations for the Issuance of Infill Housing Special Permits* which shall be on file with the Town Clerk and may be updated periodically.
  2. Maximum purchase prices and rents for infill dwelling units shall be set at a level to ensure a unit's eligibility for inclusion on the Massachusetts Subsidized Housing Inventory.

Or to act in any manner relating thereto.

PLANNING & ECONOMIC DEVELOPMENT BOARD  
AFFORDABLE HOUSING COMMITTEE

ARTICLE: To see if the Town of Medway will vote to amend the Medway Zoning Bylaw by:

1. Deleting SECTION V. USE REGULATIONS, Sub-Section G. Commercial District I, paragraph 2 (h);
2. Deleting SECTION V. USE REGULATIONS, Sub-Section I. Commercial District III, paragraph 3 (h);
3. Deleting SECTION V. USE REGULATIONS, Sub-Section J. Commercial District IV, paragraph 3 (h);
4. Adding a new item i) to SECTION V. USE REGULATIONS, Sub-Section M. Industrial District I, paragraph 1 as follows:
  - i) “Adult Uses”, as defined herein, except as otherwise restricted, subject to dispersal, separation and design standards as specified in V. M. 2. i) which have been established to preserve the public good, public safety and neighborhood objectives and protect against the documented secondary effects of such uses.

5. And adding a new item i) to SECTION V. USE REGULATIONS, Sub-Section M. Industrial District I, paragraph 2 as follows:

- i) Adult Uses Dispersal, Separation and Design Standards.
  1. An Adult Use shall not be located within 500 ft. in any direction from other establishments of such “Adult Uses,” as measured along the shortest line between any buildings housing such an adult establishment.
  2. An Adult Use shall not be located within 250 ft. in any direction from residential zoned land, as measured along the shortest line between the residential zoning district boundary and any buildings housing such an adult establishment. A solid fence, sufficient in height to screen the view of any building hosting an adult use from ground level at any residential property, and a 50-foot heavily vegetated buffer appropriate to the character of the area shall be provided and maintained along any residential zoning district.
  3. An Adult Use shall not be located within 500 ft. in any direction from a residence, school, place of worship, day care center, or playground, as measured along the shortest line between these buildings or structures and any building housing such an adult establishment. A 50-foot heavily vegetated buffer appropriate to the character of the area shall be provided along any residential zoning district.
  4. An adult establishment may be located a minimum of 200 ft. away from residential zoned land and 250 ft. away from a residence, school, place of worship, day care center or playground provided that a 100-foot heavily vegetated buffer and solid fence, sufficient in height to screen the view of any building hosting an adult use from ground level at any residential property, along the property line with any such use is provided and maintained.
  5. No adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in G. L. c. 272;
  6. Building designs shall be generally consistent in architectural style and color with other buildings in the Industrial I district;
  7. Windows shall be screened to prevent public view of the interior of the premises from any public or private right-of-way or abutting property; and
  8. Adult uses shall not be allowed within a building containing any other uses.

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Or to act in any manner relating thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

**Medway Planning & Economic Development Board Meeting  
Tuesday, April 28, 2009  
Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Bob Tucker, Tom Gay, Chan Rogers, Karyl Spiller-Walsh,  
John Williams

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Barbara Saint Andre, Town Counsel

The meeting was called to order at 7:10 pm by Chairman Andy Rodenhiser.

**CITIZEN COMMENTS** – None

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, to approve the minutes of the April 14, 2009 regular meeting. The motion passed unanimously.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, to approve the minutes of the April 14, 2009 executive session. The motion passed: Tom Gay voted no, all others yes.

**Request to extend completion deadline on Pine Meadow II – letter from Gary Feldman.**

Andy Rodenhiser – The end of the street is a big problem. There may be some defects in the plan and decision.

I suggest we give them a list of what will be needed for street acceptance.

Susy Affleck-Childs – I do expect Gary to attend later. Let's wait to discuss this further until he arrives.

**Daniels Village ARCPUD Public Hearing**

A motion to waive the reading of the Public Hearing notice was made by Karyl Spiller-Walsh, seconded by Bob Tucker, and was approved unanimously. The public hearing notice is attached.

Jim Williamson, Barbary Homes – I sent a letter to the board. That is pretty much our position at this point. Please read it into the record.

Susy Affleck-Childs –The letter has been received and was distributed. [It is attached to these minutes.]

Andy Rodenhiser – We have read the decision from the judge, and the letter is your position. Is that your position?

Jim Williamson – Yes.

Andy Rodenhiser – It is my understanding that the decision was remanded to the board, the entire thing, not just the condition regarding the payment to the senior center.

Barbara Saint Andre – The order of the court says the decision is vacated and the matter is remanded to the board. The whole thing is null and void. You can reconsider and have a new vote – you can certainly use some of the findings, etc – but you have to do a new decision.

Andy Rodenhiser – Do we have an application from them?

Barbara Saint Andre – They don't have to file a new application. Everything that was in that file is part of the record. The Board can take new evidence.

Andy Rodenhiser – We need a plan review account established, and they are objecting to having to do that. If we have an application and no funds, how should we proceed?

Barbara Saint Andre – Your ARCPUD regulations provide that the board can determine if it needs the outside consultants, based on a reasonable cost. The board should discuss that tonight. I would recommend that when you are done with the discussion you take a vote.

Chan Rogers – Was this advertised as a public hearing?

Susy Affleck-Childs – Yes.

Susy Affleck-Childs – I believe we need town counsel's assistance. We also have a new engineer who will need to get up to speed on this project.

Bob Tucker – I would like to have the engineer take a look at the drainage.

John Williams – At what point in the process are we? In order to do justice, we are supposed to have a 4 step design process.

Tom Gay – This predates me.

Andy Rodenhiser – The freeze that typically might exist on something, does it apply here to any changes in the zoning bylaw for ARCPUD? How does that impact them?

Barbara Saint Andre – Any bylaw changes would NOT apply. You have to apply the same zoning bylaw that was in place the first time.

Andy Rodenhiser – But a significant issue here is a payment to the senior center vs. the construction a club house. The bylaw calls for a community type center. We had discussed a payment to the senior center which they negated to honor or fulfill, and that was the basis for their appeal. Because we did not have property testimony and evidence entered into the record based on expected increase in demand for senior services, we lost our case. Part of what we should consider is professional testimony that is given to us to provide the proof that there is a link between an increased senior population and expanded usage of the senior center.

Barbara Saint Andre – That was part of what was gone over by the court.

Chan Rogers – According to the judge, it is unlawful to require a mitigation payment.

Andy Rodenhiser – It is without having a finding of fact that is based on evidence.

Chan Rogers – I thought that was the whole basis for the mitigation. This project would induce a larger population of seniors. They were not going to have their own place for gathering (in the development). In lieu of that a contribution to the senior center would help offset that action.

Andy Rodenhiser – We needed to provide more evidence to make that connection. As a group, we felt it was self evident.

Chan Rogers – Pretty clear cut.

Andy Rodenhiser – And we even went as far as to ask Jim Williamson if he was okay with this, and he agreed.

Chan Rogers – The Court said it didn't matter that he had agreed to this. There are only 3 of us with the board now that were part of that decision.

Karyl Spiller-Walsh – I wasn't here on the night you voted, but I was here for all the testimony and public hearings.

Barbara Saint Andre – So, 4 out of 5 of you were at the prior public hearing.

Bob Tucker – If the order is vacated, then why wouldn't it fall to the new board?

Barbara Saint Andre - You will have to go back through the whole thing.

Karyl Spiller-Walsh – I have no idea of what the procedure should be. Perhaps we should lay out some practical options:

Consider the senior center and secure new testimony evidentiary of some link.  
Existing members should have a short time to go back through the material and presentations and come up with some thoughts as to what went on, some things to be clarified. And I think there may be other options – maybe an actual community center could be revisited.

Jim Williamson – I would be remiss in not saying a few things. We are happy with the plan that is presently approved. We gave the town \$50,000 to review the plans. We haven't proposed any changes. It was extensively reviewed. We think it can be reapproved fairly easily. In reference to the senior center, it was the board itself that caused us to drop that community center. One thing that is very apparent is that you need 100 units to support a community center, and it is more of a burden on the residents without that size. We proposed the community center with the original subdivision of 120 units, then it was backed down to 80 units which caused us to drop the community center. They don't function and don't work if they are not large enough – I don't think anybody can identify a small over +55 development with a community center. You caused us to drop that.

Andy Rodenhiser – I don't think we caused you to do anything. You proposed and we voted.

Bob Tucker – The town did not benefit from that money.

Bob Tucker – We have a new board so that the entire board is working the same level of knowledge.

John Williams – Where in the process are we? What rights do we have? It doesn't sound like it is open and starting from scratch.

Bob Tucker – The decision was vacated.

John Williams – Shouldn't we start with a preapplication and have a site meeting, and I am looking for guidance for town counsel

Barbara Saint Andre – The board already had a public hearing, and made a decision. If you want to have a site visit, you can do that. You can have testimony. You have to go back and make a new decision.

Andy Rodenhiser – Certainly Tom Gay and John Williams should review the original application and plans and testimony. We can continue this public hearing. I will certainly talk to Missy and ask her to put together some consultants. He may not want to build a community center, but clearly we heard from Missy Dziczek that there will be an impact on the senior center if 80 +55 people move to town.

Susy Affleck-Childs – Provide the board with a copy of the ARCPUD bylaw that was in effect when they applied.

Karyl Spiller-Walsh – One thing that will make it a much sharper process is that they have a pretty detailed site plan that shows what they want to do. I think you will be brought up to speed quite quickly.

Jim Williamson – I would be glad to meet anybody out there on site.

Andy Rodenhiser – It needs to be done properly. No discussion outside the public hearing.

John Williams – We are not obligated to accept the plan as is – everything is in play.

Chan Rogers – I feel it is appropriate to have the public hearing remain open and have a session at some future time, and then the two members that weren't involved have some homework to do.

Andy Rodenhiser – I am hearing from the applicant that he has no intention of changing anything and he wants to go forward with this plan.

A motion was made by Bob Tucker, seconded by Chan Rogers, to continue public hearing to May 26, 2009 at 7:15 pm. The motion passed unanimously.

Susy Affleck-Childs – We need the plan review funds to compensate town counsel and for our new engineering firm (Tetra Tech Rizzo) to take on this development.

Andy Rodenhiser – Is it your position that you will not pay the plan review fees?

Jim Williamson – That is my present position. I will confer with our legal counsel and get back to you.

NOTE - 7:45 pm – John Williams departs.

### **Pine Meadow II – Completion Deadline Extension**

Andy Rodenhiser – What is the deal on the corner at the end?

Gary Feldman – We agreed to do the fence and tame the slope.

Andy Rodenhiser – Is there anything in writing that you have agreed to? How are you going to handle this?

Gary Feldman – He (Nick Turi) is fine with it. We were going to cut the slope down a little bit and/or put a fence there. He was OK with the fence along the property line. He wants us to put wild flowers on it.

Andy Rodenhiser – This thing (subdivision) has technically expired already. We want to make sure that all the little issues that are going to be problematic are going to be addressed before we extend the deadline.

Susy Affleck-Childs – The plan was approved in November 2005

Bob Tucker – The rules and regs call for starting all over when a subdivision has expired. Play by the rules. I think we should be playing by the rules.

Karyl Spiller-Walsh – Up until now, the process has been what was being done. At some point you have to declare how you want to proceed. This has been more traditional than not. One reason to be lax in the rules is that things happen.

Bob Tucker – If you are responsible for an investment, the rules were stated and clear. They are there.

Chan Rogers – What is being violated? What harm has been done in the development? Who is aggrieved by this?

Bob Tucker – We need to play by the rules that were established or we need to change the rules.

Andy Rodenhiser – The consistency about applying the rules is important. We have town counsel sitting here, and for us to throw the rules out the window and ignore them is wrong.

Chan Rogers – What is the consequence of a developer not finishing per the original schedule? We are as much at fault because it expired, and we didn't do anything. What harm has been done?

Andy Rodenhiser – I think there may be a motion that they have to reapply for a new subdivision, so we can't even start work.

Chan Rogers – I wouldn't vote for that.

Gary Feldman – Nobody expected the economy to tank.

Tom Gay – As long as we are talking about rules, what are the implications?

Bob Tucker – We need to follow our rules.

Andy Rodenhiser – I am with Bob Tucker on this one.

Chan Rogers – You are over stating the case.

Andy Rodenhiser – If we turn a blind eye to any one rule, what is the impact on all of our rules?

Barbara Saint Andre – I don't think there is any impact. If the board has a regulation that hasn't been enforced, it doesn't impact anything else.

Andy Rodenhiser – Do we have to hold a public hearing?

Barbara Saint Andre – You need to look at each decision and determine what the expiration date means for that decision.

Gary Feldman – They are going to ask me what the impact will be.

Chan Rogers – We are wasting a lot of time. There are no consequences.

Andy Rodenhiser – The consequences of having to reapply and losing the subdivision approval is a pretty severe consequence.

Chan Rogers – And all we would be doing is forcing up the price of housing in Medway by doing that. He has come before us for an extension. Either give it to him or ask him to reapply.

Karyl Spiller-Walsh – This is a bigger conversation.

Andy Rodenhiser – Barbara Saint Andre says look at each individual subdivision and circumstances.

Karyl Spiller-Walsh – What harm has it caused the town in this case?

Andy Rodenhiser – Susy Affleck-Childs has said you can't make conditional extensions.

Barbara Saint Andre – It sounds like it is really a modification of the decision. They need to file an 81W, an application to modify the decision, and to ask for time extension.

Susy Affleck-Childs – I would like to look at the original decision language, and confer with town counsel, and look at the regs

Gary Feldman – There were 4 partners. They started squabbling.

Chan Rogers – I don't understand us being so tight on this.

Susy Affleck-Childs – Whether this is a minor revision or a modification I need to discuss with counsel. You could have a special meeting on May 19<sup>th</sup> to work on this. I will be out of town, but I can ask Fran to attend and take notes.

Andy Rodenhiser - Dave Pellegrini, please look at the site.

Andy Rodenhiser – Can we get together out on the site right now?

Bob Tucker – How much time would you take a guess at to be looking for?

Gary Feldman – We need to fund the bond account, get the lot releases. I would avoid putting the final coat on the road. It would be sometime next year at least.

Bob Tucker – Let's make sure we queue them up on the details on the roads and easements.

### **Speroni Acres – Subdivision Status**

Lou Cacavarro, attorney for developer Owen Sullivan

Fred Geisel, PE author of the revised arrange report, I was called in to assist. Ken Boufard is not here.

Mark Louro, VHB – This is one of the as-built plans that was submitted by the applicant – April 2004 – just to orient you, here are Little Tree and Rustic Roads. Critical issues are the detention ponds. The middle one is #1, #2 is at the end of Little Tree Road, and pond #3 is at the beginning of Little Tree Road.

When we were first involved in 2000, much work was already completed. Our first look at this project was putting a top course down and sidewalks in 2000. In November 2002 they first submitted the as-built.

Andy Rodenhiser – Was there a handoff from PMP?

Mark Louro – We went out in the field and looked at it. Usually when I start with a project I go through the construction reports. I can't tell you if I remember anything specific from back then. In November 2002 they submitted first version of the as-builts. They didn't have a lot of detail with respect to the detention ponds. That was the biggest issue. We had concerns and issues then. In May 2004, new as-builts were submitted with more detail. We determined that there were issues. There was a drastic difference between what was constructed and what was

approved – there are definitely easement issues or there were – the pond does go onto a certain property that it wasn't supposed to.

Lou Caccavaro – Attorney Mike Paolini who worked on this previously had drafted some stuff.

Andy Rodenhiser – Have they been approved by those property owners?

Chan Rogers – What does blue outline show?

Mark Louro – Roughly where the detention ponds are located.

Lou Caccavaro – I believe there is an easement document that has been presented to that owner but it may not have been executed.

Andy Rodenhiser – That one has the most issues.

Mark Louro – Some of our biggest issues are that they were constructed very steeply and not in accordance with the plans – different shape. The middle pond seems to be reasonably close to the right shape; it is much lower.

Andy Rodenhiser – Can they be corrected?

Mark Louro – Pond #3 was constructed skewed within the easement and the house at 6 Little Tree Road was constructed very close to the pond. It appears it would be difficult to get that berm to be high enough. It was built too close to the pond. The builder says the buyer bought the lot as is. Berm is a critical issue.

Mark Louro – All the forebays – none of them seem to be the right size. They haven't been maintained. They are not the size or shape they are supposed to be.

Andy Rodenhiser – Is any of this a violation of any rules, environmental or storm water?

Mark Louro – Owen Sullivan has indicated to me – he said the changes were all approved by the Town. I asked him for that documentation. He never provided that to me. We got to the next level, so we talked about some alternatives with the PB. I said to him, have your engineer analyze how it was built and see how it is functioning. I am trying to give you some history. Then Paul Carter took over for VHB in Medway. There were site meeting and that is when attorneys got involved to push things along, punch list items, etc.

Andy Rodenhiser – There was a request to return bond money and Paul went out to prepare a new punch list, and no bond reduction was voted.

Mark Louro – During that time, there was a submittal of the first version of the drainage report as I had asked for. There is a letter dated June 2007 from Paul Carter. One of those comments is that the sketches didn't have detail, scale, and title. We couldn't verify pond capacity. Grading issues, depth of ponds were issues, watershed map that were used weren't to scale; we couldn't confirm assumptions of drainage. At that point, they started to revise the drainage report. I got back into the picture late 2007, tried to meet with CEC (the developer's engineer) and to get

them to send me the latest revisions of the drainage report. That resulted in my March 2009 review letter. A number of the issues Paul Carter identified are still there. The same sketches were used; they did nothing new.

My biggest concern is pond #1. It needs to have a scaled drawing; we can't verify. The sketches indicate they are roughly 6 feet deep. The ponds end up being 4 feet deep. There is about a 2 feet difference between top of structure and top of berm. The pond is 2 feet lower than what they analyzed in the report. The driveway is right against the top of the slope. This pond was supposed to be way behind. Owen said the pond was located where it was due to wetlands issues. I don't know what ConCom did with this project. I reported on a lot of the same issues that Paul Carter reported on. They analyzed a pond that is supposed to be 6 feet deep but it is only 4 feet deep. We need more information. They have also made some changes to the structure, not too big an issue. At this point, a lot of the documentation they are looking at is not stamped by a surveyor or an engineer. Nobody is taking any responsibility. We are getting the same info over and over again. Maybe until somebody stamps something, it won't be accurate.

Fred Geisel – I am being authorized to conduct whatever surveys are necessary and to seek resolution of those issue.

Andy Rodenhiser – Does that mean you concur with what has been discussed this far?

Fred Geisel – Not entirely. Some of this info is new to me. My involvement began in May 2008 when they asked me to get involved to see if we could resolve the concerns, to make the ponds function. I was given as-built plans from 2007 as the most up to date.

Andy Rodenhiser – I am hearing that the as-built plan is not reflective of what is actually out there

Mark Louro – Yes.

Fred Geisel – I need to go out and survey. I was given the as-built. We are going to go out there and survey and verify and see what is wrong. I was out there today and made some observations to see what was there. Two of the forebays have silted up.

Mark Louro – Runoff from the forebay is running over and isn't going into the pond. There is no rip rap spillway. When they ran the recent drainage analysis they made assumptions and sketches. I don't agree with the sketches, and the analysis shows that there is more runoff leaving the site. The ponds are not the size they say they are, and they do not conform to storm water policy. I requested the original drainage report from 10 years ago. Those tables conformed to the regs at the time.

Mark Louro – What was constructed does not agree with the approved plan and the analysis indicates there is runoff leaving the site.

Andy Rodenhiser – Will you be able to produce modifications that Owen said had been approved?

Lou Caccavaro – I have not seen them. I am asking for them.

Fred Geisel – What I did in the report was to look at what the existing conditions are based on the 2007 as-built drawings, (not the sketches). I analyzed – what modifications can we make to these structures without tearing them and rebuilding – to achieve the objectives. I came up with a plan to do that.

Mark Louro – Every time I talk with CEC, they seem to think everything is OK.

Mark Louro – My biggest concern is they have made some modifications in the field, and their plans don't reflect that.

Mark Louro – They need to develop a plan and calculations so that everything is consistent. Does it work or not? Everything must be stamped. It needs to be right.

Andy Rodenhiser – Is the board okay with us authorizing Mark Louro to work directly with Fred Geisel?

Bob Tucker – I don't have a problem with Mark Louro working the – but all communications should be funneled through to Susy Affleck-Childs. Some kind of a summary what is being discussed and what you are agreeing to.

Mark Louro – One of the issues is that our contract with the Town is up at the end of June. It may be a good opportunity to segue over to the new engineer. The plan needs to be accurate. It is a good point for another engineer to take over. I am certainly available for questions.

Chan Rogers – The developer's engineer should take the whole problem and then have Mark Louro review it.

Lou Caccavaro – Given that we have spent a lot of money to get Mark Louro to generate respond, can you keep him on as a special consultant for this one project?

Chan Rogers – There will be big bucks to get somebody else up to speed.

Susy Affleck-Childs – We can look into that option.

Mark Louro – I really think the next iteration is going to have to work.

Andy Rodenhiser – You keep getting the same stuff recycled.

Lou Caccavaro – Now there is a new professional (Fred Geisel) involved at my insistence.

Bob Tucker – I would be favorable to that.

Mark Louro – I was under the impression that a contract extension is not an option.

Fred Geisel – If we can resolve certain issues through June, it may be only left with a couple of things that have to be done, and be fairly simply for another engineer to handle.

Andy Rodenhiser – We want to be mindful of your dollars.

Lou Caccavaro – I am looking at expediency and costs.

Andy Rodenhiser – Has Barbara Saint Andre been involved?

Karyl Spiller-Walsh – Are the ponds really fixable?

Mark Louro – The driveway is at the top of slope.

Chan Rogers – Let the engineers solve this and resolve this.

Andy Rodenhiser – He has to use his professional stamp. Let's let these guys work this out and report on status.

Andy Rodenhiser – Dave (Pellegrini) is it possible for you and Mark Louro to work out a timetable?

Karyl Spiller-Walsh – Are we talking about a possible plan modification?

Fred Geisel – There may be further plan modifications.

Andy Rodenhiser – Pond #3 is on 4 and 6 Little Tree Road.

Andy – I would like to extend further invitation to the owners of 4 and 6 Little Tree Road for future meetings.

Lou Caccavaro – Thanks, and I am trying.

Paul & Tamath Bibbo, 10 Little Tree Road - I don't think it is being drained properly.

Mark Louro – I have not heard any complaints before.

Fred Geisel – Pond #2 is located where it is because the wetlands were improperly flagged so they had to move it up when it was actually built.

Andy Rodenhiser – But that generally would require a subdivision plan modification.

Andy Rodenhiser – Lou Caccavaro, any documentation on that?

Mark Louro – Is it likely that ConCom will even issue a Certificate of Compliance on this?

Lou Caccavaro – Could we plan to meet again with you in mid June?

### **Ishmael Coffee Estates – Street acceptance issues**

Paul Yorkis – Granite Estates, Inc. and resident  
William Sack, Attorney for Granite Estates Inc. –

Kathleen Yorkis  
Jim\_??\_ neighbor

Paul Yorkis - Thank you for the opportunity to meet. I am not happy to meet, but believe it is critical that town government operate openly and honestly. I am here with William Sack, attorney for Granite Estates. It is rare that I feel the PB has made a serious error in judgment and process.

**NOTE - Get Paul Yorkis' statement and attach. . .**

Oct 2003 – We submitted an application for the Ishmael Coffee Estates subdivision. The subdivision rules and regs at the time of the applications are the rules that the PB must go by. The PB voted to approve the subdivision.

Feb 2004 – The covenant was recorded at Norfolk Registry of Deeds, reviewed and approved by town attorney at the time.

Aug 2004 – First lots were conveyed.

April 2005 – The PB adopted revised rules and regs. The subdivision rules and regs that apply to ICE are the ones in effect in 2003.

Jan 2007 – New town attorney was appointed.

Nov 2008 – Town meeting voted to accept Independence Lane and Freedom Trail. The Town Attorney indicated there was a problem with the deeds. She is trying to establish a new standard for circumventing the Planning Board, the decision and the covenant. The certificate of action is an agreement between 2 parties. The covenant clearly spelled out duties and responsibilities of the PB and the applicant. The applicant has met every responsibility spelled out in the decision and the covenant. Whenever I have appeared before you, I take pride in my fairness, accuracy, honesty.

I am a logic person. I look at problems and issues and try to understand both sides. I have no problem with the current town attorney trying to establish a new standard for projects which may come forth in the future. There is a process to amend the Subdivision rules and regs. The town of Medway has many roads that are not accepted at this time. I have spoken with you about this in the past and the director of public services. Every mile in the town that is not accepted means the town loses \$4,300 annually in chapter 90 funds from the state. By imposing the action that the town attorney has promoted you are closing off the town's ability to secure these dollars.

Andy Rodenhiser – What is your point?

Paul Yorkis – May I finish, please, or I will leave now.

Andy Rodenhiser – Go ahead.

Paul Yorkis - You are closing the door to the town receiving the funds. Is this in the best interest of the citizens of the town of Medway? Medway is part of the United States of America. My attorney informed me when he sent me a copy of an email that the town attorney met with the Board of Selectmen and the Planning Board without notifying the applicant or the attorney or the owners of property –my neighbors, my wife and me – I was and still am stunned by the fact that this board discussed this issue without every notifying the people affected.

It is my hope that you as elected members of the Planning Board take the town attorney's advice, follow the process for changing the rules and regs and record the deeds for Freedom Trail and Independence Lane that you are holding.

The applicant has met every requirement that is in effect. Retroactive application is not good government. I would be happy to respond to any question.

Bill Sack – My client is puzzled. This is a legal and fairness argument. I have been a conveyance attorney. The way we reserve the fee in the roadway is that all easements are shown on the plan and were known by every purchaser. In the minutes of the February 23 meeting she (town counsel) acknowledges there is some case law of implied easements. She said she doesn't want to be in the position of having to go to court.

If you pursue this, everybody that bought a lot would be stopped. What interest is it of the owner of a lot to deny the town the right to come onto the land to deal with an issue? They would be stopped because they bought the property knowing about the easements. I did this in Mendon last year with reserving fees in the roadway.

When we did Granite Estates several years ago it was all approved that way, and probably every other subdivision in town. Town Counsel is adopting a more strict measure for accepting roads, the legal equivalent of an ex post facto law. You cannot apply new law to an old matter.

In terms of the fairness argument, they went in good faith on the rules and regs in effect. This is the way it has been done in the town for many years. Apply the new process to new subdivisions. That is fine. But these roads should be accepted and the recording of the deeds should be allowed to proceed.

Andy Rodenhiser – Does this board have the authority to accept the streets?

Barbara Saint Andre – BOS lays out the road and town meeting accepts.

Andy Rodenhiser – We already recommended approval and town meetings, and within 120 days the BOS has to accept the deeds. Because there is an issue relative to the easements, there is a problem.

Barbara Saint Andre – It is not an issue with the deeds, the issue is whether there is clear title to the easements.

Andy Rodenhiser – It is really the BOS' decision.

Barbara Saint Andre – The BOS has asked for your recommendation.

Andy Rodenhiser – Is that the case?

Susy Affleck-Childs – I am not sure that it has been formalized but it sounds like they would welcome your guidance.

Barbara Saint Andre – It is the BOS that accepts the deeds, not the PB.

Andy Rodenhiser – Paul, the meeting you referenced was not specific to Ishmael Coffee Estates but was about general street acceptance issues. It was myself and Susy Affleck-Childs and Barbara Saint Andre, and it was about street acceptance.

Paul Yorkis – You have a series of rules and regs for subdivision applications. Those rules and regs still do not have the requirement that the town counsel is advocating. The PB is the board that applicants interact with to get roads accepted. The PB made a recommendation and it was approved by town meeting, now BOS has made a decision that is contrary to the policies and procedures that the PB has in place. The PB needs to communicate to the BOS that the process should be followed.

Bill Sack - re: good title, I don't think town counsel is ready to say that all roads accepted in the past have poor title. I don't believe there has been any residents that have challenged the town over not having specific easements. It is a way out there concern. This is a retroactive application of a new standard.

Barbara Saint Andre – I am not impugning anybody, let's be clear. I was asked to look at these and give an opinion. I said they didn't reserve the fees in the easements. I looked at the case law, and evaluated the information and it is not good record title. If the town wants to accept the deeds in that fashion they can do so. I was asked to review and provide my advice. This is not a new policy and new regulation. It has nothing to do with your regs. They didn't reserve the easements. Other subdivisions have reserved the easements.

Bill Sack – Former town counsel Dick Maciolek deemed title to be fine for the Granite Estates subdivision. There is precedent in Medway for doing it this way. If attorney Maciolek was counsel today, we wouldn't be here. These homeowners are not going to challenge the right of the town to come onto the property to deal with problems.

Andy Rodenhiser – Have you made a similar presentation to the BOS? What is it you want us to do? Do you want us to go with the BOS?

Barbara Saint Andre – The BOS asked you to go back and talk this through.

Andy Rodenhiser – How does the PB feel about this?

Chan Rogers – I feel we are obligated to take these as is.

Andy Rodenhiser – Barbara Saint Andre is representing the town's interest. She wouldn't be doing her job if she didn't point out this shortcoming. While everything was done in accordance with the decision, and the town meeting vote, the applicant feels we are imposing something backwards on him.

Bill Sack – I sat and listened to the last presentation. You seem to be concerned that the property owners will not allow the town onto the land if there is a problem.

Paul Yorkis – Granite Estates Inc sold lots to individual builders. Builders then sold to buyers. There has not been a title issue. One of the things in the certificate of action is the plan for each

lot showing the no cut zones. Every buyer got that plan and the no cut zones and easements were shown on the plans. The Board of Selectmen is ignoring your Subdivision rules and regs.

Barbara Saint Andre – I have to take some umbrage. Nobody is circumventing agreements, rules and regs. Nobody is putting in ex post facto. The issue is a simple one. I have seen instances where people have said to towns that you don't have an easement and you can't go onto my property; you are trespassing. If the town wants to accept these, all I am saying is that they didn't reserve the easements. Does the town want to accept the title as it exists?

Barbara Saint Andre – I am still waiting to hear a legal citation that indicates that if you don't reserve the easements, it is OK.

Bill Sack – There is estoppel and implied easements.

Barbara Saint Andre – I haven't been given any case law on this.

Bill Sack – I have given you the info.

Karyl Spiller-Walsh – An easement is an access that is allowed by its description. That was the mentality of the early developments.

Andy Rodenhiser- Case law has evolved.

Bill Sack – Drainage easement is part of roadway infrastructure.

Chan Rogers –I think that is OK to apply this as we go forward.

Andy Rodenhiser - I am not going to say Barbara Saint Andre is a better lawyer than Dick Maciolek. Her representation of the town is different.

Chan Rogers – It is OK to make the recommendation as we go forward.

Paul Yorkis – I would like you to do a couple of things. Change the rules and regs. Indicate to the BOS that you are making the changes to the rules and regs, and in your judgment as elected officials you believe that the deeds for Independence Lane and Freedom Trail should be recorded at the Registry of Deeds as they are.

Karyl Spiller-Walsh – As a board member, I totally agree with him. I have difficulty in trying to pull this together from the past. I think we should move forward as Paul Yorkis suggested.

Bob Tucker – I would tend to agree to support Paul Yorkis' position and be willing to make that recommendation. I am certainly not a lawyer in terms of what is acceptable, and would have to default to Barbara Saint Andre. She does bring up an issue. I don't know if anybody other than lawyers understands the significance, but that is why we pay lawyers. I would tend to agree with supporting Paul on this.

Chan Rogers – I definitely agree that we should adopt these to take care of the situations. I personally think it is counter productive for any property owner to think the easement is detrimental.

Andy Rodenhiser – Barbara, even though the road may exist and may be approved there might be an owner who could tell the town to get off their property. What would we do then?

Barbara Saint Andre – We would go to court. It is better to have an easement on record.

Andy Rodenhiser – The selectmen are saying we don't want to write a check.

Paul Yorkis – I have no disagreement with the argument and the recommendation that the town attorney is making and encouraging it to be a standard in the future. No disagreement with that. I have a strong disagreement to set a standard going backwards. It is not fair to the applicant, to the owners, to the people who went to town meeting and voted to accept the way.

Andy Rodenhiser – I am not sure that this is necessarily part of our rules and regs. I am not sure that the BOS has any rules of its own.

Paul Yorkis – When an applicant comes before the PB and the PB gives a certificate of action, that person builds the roads and conveys lots. But in your rules and regs that were in effect at that time, this policy is not specified.

Andy Rodenhiser – The acceptance of property is in the hands of the BOS.

Bill Sack – We just do what everybody else has done.

Paul Yorkis – That is why I am here. It starts here. We started with you.

Barbara Saint Andre – Your current rules and regs does have some language about this. It is in here but it could be refined.

Bob Tucker – Let's leave the words as they are and insert a table.

Barbara Saint Andre – Many towns say that the developer will keep the fee in the roadway and keep the fee in the easements, so it is clear.

Andy Rodenhiser – Is there a warranty type bond that could be put up? A title opinion?

Barbara Saint Andre – I don't do them. In the private sector, sometimes people get a lawyer's title opinion is giving an opinion as to why the title is good or not.

Tom Gay – I think we need to get moving. If the rules and regs need to be made clearer, that is a discussion for another time. We also can in the meantime with our checklist of what we hand people be very specific about how the deeds should be done.

Tom Gay – We reached a decision based on some criteria (last spring). You are asking that we reiterate that to the BOS, and we are suggesting they revisit their decision. I will say this – I am

a bit offended by the suggestion that this board behaved the wrong way. This board behaved in good faith. I take offense. I do not think that these people come down here and decide they want to screw with Paul Yorkis or anybody else.

Andy Rodenhiser – Particularly when you consider what we did with the Conservation Commission and what we did to work on that with you on that issue.

Tom Gay – I have no problem with us reiterating to the BOS that we feel it is OK to proceed to accept the deeds as presented.

Andy Rodenhiser – The BOS needs to evaluate the risk, and there is a potential for somebody to complain. I don't know if that night when we met with the BOS whether we talked with them about some of those legal issues.

Barbara Saint Andre – I don't recall. I think it was a very general discussion. Just parenthetically, I did inform Mr. Sack that we would be attending a BOS meeting.

Bill Sack – I was told I couldn't attend.

Susy Affleck-Childs – That meeting wasn't specific to Ishmael Coffee Estates.

Karyl Spiller-Walsh – Once the deed is conveyed the first time, it is sometimes impossible to go back.

Tom Gay – As a practical matter, we reached a decision based on facts that were presented. If then the BOS chooses to do something else, what can we do?

Andy Rodenhiser – Do you want me to go to the BOS? If so I would like a motion.

A motion was made by Bob Tucker, seconded by Chan Rogers, for the PB to communicate with the Board of Selectmen that we support of our recommendation last spring to accept the streets and we still believe it is the right thing to do. Unanimously approved.

Paul Yorkis – I would request that when you are there, please let me know in advance, that I could be there and Mr. Sack. Thank you for listening and understanding the seriousness of the problem. I apologize if I offended anybody. I wanted you to understand.

Andy Rodenhiser – Susy, please make sure Barbara Saint Andre knows when we are going.

Bill Sack – Please ask them to accept the deeds as they are.

### **Country View Estates and Broad Acres Estates – Bond Reduction Discussion**

Ted Cannon – We have made a request for the bond release. We understand that goes hand in hand with similar issues you have been discussing with reserving fees in roads and easements. Last time we were here, we left with instruction to try to gather as many of the deeds as we could to fill in the gaps for the roads and easements. We have all but one. I believe town counsel has indicated it is not a major concern.

The construction is done. The bond should be released.

There are 14 lots affected by easements. Of those 14, I have 8, two are not in town and have agreed to sign when they come home, 2 more have indicated general support, and the last two are Streifer and McKay.

I have notified all the loan holders of the 12 that have agreed in principle. I will do so tomorrow to the loan holders of McKay and Streifer.

Andy Rodenhiser – I think we are all set with Ken McKay's property based on what we learned last time.

Barbara Saint Andre – The easement was shown on the plan but wasn't reserved in the deed. There is a sewer easement and a pedestrian easement. Frankly, I am more concerned about the sewer easement.

Ted Cannon – I gave him new language and he hasn't returned my calls.

Andy Rodenhiser – So where are we?

Barbara Saint Andre – We do have the deeds from most of the people, but no mortgage sign off; and it seems like there are some people who are reluctant to sign over the deeds. This is one where frankly we might want to go the eminent domain route if we can't get the mortgage holders to sign off.

Ted Cannon – We will get as much as we can. We have reduced the likelihood of challenge.

Andy Rodenhiser – Can you prepare a written document status report and turn over all the information you have to town counsel?

Ted Cannon – Sure.

Susy Affleck-Childs – Here is an email note from Dave D'Amico regarding his concerns about water flow off of Broad Acres Farm Road onto Summer Street and the impact on Summer Street reconstruction.

Karyl Spiller-Walsh – I have a big concern about Dave's note. I have a lot of trouble with that.

Dave Pellegri/Tetra Tech Rizzo – In the punch list, we made reference to this matter, but it is hard to identify what the cause of the problem is. TTR bond estimate is dated 4/8/09 for a total of \$69,138.

Bob Tucker – If this is occurring, can you tell me that the drainage system was installed correctly?

Andy Rodenhiser – Is this a design flaw?

Ted Cannon – You have state highway improvements there. This subdivision work was done as designed. That is why all the construction was approved (last spring) and now to come back and say, well, after all the work and the winter, and say this has to be done, it isn't fair. On the issue of the bond, the statute is quite clear; the bond should be released. The record is there to back this up. We can do it one of two ways. The applicant is prepared to take action to recover the bond. However, he is willing to reach an accommodation with the board to release a significant amount, to leave some remaining in the bond, and for expenses. He is going to want a majority. He wants \$62,000 released.

Andy Rodenhiser – I believe there is an agreement that the town would plow and sand these streets?

Susy Affleck-Childs – Yes, there was an agreement with DPS for this winter.

Tom Gay – One of the points that was brought up is that the subdivision was constructed, road work was done on Route 126 and additional construction in the form of other subdivisions impacted the road. If some of what is happening on Route 126 is a result of other construction, if some is the product of 10 more houses being built and tying in, then I don't think that is this guy's problem.

Dave Pellegrini – There is nothing that stuck out. Berm that is missing is probably due to the snowplows. It looks like something that was caused recently. We still feel it needs to be fixed.

Andy Rodenhiser – The deeds haven't been conveyed and the liability rests with them.

Ted Cannon – This is the last chance. The statute is clear. It is about completion of the construction. We are prepared to reach an accord tonight and turn over all the info we have to town counsel and we will keep working to gather the rest.

Karyl Spiller-Walsh – Why isn't Greg out there patching and mending and fixing some of these things? It would cost him such a tiny fraction.

Ted Cannon – You could keep going out after each winter. The manhole is 8 years old.

Karyl Spiller-Walsh – And causing major damage on Route 126.

Andy Rodenhiser – Barbara, what is our standing with all this?

Barbara Saint Andre – As far as I know, this is the first time that you have received a notice under 81U indicating that the ways and services are complete and that the developer wants his bond back. You have 45 days to respond to that. You can either say yes, or you can say no; and you have to give them specific notice and detailing where the construction fails to comply with the rules and regs of the board.

Andy Rodenhiser – The fact that we have a punch list and he has just made this request, are we on good ground.

Barbara Saint Andre – You have to have specific details, and note where that is not in compliance with the rules and regs.

Andy Rodenhiser – Is there a motion from the board?

Bob Tucker – I would move that we formally provide this information to the applicant with a refusal on the return of the bond or we proportionally reduce the bond and that we provide the punch list to the applicant for resolution.

Chan Rogers – No, I am not ready to second that motion.

Karyl Spiller-Walsh – There are some issues that I have great concern with. Yes, I will second the motion.

#### Discussion

Dave Pellegrini – A large cost on the estimate now is cleaning out the detention basins (\$30,000). Whoever owns that road needs to do that. That is a bulk of the cost. Plus there are a couple of other items they need to address.

Bob Tucker – Dave, I would suggest that you be more specific.

Ted Cannon – Be aware that the large cost of the bond estimate is for maintenance. He has to establish that it wasn't constructed to the way it was designed.

Barbara Saint Andre – The issue is, if you decide not to return the bond, you have to specify how the construction fails to comply with the rules and regs. You must tie this back to the "old" subdivision rules and regs that were in effect then.

Bob Tucker – I have a question on the catch basin hoods.

Dave Pellegrini – We put them in the bond estimate.

Susy Affleck-Childs – I believe there was a sort of gentlemen's agreement last spring to not require the installation of those.

Barbara Saint Andre – I would suggest you go through each item of the bond estimate and discuss. Either you return the funds or you don't.

Ted Cannon – He is willing to leave some money in there.

Chan Rogers – You could easily justify \$150,000 based on the pictures (from the TTR inspection report) but our representative said it was completed last spring and agreed to. I think we could release some dollars.

Bob Tucker – Do you have any willingness?

Chan Rogers – It would have to be arbitrary. Is he responsible?

Tom Gay – That is still what I am concerned about. Also, 8 years of wear and tear. Ted's issue is whether the construction was done.

Karyl Spiller-Walsh – I am very uncomfortable with that corner and the problems at that manhole.

Tom Gay – I am not convinced it is their fault at this stage of the game.

Bob Tucker – We have a due date in 2 days (to respond to the request for bond release) and we have to respond, or we need to do a bond reduction.

Bob Tucker – The bond estimate is not complete. There are some potential items that would be worthwhile to have more knowledge of.

Susy Affleck-Childs – The water issues are not new this year.

Karyl Spiller-Walsh – It was about the depth of pipes and size of pipes. It was not a one time conversation.

Ted Cannon – VHB was satisfied that it had been completed last April/March 2008.

Chan Rogers – There are other pictures here that indicate that work wasn't finished.

Tom Gay – What if we went to this estimate, and removed the maintenance issues, and left an amount of money in there for construction. Is there a willingness to compromise?

Ted Cannon – Marginally.

Tom Gay – No one can verify for me that there was a handshake on the catch basin hoods. Just focus on the construction. Retain the bond only on construction issues, and not for detention pond maintenance.

Ted Cannon – Except that we have a history that VHB has said it is acceptable. There is value to the applicant and the town. \$10,000 to \$15,000 left is probably okay.

Karyl Spiller-Walsh – I have no comfort with that amount.

Bob Tucker – I have a problem with not following through and not having enough money to fix it. I live on one of those old unaccepted streets in town.

Ted Cannon – VHB made a recommendation last spring to go ahead with street acceptance and the PB concurred.

Tom Gay – I am trying to reach a compromise to try to work through this.

Chan Rogers – I don't want to put it in a sense of negotiation, but it appears to me with the \$30,000 maintenance and \$13,000 contingency, that is \$43,000. Subtract that right off the top

and leave \$30,000 to do some fix up work. And that doesn't even cover the Route 126 concerns. Are we willing to keep \$30,000?

A motion was made by Karyl Spiller-Walsh, and agreed to by Chan Rogers, to withdraw the former motion. Approved.

Chan Rogers – I move we reduce the bond to \$30,000 from \$72,000 by deleting the amount for the catch basins hoods, and because there is definitely work to be done.

Tom Gay – Here are the numbers:

Catch basins hoods	\$ 8,400
New berm work	\$ 7,000
Gravel work	\$ 3,850
Loam and seeding	\$ 2,760
Contingency	<u>\$ 5,502</u>
	<b>\$27,512</b>

Those are the instances where the work does not yet meet the subdivision rules and regs

Chan Rogers – I am OK with keeping \$27,512.

The motion was seconded by Karyl Spiller-Walsh.

Tom Gay – Susy, I would like you to check out the “handshake” agreement on the catch basin hoods from last spring.

Susy Affleck-Childs – I need to tell you that we need some funds for the construction account to cover engineering fees and legal fees. When we did this before, Greg agreed to have a portion of the bond refund directed in that way.

Ted Cannon – I would have to take that back to the applicant.

Barbara Saint Andre – If we end up doing eminent domain there will be more costs involved.

Bob Tucker – What do we need to hold onto? We have to have something.

Barbara Saint Andre – I suggest you take a vote on what work is not yet completed

2 minute break – 10:56 pm

Andy Rodenhiser excused himself for a personal phone call.

Dave Pellegrini – How do you anticipate handling the drainage issue? What if the state comes back to you? I would say it is the applicant's responsibility to identify the issues

Bob Tucker - Any further discussion?

The motion was approved. All yes. Andy Rodenhiser not present for the vote.

Barbara Saint Andre - The Board needs to determine that it needs more money for the consultant account

Susy Affleck-Childs - \$5,000 legal and \$3,000 for engineering services totaling \$8,000.

A motion was made by Karyl Spiller-Walsh and seconded by Tom Gay to notify them that \$8,000 is needed for the construction account. The motion was approved. YES – Tucker, Gay, Spiller-Walsh; NO – Rogers.

Susy Affleck-Childs – Ted, are you authorized to act on behalf of Greg to allow some of the bond refund money to be used for the construction account?

Ted Cannon – No.

Susy Affleck-Childs – Then I will have to do a letter to Greg about that.

Dave Pellegri – How do you want us to proceed? What is my role at this point?

Bob Tucker – I would say you are in a holding pattern for the moment.

Bob Tucker – I don't have an issue with this. I would like to know what the background is on what was decided last spring with VHB.

It was agreed to wait until the next meeting to discuss this further after Susy compiles some information.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, to adjourn the meeting. The motion was approved unanimously.

The meeting was adjourned at 11:05.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant



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

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

March 25, 2009

**TOWN OF MEDWAY**  
**PLANNING & ECONOMIC DEVELOPMENT BOARD**  
**NOTICE OF PUBLIC HEARING**  
*Daniels Village*

***Adult Retirement Community Planned Unit Development (ARCPUD) Special Permit & Plan***

In accordance with the Medway Zoning By-Law, SECTION V. Use Regulations, Sub-Section U. Adult Retirement Community Overlay District, the Medway Planning Board's *Rules and Regulations for the Review and Approval of ARCPUD Plans and Issuance of ARCPUD Special Permits*, and the provisions of Massachusetts General Laws, Chapter 40A, Sections 9 & 11, notice is hereby given that the Medway Planning & Economic Development Board will conduct a Public Hearing on ***Tuesday, April 28, 2009 at 7:15 p.m. in Sanford Hall at Town Hall, 155 Village Street, Medway, MA***, to reconsider the proposal of Barberry Homes, Inc. of Framingham, MA for approval of an ARCPUD Special Permit and Plan entitled *Daniels Village, Medway, MA*, dated August 10, 2006, prepared by GLM Engineering of Holliston, MA..

Barberry Homes had previously proposed to construct an *Adult Retirement Community Planned Unit Development (ARCPUD)* on a 51-acre site located between 61 and 83 Winthrop Street in the ARI zoning district. Presently owned by Betty McCall-Vernagli of Medway, MA, the property is on the west side of Winthrop Street, a Medway scenic road, and south of Lovering Street (*Medway Assessors' Map 5-3, Parcel 45-1*).

On May 29, 2007, the Planning Board approved, with conditions, an ARCPUD Special Permit and ARCPUD Plan for the Daniels Village ARCPUD development. Barberry Homes immediately appealed that decision to the Norfolk County District Court. They challenged a condition of the decision that required them to make a mitigation payment of \$108,000 to the Town to support construction of an addition at the Medway Senior Center. In December 2008, the Court found that the Planning Board had acted beyond its scope of authority in requiring such a payment and remanded the case back to the Planning Board for reconsideration. This public hearing is the first step in that reconsideration process.

If constructed as originally approved, the Daniels Village ARCPUD development would include 80 age restricted condominium dwelling units in 52 buildings divided among 5 lots and include 33 single-family detached homes and 47 attached townhouses clustered into a mixture of triplexes and duplexes; (8) *affordable* dwelling units were to be provided. The proposed dwellings would range in size from a 1,800 sq. ft townhouse to a 2,000 sq. ft. detached house. At least one adult, age 55 or older, would be required to reside in each unit. Each unit would have a 2 car garage plus 2 additional driveway parking spaces. Daniels Village would also provide 3,270 linear feet of privately owned roadway; sewage and water service; drainage/stormwater management facilities; 20.4 acres of dedicated open space including 3,560 linear feet of paved sidewalks and 2100 linear feet of unpaved walking trails/paths; and associated parking and landscaping. Site access and egress was planned from Winthrop Street. 30 off-street parking spaces would be provided for visitors and guests.

The Daniels Village ARCPUD plan and the May 29, 2007 ARCPUD Special Permit decision are on file with the Medway Town Clerk at the 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.

Any person or party who is interested or wishes to be heard on this proposal is invited to review the plans, attend the public hearing, and express their views at the designated date, time and place. 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: [medwayplanningboard@townofmedway.org](mailto:medwayplanningboard@townofmedway.org).

Andy Rodenhiser  
Planning and Economic Development Board Chairman

**Barberry Homes, Inc.**  
**Builder of Fine Custom Homes**  
10 Speen Street,  
Framingham, MA 01701  
508-651-0025  
Fax 508-270-5210  
www.barberryhomes.com

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April 22, 2009

Medway Planning Board  
Town Hall  
155 Village Street  
Medway, MA 02053

Re. Public Hearing of April 28, 2009

Dear Members:

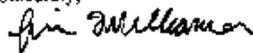
Attached please find Barberry Homes check in the amount of \$503.50 as requested by the Planning Board in the Board's correspondence to Barberry Homes dated April 9, 2009. Said amount represents postage costs necessary to advertise for above referenced public hearing which the Board has scheduled to consider the remand order in the case of Barberry Homes Inc. vs. the Medway Planning Board (Superior Court Civil Action NOCV 2007-1059).

The Planning Board has also requested the amount of \$2500 to establish a "plan review account" due to the "size, scale and complexity of Daniels Village... and the consequent impact on the community" Because the Daniels Village plan has already been issued a Special Permit by the Planning Board and has therefore already been thoroughly reviewed by the Board and it's consultants, and it is not our intention to make any changes whatsoever to the approved plan, we do not think it necessary to "begin anew the process of reviewing the proposed development" as suggested in the Board's letter to Barberry Homes of April 8, 2009. We therefore have not remitted the requested \$2500.

It is our belief that the Public Hearing should deal only with the specific concern which was the subject of the Superior Court litigation and are confused as to why the Planning Board feels the entire planning process has to start from scratch, given the fact that the Planning Board has already issued a Special Permit for the project and we are not requesting a single modification to the approved plan.

Thank you.

Sincerely,



Jim Williamson  
Barberry Homes Inc.

Medway, MA

Proj. No. #-----  
 4/09

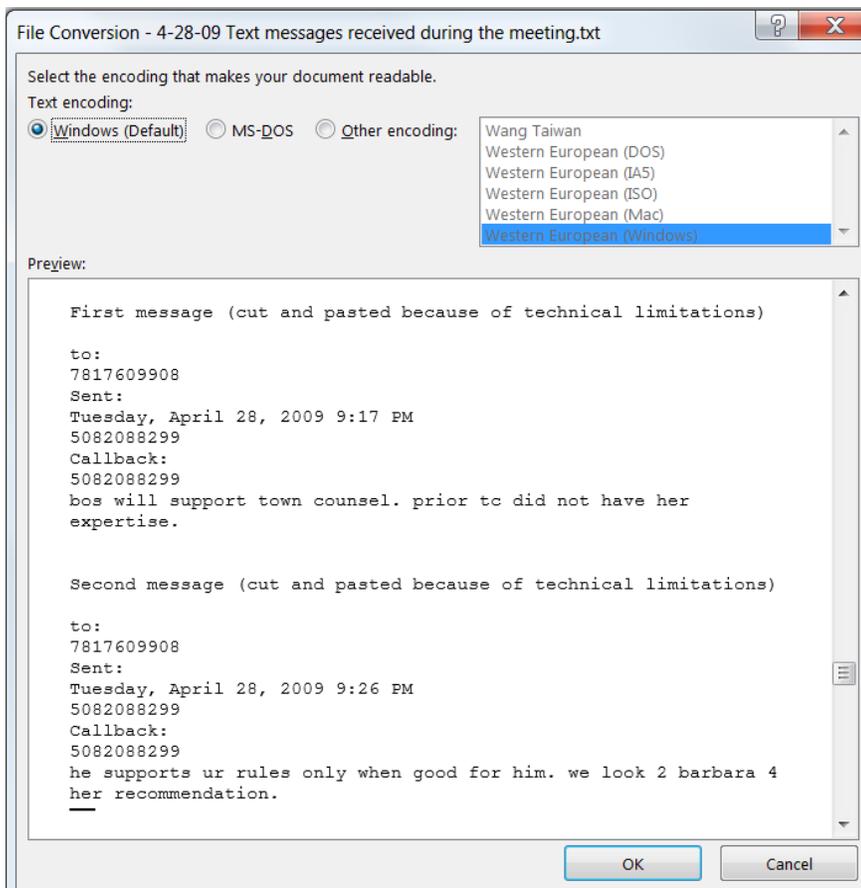
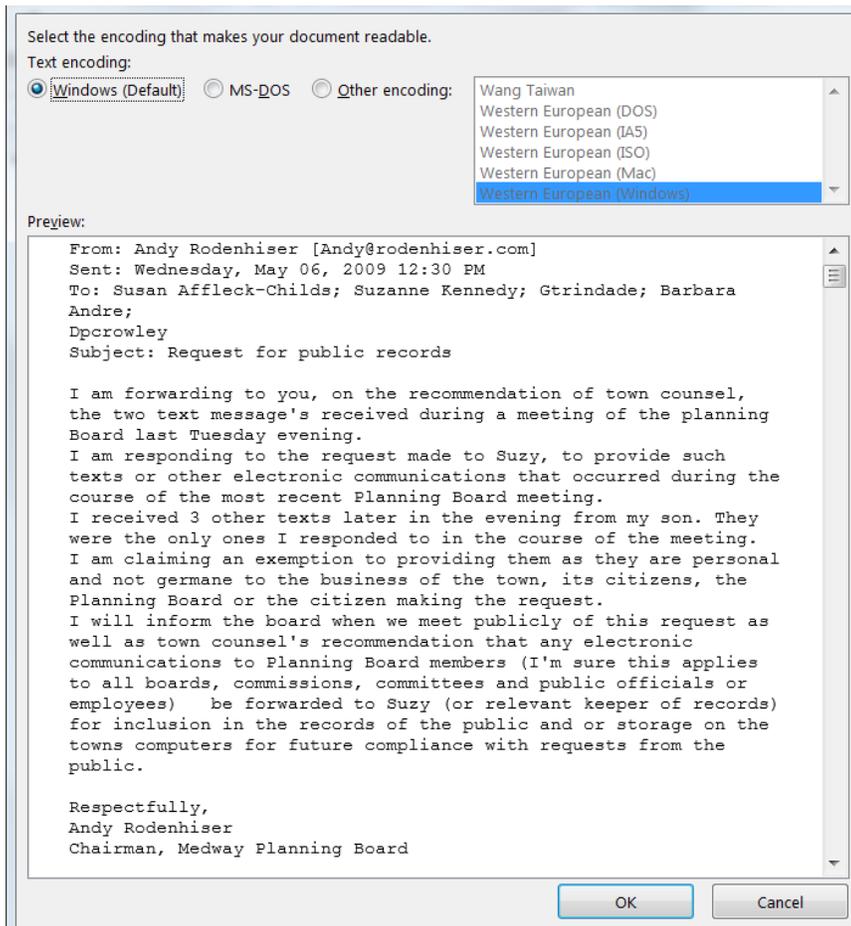
**Broad Acres and Country View Estates Bond Estimate**

ITEM NO.	WORK ACTIVITY	QUANTITY	UNIT	UNIT PRICE	TOTAL	COMMENTS	
<b>Sewer</b>							
223	Frame and Cover Removed and Reset	1	EA	300.00	\$/EA	300	Manhole at East end of Broad Acres Farm Road that has been paved over.
	Subtotal					300	
<b>Drainage</b>							
224.12	Catch Basin Hoods	24	EA	350.00	\$/EA	8,400	All catch basins not inspected - assume half
	Detention Basin Maintenance	3	LS	10,000.00	\$/EA	30,000	See Note 2
	Subtotal					38,400	
<b>BITUMINOUS CONCRETE</b>							
482.01	Hot Applied Asphalt Crack Sealer	1,000	FT	3.00	\$/FT	3,000	Allowance - Exact Quantity Not Measured
	Demol and Disposal of Existing Berm and Pavement Preparation for New Berm	1,000	FT	3.00	\$/FT	3,000	Approximate Cost
470.2	Hot Mix Asphalt Berm - Modified	1,000	FT	4.00	\$/FT	4,000	Allowance - Exact Quantity Not Measured
	Subtotal					10,000	
<b>AGGREGATE (Slope Repair)</b>							
151	Gravel Borrow	110	CY	35.00	\$/CY	3,850	Approximately 200 LF of embankment
	Subtotal					3,850	
<b>LANDSCAPING (Slope Repair)</b>							
751	Loam Borrow	50	CY	42.00	\$/CY	2,100	Approximately 200 LF of embankment
765	Seeding	330	SY	2.00	\$/SY	660	Approximately 200 LF of embankment
	Subtotal					2,760	
<b>Project Summation</b>						<b>55,310</b>	
<b>Contingency</b>					25%	<b>13,828</b>	
<b>Site Total</b>						<b>69,138</b>	
<b>Project Total</b>						<b>69,138</b>	

**Notes:**

- 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 4/2008 - 4/2009.
- Cost is dependent on approved operation and maintenance plan. Typical maintenance would include cleaning sediment and debris from inlet and outlet structures, forebays and basins, and disposal costs. Also includes removal and disposal of silk fence at basin on west end of Broad Acres Farm Road.





**Medway Planning & Economic Development Board Meeting**  
**Tuesday, May 12, 2009**  
**Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Bob Tucker, Chan Rogers, Karyl Spiller-Walsh, John Williams  
ABSENT: Tom Gay  
ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Gino Carlucci, PGC Associates  
Fran Hutton Lee, Administrative Secretary.

The meeting was called to order at 7:02 pm by Chairman Andy Rodenhiser.

**CITIZEN COMMENTS** – None

**Presentation/Discussion – Draft Open Space and Recreation Plan**

Gino Carlucci  
John Schroeder

John Schroeder – Thank you to Gino Carlucci for his work on this. A lot of good things are happening. The most important reason is the OSRP. Everybody says to me and asks me if we have a plan. I say it is almost done. They ask if what we are trying to do is covered in the OSRP and the Medway Master Plan. It would have taken us many months and years to do – we are working the plan even though it is not yet approved. These goals have helped to keep us focused – very helpful already – if anybody has any questions?

I will tell you, if I may, one specific thing. I received an email from the Trust for Public Land. I have been trying to get them involved in Medway. To conserve land for people is their mission. They are a national organization. They are coming to Medway – Greg Caparossi and Chris Lapointe – Chris has been here already. They are going to work together with us in Medway to protect the open space that is in town. I got that email – they are coming. A lot of it has to do with having an OSRP. They bring a skill set that the learning curve would be long and steep to relearn what they already know.

Andy Rodenhiser – All the options are under their belt. They have tried different things.

John Schroeder – As a municipality, we have to do things a certain way. We have to get an appraisal. As a private nonprofit, they have their own appraisers and negotiating teams. Their goals are very similar to ours. They love to keep farmers on their farms, and work with them long periods of time to preserve the land. They are very much in favor of OSRD and ARCPUD and AH – They like to work historical preservation into their program. – Also traditional neighborhood development.

Karyl Spiller-Walsh – Will they have a presentation or discussion?

John Schroeder – not sure yet – there will be many looked at on a project by project basis – they look at a big grand scheme for the chicken brook corridor and they work on it one piece at a time over many years

Karyl Spiller-Walsh – Will they come down before a project starts to conceptualize interests?

John Schroeder - They have been very accessible to me via email. They drove around with me for an afternoon. I showed them every parcel I could think of – getting to know the town – very approachable – he was very interested – they have enough info to come on board –

Gino Carlucci – I can give you the highlights of the plan – For starters, it is essentially complete. We need letters from PB, BOS and MAPC. We have the MAPC letter already. It would be good to get letters from ConCom and the Parks Board too (but those are not yet required).

Andy Rodenhiser – Have we sent them the draft and requested feedback and ask for letters?

Bob Tucker – Can we give them a time frame?

Gino Carlucci – Yes. It doesn't need to be anything special.

Andy Rodenhiser – You need to tell them you need it by a certain date. Can you draft an example?

Gino Carlucci – Sure.

John Schroeder – I look at this as an opportunity to get back in touch with them. We need to this work – we will do both. I have met with Parks, and I did assure them that they would have a chance to review this and have some input. They can still comment and add to it. It is really important to have that input.

Gino Carlucci – highlights – If you look at 1970 population and the land area that was devoted to housing it averaged .19 acres per person. In 2000 it went up to .34 acres per person.

Land use changes between 1971 and 1999 – the loss of crop land etc was about 1500 acres in Medway. The increase in low density residential development was about 1500 acres. That is where we have lost the land.

John Schroeder – I think we have about 550 acres of Chapter 61 land in Medway

Gino Carlucci – There are 3 rare and threatened species: a fish, a reptile, and a vascular plant.

Gino Carlucci – There aren't any Priority Habitat areas – none shown on the maps in Medway – state defined and it changes every two years – I don't know how they designate areas for that

Gino Carlucci – There is another map called a Bio-Map and we do have two areas on that map in the western part of the town.

In terms of protected open space, the town has 39 parcels that equal 269 acres, and the Army Corps of Engineers has an additional 52 acres, which totals 321 acres that are protected open space.

Bellingham and Franklin have about 1500 acres each, state owned land and Army Corps of Engineers owned property along the Charles River.

Gino Carlucci – Bellingham has a lot more town owned open space; a lot is Army Corps of Engineers land along the Charles River.

Karyl Spiller-Walsh – We have a lot of catching up to do.

John Schroeder – We do have a lot of land that is protected by the citizens of Medway, open space protected by private landowners.

Andy Rodenhiser – What do you mean? Under what auspices?

John Schroeder - Used as privately owned farmland and the owners seem to want to keep it that way.

Susy Affleck-Childs – but those are not legally protected . . .

Gino Carlucci – There is just under 200 acres of public and private recreation land.

Gino Carlucci – The goals and objectives are the heart of the plan. I brought copies for you to just go thru . . .

John Schroeder – We had a Natural Treasures Walk last Saturday – there was not a great turnout, but we went thru the exercise and it did raise awareness.

Gino Carlucci – That is a common issue. People just aren't aware of the open space that does exist in their communities.

John Schroeder – 2 major landowners have come forward and want to talk to the town about selling their land to the town. There is a culture of preservation that has reached the landowners, and they now want to talk to the town. In the past, the town was looked at as unfriendly.

Gino Carlucci – These goals were developed by the OSC after multiple meetings – very thoughtful –

Karyl Spiller-Walsh – Why isn't there a goal to maintain some existing farms in Medway Planning Board

John Schroeder – I don't think that is spelled out directly. But we could do so.

Bob Tucker – Are you guys going to be at Medway Pride Day?

John Schroeder – We did discuss that but I am afraid we didn't get our act together.

Bob Tucker – That is the clientele you would like to get the word to.

John Schroeder – It is \$50 for a booth.

Susy Affleck-Childs – I can check to see if the Town is going to have a booth.

Bob Tucker – It is a good opportunity not to be missed.

John Schroeder – I haven't asked specifically, but we had volunteers clean up the river on Earth Day, we have done walks – the committee members have been really great participating.

Chan Rogers arrives at 7:25 pm.

A motion to was made by Bob Tucker to authorize \$50 for a booth for the OSC at Medway Pride Day, seconded by Karol Spiller-Walsh. The motioned passed with Chan Rogers abstaining and all others voting in favor.

Bob Tucker – Do it if you can get the people, or target for next year.

John Schroeder – Back to Karyl Spiller-Walsh's point – let's work that into goals #1 and 7 – maintain and protect existing farms. That clearly is an objective.

Gino Carlucci – The last section lists all the goals and objectives - identify lead body to implement, and a schedule, and a secondary body to help with implementation.

Susy Affleck-Childs – What do we need to do?

John Schroeder – WE need a letter of support from the Planning Board.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker to prepare a letter from the Planning Board to support the OSR Plan. Approved.

Gino Carlucci – We also need to get an appointment with the BOS.

Susy Affleck-Childs - I will contact them to schedule that for you.

Andy Rodenhiser – Get them an electronic copy, maybe even a summary piece.

Susy Affleck-Childs – What kind of feedback did MAPC provide?

Gino Carlucci – They want our local plan to be in sync with their Metro Futures regional plan. The other comment they had, there is a requirement that the issue of environmental justice be addressed. Medway does not have environmental justice populations. If you had a section of town that was low income, and you didn't have any parks there, then that would be an issue.

Andy Rodenhiser – So should the plan should reflect that environmental justice is not an applicable issue in Medway.

Gino Carlucci – Yes, I think I did say something about that.

John Schroeder – That is a big part of goal #2, to diversify open space offerings.

Chan Rogers – This exhibit was prepared by Gino Carlucci. Is there any plan to have it reproduced?

John Schroeder – It will be part of the OSRP.

Chan Rogers – It is a very compelling document.

Andy Rodenhiser – Can we get a copy of that?

Gino Carlucci – Yes.

John Schroeder – Yes.

Bob Tucker – Before we let John Schroeder go, let's discuss Open Space Committee members.

A motion to reappoint the slate of 4 (John Schroeder, Dawn Rice Norton, Tina Wright and Pat McHallam) for a two year term thru 6-30-11 was made by Chan Rogers and seconded by Bob Tucker. The motion passed unanimously.

Susy Affleck-Childs introduced Jim Sullivan as a possible candidate.

John Schroeder – Jim came to our last meeting. He spent some time with us and is still interested in working with us. I am grateful for that.

A motion was made by Chan Rogers and seconded by Bob Tucker to appoint Jim Sullivan to the OSC. The motion passed unanimously.

### **Design Review Committee Appointments**

A motion was made by Bob Tucker and seconded by Karyl Spiller-Walsh, to reappoint Gary Jacob, Julie Fallon, and Beth McDonald for terms through 2011. The motion passed unanimously.

### **ANR Plan – 25 Summer Street**

Mike Fasolino, property owner  
Paul Kenney, attorney

Andy Rodenhiser – Is this different from what we had seen before?

Andy Rodenhiser – The detention pond at the back of Little Tree Road may be problematic for you.

Bob Tucker – We are just making you aware of what is going on next door.

Gino Carlucci's comments letter – no map and parcel number shown on the subject property, and also the letter that was submitted with the plan said that all the buildings would be razed, but that

was not the same as indicated on the plan. They have revised the plans and now remedied my concerns, so it looks fine.

John Williams – Are there any wetlands on the property on lot #1?

Bob Tucker – It says 100% upland. There are wetlands shown on lot #2.

John Williams – According to the ANR regs, we should require the calculation of the shape factor to be shown on the plan.

Gino Carlucci – I have always interpreted that to mean to show the result of the shape factor analysis.

John Williams – I think we should familiar ourselves with how it is calculated. It is part of the process. I would like us to recognize it, and we should follow the plan. The regs say the analysis should be shown.

Gino Carlucci – I just always interpret that to mean that it is just the result of the analysis.

Andy Rodenhiser – Can that go onto the list of things to consider in our rules and regs.

Susy Affleck-Childs – Sure.

Andy Rodenhiser – Anybody object to us going ahead?

Susy Affleck-Childs – We need to be aware that we do not check all the numbers of every plan. That is why a surveyor prepares the plan and stamps it.

Andy Rodenhiser – Is there a motion to endorse?

Chan Rogers – That this is 100% uplands could be questioned because this whole end is about 40 feet below. I am sure it is wet, but maybe that is not the definition of wetlands.

John Williams – It is required to be identified.

Chan Rogers – It still doesn't effect whether the plan is to be endorsed.

Gino Carlucci – The zoning is not criteria for ANR endorsement.

Andy Rodenhiser – It goes to the stamp of the surveyor/engineer.

Andy Rodenhiser – Are you going to need any zoning variances?

Mike Fasolino – No.

Chan Rogers – When does lot #2 become buildable with this way here? The private way?

Karyl Spiller-Walsh – That is an old topic we already discussed with them before.

Gino Carlucci – They would need to submit a subdivision plan to build that road in the future.

Gino Carlucci – I recommend it be endorsed. They have addressed the items I noted.

A motion was made by Karyl Spiller-Walsh and seconded by Bob Tucker to endorse the ANR plan for 25 Summer Street, stamped May 12, 2009. The motion was unanimously approved.

### **Franklin Creek Subdivision**

Marko Vajentic, owner – We are here because we need an extension to complete the project.

Susy Affleck-Childs – The regs only allow you to do one year at a time. They will need to do this as a formal modification – This is an opportunity to look at the plan and construction and determine if any changes are needed.

Marko Vajentic – May I continue with the work?

Susy Affleck-Childs – The risk is yours. Technically this is a defunct def plan.

Susy Affleck-Childs – We will probably not be able to schedule the public hearing until sometime in June.

### **Country View and Broad Acres Subdivisions**

Ted Cannon, attorney for Greg Whelan

Andy Rodenhiser – There was a question before on the catch basin hoods. Dave D’Amico is confirming that he is OK with not requiring

Karyl Spiller-Walsh – So we should be deducting that amount from the bond estimate.

Andy Rodenhiser – I just received a text message that our sound is not working –I wanted to report that.

Ted Cannon – that was the discussion last week that it was an open issue – that there some research

Andy Rodenhiser – As ugly as it seems, it doesn’t seem like it is a relevant issue any longer.

John Williams – If the hoods are required, they should be put in.

Karyl Spiller-Walsh – Lets move on. Let’s take it off the bond we are holding.

John Williams – It bothers me.

Chan Rogers – It really isn’t that big a deal.

Bob Tucker – If I take off the catch basin hoods and the 25% contingency, it brings the grand total of the bond to \$17,012.

Ted Cannon – I would like the board to consider two other matters on this – also release the gravel work on the slope and the loam and seed – this is private property on the other side of the sidewalk there – a developer bought that lot back in 2003 – they are holding it – we don't own it anymore.

Andy Rodenhiser – Is the slope on the private property or in the right of way?

Ted Cannon - 24 Stable Way (lot 26) – It is privately owned.

Dave Pellegrini – It does look like the slope is out of the right of way.

Andy Rodenhiser – Is there sidewalk?

Dave Pellegrini – Yes - the bottom of the slope is at the right of way

Karyl Spiller-Walsh – Can he stabilize it?

Bob Tucker – It is owned by Guerreao and Associates and is not in the right of way.

Ted Cannon – Greg will take care of the berm.

John Williams – Can you explain the hoods?

Dave Pellegrini – It is pretty much a device to protect against trash. It keeps oils and trash out of the system. It does help.

Bob Tucker – If you remove loam and seeding, etc... The new bond total is \$13,562.

Bob Tucker – Wait a minute . . . I didn't take out the gravel borrow. So it will only be \$8,750

NOTE - Andy Rodenhiser received a personal business cell phone call and left the meeting.

### **Five minute recess @ 8:30 pm**

Chan Rogers – There was a question last time about \$8000 for legal fees and other engineering expenses to be placed in the construction account.

### **8:35 pm - reconvene**

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, to reduce the bonds for Country View Estates and Broad Acres Estates to \$8750. The motion was approved unanimously.

Ted Cannon - Greg is OK for you to retain \$8000 of the bond for the construction account.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, that \$8000 of the bond reduction is to be directed to the project's construction consultant account. The motion was approved unanimously.

Ted Cannon – Greg went down and cleaned out the catch basin at the Streifers. We have one other grant to a drainage easement. We need to get one from Paul DeSimone.

Andy Rodenhiser – I did speak with Diane Borgatti. I just have to go over and pick up that deed. Susy Affleck-Childs could call and see when I can do that.

Susy Affleck-Childs – Marylou Whelan stopped by They have sent notices to lenders.

Chan Rogers – What is the final disposition on the flooding at Summer Street at the end of Broad Acres?

Andy Rodenhiser – When the state redid the road, the town had to prepare takings for the ROW. – That structure is now in the expanded ROW and it now belongs to the town. It is no longer on private property. It is now a Town asset.

Chan Rogers – My analysis is that it is purely the state's problem. The water drainage on Route 126 is causing major erosion on Route 126, and the water out of Broad Acres is being carried to the east side of Route 126. The system of drainage that the subdivision put in is now being carried to the system for 126.

Andy Rodenhiser – I think they are talking about the water coming overland by way of swale.

Chan Rogers – The high ground in the woods is draining into a swale which is being conveyed across Broad Acres to a wetlands area at the intersection of the two streets. There is a huge natural wetland there.

Andy Rodenhiser – There seems to be a pretty substantial brook.

Chan Rogers – That crosses Route 126 and that works well. The erosion is on the opposite

Dave Pellegrini – It is not going under Broad Acres.

Dave Pellegrini - It could be the culvert under Route 126 that backs up, and it could be the culvert under Broad Acres Farm Road.

Andy Rodenhiser - The structure at the end of Broad Acres Farm Road – the elevation is too high and it goes overland.

Karyl Spiller-Walsh – The pipes were not set down low enough when it was built – that why the manhole is higher than what it should be.

Andy Rodenhiser – The concrete structure there – final grade came in and there was no way to correct it. The fix was to poke out the bricks, and now the water - to get the structure down, you need to replace it. That is a major project.

John Williams – Who set the manhole?

Andy Rodenhiser – The developer – but the state owns the structure now.

Dave Pellegrini – You look at VHB’s recommendations and what Jim Smith and Dave D’Amico suggested – they wanted to look at some velocity dissipation – but it is really hard to do.

Dave Pellegrini – I think it may be a volume issue, not a velocity issue.

Andy Rodenhiser - Could we slow down the flow out of there?

Bob Tucker – All you will do is accumulate the water up stream. The problem is at the outfall site.

Dave Pellegrini – I think it is one of the culverts.

Karyl Spiller-Walsh –I heard Jimmie Smith say it is the culvert under Route 126, that there is a beaver dam there.

Andy Rodenhiser – Can we have Dave look at it?

Susy Affleck-Childs – Yes.

Does this connect to the developer?

Andy Rodenhiser – If it is flowing too

Chan Rogers – Dave D’Amico asked us to be concerned about whether it is working properly. I think all the problems there are the state’s responsibility.

Andy Rodenhiser – I want to know if there is anything the developer has done – is the pipe too low or do we need to or check dams.

Dave Pellegrini – To do an accurate review, I would need to do a true drainage analysis.

Dave Pellegrini - I can certainly go out and look at this. It will not take me more than an hour to look at it, and I would not bill for it and give you something to work from.

Bob Tucker – I can look at it, too, this week.

Andy Rodenhiser – Maybe when you go to Pine Meadow – give me call and I can meet you there.

Dave Pellegrini – I would like to pick a day when it is raining to see how it works.

## **Priority Development Grant Report and Application for Supplemental Funds**

Gino Carlucci – I have the narrative for you that goes with the parcel analysis I gave you several weeks ago – I made assumptions that first floor would be commercial and second floor would be housing. 106,000 sq. ft of additional commercial space under a more flexible zoning than could be done under the existing zoning.

Taking the assessed values of commercial space which exists now which varies tremendously – just taking an average of \$100/sq. ft., that results in about \$161,000 more in tax revenues. (\$10,000,000 in valuation)

Then using the second floor using for apartments – that would be 646 apartments - using Sanford Mill as comparable (assessed at \$300/sq. ft) – that would generate 3million in tax revenues.

In another scenario – if half of the upper floor space was used for offices instead of housing, it reduces the assessed value somewhat – it would result in about 2million in annual tax revenues.

Third assumption – no apartments, all commercial – it brings it down to 1.2 million – residential results in higher tax revenues, but higher costs.

I end this narrative – recommend additional study.

First – market study to determine whether there is any demand for commercial

Second – more detailed fiscal impact of the development

Third – detailed set of design standards for any new development

All that rolled into additional public education campaign.

Gino Carlucci – That would be the segue to the application for additional funds to continue this process. I apologize for this copy, it has since been fixed. There are a lot of typos in here. I had trouble printing this out. It is an on-line application. It doesn't spell check, and it is difficult to read. I sent it to Angus Jennings (Concord Square) and that is what he did, and sent it back to me.

Gino Carlucci – It follows the format of the PDF application. It documents the 4 tasks I have just mentioned. It gives more detail, makes the case to link to master plan, and OSP, and housing production plan. – all support

Andy Rodenhiser – Is there another barrier? What else besides the investors? What do we need to have in place to move forward?

Andy Rodenhiser – We have this Route 109 redevelopment - Within the context for how the plan (road) – if we were to move forward on this and – could we add parking spaces so that Route 109 becomes wider in some places, and perhaps we provide some infrastructure support to these property owners – here is what we will do to help you.

Gino Carlucci – Perhaps agreeing to accept the drainage from the private properties – that might leave more room for development.

Andy Rodenhiser – So where will we send the water??

Bob Tucker – Where does it go now?

Gino Carlucci – Is the whole town eligible for the TIF? Is it an economic target area there?

Andy Rodenhiser – The new EDC group wants to move in the direction of attraction of business. Give them an economic reason to – Medway Plaza is holding out. We need to provide economic impetus to invest in something new.

Karyl Spiller-Walsh – We could look at allowing 3 stories throughout that section.

Andy Rodenhiser – And some on street parking

Bob Tucker – Is the right of way wide enough?

Gino Carlucci – It is 42 feet – if you do not have the middle lane you could probably have some on street parking. The right of way is not wide enough for parking and a middle lane.

Karyl Spiller-Walsh – You don't need that everywhere.

Gino Carlucci – Sidewalks would have to be on private property instead of in the right of way.

Andy Rodenhiser – We need to bring these folks into this discussion. Clearly it is in their best interest – to formulate – possible to have some tables out there in the summer time-

Karyl Spiller-Walsh – What about the terminology? Could we not call it redevelopment? What about rehab?

Susy Affleck-Childs – I would suggest you refer to it as a revitalization program instead of redevelopment. Rehab means work to existing buildings.

Karyl Spiller-Walsh – I saw a smart growth show on WGBH – great examples

Chan Rogers – Unless something is done drastically, I don't think the plaza will ever be anything but second fiddle to Medway Commons.

Andy Rodenhiser – We need a grant or something to work in conjunction with the owner, and getting you, Gino, in front of the EDC to bring them up to speed on the whole project.

Karyl Spiller-Walsh – It was always a thought. When we were in the process of approving Medway Commons – the way it looked is that the Medway Commons would be the outskirts of a revitalized area – that more concentrated development would be around the plaza.

Andy Rodenhiser – You need action from us?

Gino Carlucci – Yes, this has to be submitted electronically, and followed up with a letter from the chief elected official.

Andy Rodenhiser – Can you prepare the letter?

Gino Carlucci – Yes.

Andy Rodenhiser – Have we spelled out everything we need?

Susy Affleck-Childs – Maybe another piece is to identify what infrastructure improvements are going to be needed to support this revitalization

Gino Carlucci – That should really be part of the Route 109 redesign project.

Chan Rogers – I agree. There is going to be a problem of putting parking on Route 109 without widening it.

And we may need to ask the property owners to give up some land for a wider roadway with parking.

Karyl Spiller-Walsh – It pushes the sidewalk in.

Gino Carlucci – It should be an 8 foot sidewalk.

John Williams - On price per sq. ft - \$300/sq. ft seems very high.

Gino Carlucci – These are the numbers.

Fran Hutton Lee – Assessment of property is done every year by the Board of Assessors.

Andy Rodenhiser – Revaluations are supposed to be done every 3 years –

Fran Hutton Lee – Minimum requirement by the state

John Williams – It does skew the analysis dramatically

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker to approve submitting the Priority Development Fund progress report and the application for \$35,000 in additional grant funds. Approved unanimously.

Andy Rodenhiser – I will talk to Glenn Trindade to let him know this is coming.

### **Tax Assessments in Oak Grove**

Andy Rodenhiser – I had a meeting with a property owner in the Oak Grove area. Their tax bill had gone up 700% - so in the course of this meeting – they wanted to meet to ask us about buying the parcels – this is on a buildable lot – I tell them you need to get it appraised and do a title search – they felt that would cost more than what the land is worth.

They asked if the town is just trying to raise the value of these parcels to be taken because if we don't pay the tax bills the town will get the property.

Andy Rodenhiser – I said NO – we didn't know about these increases. We went to the assessors' office and spoke with Terri. She said the company that does the revals for the town had used a formula and that resulted in some changes. It sounded fishy; it didn't seem right. It was done by a third party outside of the town. We didn't tell them to do anything. So I set up an appointment. I met with the Board of Assessors. They were somewhat aware of it on several of the other lots as they had received applications from other sites for abatements. So what came from this is that the DOR had had a conversation with KAPINOS which does the valuations and told them they needed to make these changes. I asked for written correspondence between the DOR and Kapinos and BOA so I can explain it. I don't want to have a credibility issue. I asked the BOA for the info. I spoke with Fran Hutton Lee. We offered her assistance. The BOA says they are not getting return calls form Kapinos. There isn't a clear cut reason or explanation that can be easily explained.

Karyl Spiller-Walsh – Ulterior motive?

Andy Rodenhiser – Probably just a stupid mistake – I imagine they were just looking at the data without necessarily looking at any maps. Frequent conversations between local assessors' office and DOR with questions – I offered Fran Hutton Lee's time to BOA and asked they get something in writing.

Karyl Spiller-Walsh – It puts that project in a very awkward position.

Andy Rodenhiser – That is why I am talking bout it here in an open meeting - I want to be straight –

Susy Affleck-Childs – I think we should put this in writing to the BOA and the new Administrative Assessor and ask for clarification/explanation.

Andy Rodenhiser – imagine you own some of these parcels and you don't go for abatement – if the Town jacks up the value?

Andy Rodenhiser – are you OK if we craft this letter to the BOA?

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to authorize Andy Rodenhiser and Susy Affleck-Childs to prepare a letter to the Board of Assessors regarding this matter. Approved. Ask specific questions – how many lots were affected? Have they applied for abatements?

## **Zoning Articles for 6-15-09 Town Meeting**

### **PB Definition – Article 30**

A motion was made by Bob Tucker, seconded by Karyl Spiller Walsh to recommend approval. All yes. APPROVED.

**Sign Regulation for Business/Industrial district – Article 31 – with the clarifying amendment –**

A motion was made by Karyl Spiller-Walsh, seconded by Chan Rogers to recommend approval as amended. All yes. APPROVED

**Adult Uses – article 32 – with further amendments by the PB**

Bob Tucker – A really good explanation is going to be needed

Susy Affleck-Childs – An option to put this off and resubmit it in this fall with all of the amendments already included in the article.

Bob Tucker – I think we should try to get it thru – it is not good to leave ourselves open.

Andy Rodenhiser – we leave ourselves susceptible to challenge.

John Williams – I think it is worth a shot to try it – with education we should have overwhelming support – sometimes it takes people being at the meeting – if it prompts discussion

Andy Rodenhiser – I think we can do it - we will be posted for a PB meeting during the annual town meeting so we could pull our support if needed if it gets really involved -

Andy Rodenhiser – we are also at risk for not having something

John Williams – if it is ready, we should go

Bob Tucker – I would agree it would be cleaner to submit it fresh – I think we should give it our best shot – Mark is going to have to work with us – to make sure people will understand

Karyl Spiller-Walsh – I hope we don't regret it -

Gino Carlucci – part of the preamble is to make the point that these uses could go anywhere if we don't regulate it

Motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to go forward with article 32 with the additional amendments – 3 yes – 1 nay. APPROVED.

**Commercial V - Article 33**

Chan Rogers – I feel we should not recommend approval of 6 pumps

Andy Rodenhiser – let's pull the whole thing

Susy Affleck-Childs – You could address the language re: signs for the fall town meeting

Andy Rodenhiser – I want to acknowledge the letter of the DRC even though it came in after the public hearing

Motion by Karyl Spiller-Walsh, seconded by Chan Rogers to recommend dismissal of Article 33 re: Commercial District V. All yes. APPROVED.

### **Article 34 – Infill Affordable Housing with amendment recommended by AHC**

Motion by Bob Tucker, seconded by Karyl Spiller-Walsh to recommend approval of Article 34 with the additional amendment recommended by the Affordable Housing Committee. All yes – APPROVED.

### **Article 35 – OSRD Amendments**

Motion by Karyl Spiller-Walsh, seconded by Bob Tucker to recommend approval of Article 35 with additional amendments – all yes. APPROVED.

### **Williamsburg Condominium OSRD**

The Board endorsed the Williamsburg Condominium OSRD plan.

### **Committee Reports**

Chan Rogers – The Town formally requested funding for an earmark for \$9 million and submitted it to Congressman Jim McGovern for Route 109 redevelopment.

Bob Tucker – CPC meeting this last week – Work is going along at 2B Oak Street, working on the barn.

Chan Rogers – I have been going up and down Main Street every day – There is an awful sign in front of 122 Main Street for Classic Tile. It is horrible. The new building is nice.

Susy Affleck-Childs – It is a temporary sign. They will come before the DRC next week.

Andy Rodenhiser – There is a new sign for Chris' Automotive at Nielson's Garage. We should check that out.

Susy Affleck-Childs – It has not come before the DRC.

NOTE - Andy Rodenhiser will not be here for the June 23<sup>rd</sup> meeting. He will be climbing Mt. Rainier.

### **Meeting Minutes**

A motion was made by Karyl Spiller-Walsh, seconded by Chan Rogers to approve the minutes of the March 31, 2009 and April 28, 2009 meetings. All Yes. APPROVED.

### **Other Business**

Bob Tucker – I would suggest we send inspection reports to Bob Speroni.

Andy Rodenhiser – We received a public information request for the content of the text messages that I received during our last PB meeting (April 28<sup>th</sup>). I provided the information to Susy Affleck-Childs, and she responded to Paul Yorkis who had made the inquiry. In the course of this I discussed the request with town counsel. Any type of electronic communication is subject to public scrutiny. Any time we get a text message during the course of a meeting that pertains to anything on the meeting or is relative to the discussion going on at hand, you do need to make that available. We can cut and paste it into a document and make part of the public record. The person who texted me has agreed to not do so in the future.

Susy Affleck-Childs – It is disruptive and subject to misinterpretation.

Andy Rodenhiser – It makes it more complicated.

A motion to adjourn the meeting was made by Karyl Spiller-Walsh and seconded by Bob Tucker. The motion passed unanimously. The meeting was adjourned at 10:10PM.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

**Medway Planning & Economic Development Board Meeting**  
**Tuesday, May 19, 2009**  
**Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Bob Tucker, Chan Rogers, Tom Gay, John Williams

ABSENT WITH NOTICE: Karyl Spiller Walsh  
Susy Affleck-Childs, Planning Board Assistant

ALSO PRESENT: Gino Carlucci, PGC Associates  
Fran Hutton Lee, Administrative Secretary  
Dave Pellegrini, Tetra Tech Rizzo

The meeting was called to order at 7:00 pm by Chairman Andy Rodenhiser

**CITIZEN COMMENTS** – None

**Pine Meadow II – Subdivision Modification Public Hearing**

A motion to waive the reading of the Public Hearing notice was made by Bob Tucker and seconded by Tom Gay. The motion was approved unanimously. The public hearing notice is attached.

Dave Pellegrini - There are 2 items outstanding; the detention pond and the stop line paving. I saw a picture, and it looks fine. The as built plan from 2007 looks fine.

I looked at the former bond estimate (prepared by VHB in June 2007). I modified it based on current Mass Highway prices. Susy said to add legal fees.

Andy Rodenhiser – What about the requirements for street acceptance? Are you aware of them?

Gary Feldman - Yes

Andy Rodenhiser – It can be a nightmare; some don't get easements, just so are you aware.

Gary Feldman - Yes. Susy said this has been a problem. We are working on it; we are aware.

Andy Rodenhiser – Another contentious issue was the grading of the slope.

Nick Turi, 8 Fisher Street – We want to make sure we are okay, all in line, with everything on the table.

Gary Feldman - The only thing I need...

Nick Turi - Could we go over it again to refresh it all in our minds what we agreed to.

Bob Tucker - Do you have a copy of ...

Gary Feldman – No.

Andy Rodenhiser - So you guys are all in agreement?

Gary Feldman and Nick Turi - Yes

Bob Tucker - They will do the fence?

Nick Turi - We want a solid fence.

Gary Feldman - We did agree to take the property and take care of it.

Nick Turi - We'd like to see ground cover on the slope, not grass. Something like pachysandra. I don't want to be out there mowing.

Gary Feldman - Put something else in the letter, then.

Nick Turi - No grass.

Andy Rodenhiser – Okay.

??? -The drawing shows a 4 foot split rail fence.

Andy Rodenhiser - We need to change this to reflect what will happen, a solid vinyl fence.

But not...

Andy Rodenhiser - Shouldn't we make it clear?

Gary Feldman and Nick Turi - We have a gentlemen's agreement.

Andy Rodenhiser - Well, if that's okay with you guys...

Gary Feldman - We are concerned about the aesthetics, that it looks good for people pulling in.

The other time frame, what are we looking at, it has been a problem for me.

Andy Rodenhiser - 20 days after for an appeal...

Gary Feldman - When I get the lot releases...

Gary Feldman - Everything is supposed to close at sale time...still putting up houses

Nick Turi - Where?

Gary Feldman - Lot 7

Nick Turi - Behind us? Good.

Gary Feldman – I'm not sure about the back lot.

Nancy Turi - We are looking toward a vinyl fence.

Chan Rogers - same thing...this is a new subdivision going in, so other things could change. Time expired, and you guys opened it up again...

Nancy Turi - We are tired of looking at rocks.

Gino Carlucci – I was going to suggest regarding the plans that you could have the minutes reflect that there is an agreement between the two parties that there be a white vinyl fence.

Andy Rodenhiser – Is there anything else to discuss?

Nick Turi - Are you going to replace some other shrub?

Nancy Turi - How long is this going to take?

Andy Rodenhiser - The rules and regs only allow for a one year extension.

Nick Turi – Is there going to be blasting again?

Gary Feldman - Only for foundations or septic if we hit ledge, but I hope not.

Nick Turi - We are anxious. It has been five years, now. We are affected by it more than most.

Gary Feldman - I feel for you. I like to build houses, and haven't been able to.

Andy Rodenhiser – Is there a motion to approve the modifications submitted?

A motion was made by Bob Tucker, seconded by Chan Rogers to accept the modifications as submitted - Alternative Intersection Plan for Fisher Street and Pine Meadow Road, dated 12/1/06, revised 12/4/06, prepared by Faist Engineering and

O'Driscoll Land Surveying Co. and to extend the deadline for one year. The motion was approved unanimously.

### **Pine Meadow II - Review of Construction Inspection Report and Bond Estimate**

Andy Rodenhiser - Do we need to accept this bond? Is there a motion to accept the bond?

A motion was made by Bob Tucker to accept the total recommended bond in the amount of \$147,616.00 dated May 14, 2009 as prepared by Tetra Tech Rizzo.

There is no second immediately, and the Board members look at the bond value estimates prepared by TTR.

Andy Rodenhiser - Is that bond ...we have a motion...

Chan Rogers – Clarification...is there an escrow account for this?

Fran Hutton Lee - Susy keeps the revolving accounts for those.

Gary Feldman – Oh, we gave \$3000.00 already.

Andy Rodenhiser – Okay. We have a motion, is there a second?

Chan Rogers – I second the motion.

The motion passes unanimously.

Andy Rodenhiser – Is there anything else?

Tom Gay – No. They agree...it seems all good.

Andy Rodenhiser - Is there a motion to adjourn?

Gary Feldman – The plan...do I need this recorded? This is a Mylar. The original was just a paper plan that was signed.

Assorted board members discussed whether the PB needs to sign the plan.

Gary Feldman - Susy wanted to make sure it was recorded.

Andy Rodenhiser – Dave, could you review this plan and make sure it matches the drawing that had been approved before?

Dave Pellegrini – We can take it and make sure it is the original.

A motion was made by Bob Tucker and seconded by Chan Rogers to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 7:23 PM.

Respectfully submitted,

Fran V. Hutton Lee

Administrative Secretary  
Planning & Economic Development Board

## **NOTICE OF PUBLIC HEARING Pine Meadow II Subdivision Modification**

In accordance with the provisions of M.G.L, C. 41, s. 81A – 81GG and Medway's *Rules and Regulations for the Review and Approval of Land Subdivisions*, notice is hereby given that the Medway Planning and Economic Development Board will conduct a public hearing on Tuesday, May 19, 2009 at 7:00 p.m. in the Sanford Room of Town Hall, 155 Village Street, Medway, MA to consider an application from Pine Meadow Development LLC of Allston, MA to modify the *Pine Meadow II Definitive Subdivision Decision/Certificate of Action and/or Plan*.

The subject property is a 6.4 acre site located behind 8-12 Fisher Street, presently owned by Pine Meadow Development LLC. On November 1, 2005, the Planning Board approved the site for a 7 lot residential subdivision, construction of 755 linear feet of roadway on two streets (Pine Meadow Road and Lantern Lane) and installation of municipal services including a stormwater drainage system with a detention pond on lot #3. The subdivision is comprised of the following parcels as shown on Medway Assessors Map 2 - #42, 42-1, 42-2, 42-3, 42-4, 42-5, 42-6 and 42-7. Construction on the subdivision infrastructure commenced but was not completed within the two year time schedule specified in the decision. The current developer now wishes to complete the subdivision roads/utilities and convey building lots for house construction. A modification to the Pine Meadow II Subdivision Certificate of Action is required to establish a new completion date. The Board will also hear any public testimony that is offered pertaining to matters of subdivision construction.

The previously approved *Pine Meadow II Definitive Subdivision Plan* is on file with the Medway Town Clerk at 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 am to 1:00 p.m.

Interested persons or parties are invited to review the previously approved plan, attend the public hearing, and express their views at the designated time and place. Written comments are encouraged.

Andy Rodenhiser, Chairman

To be published in the *Milford Daily News* – Monday, May 4, 2009 and Tuesday, May 12, 2009

cc: *Owners of Land, Abutters, and Parties of Interest within 300'*

*Planning Boards* – Bellingham, Franklin, Holliston, Milford, Millis & Norfolk

*Medway Town Officials/Departments* – Board of Selectmen/Town Administrator, Board of Assessors, Board of Health, Board of Water and Sewer Commissioners, Conservation Commission, Design Review Committee, Disability Commission, Fire Department, Inspector of Buildings/Zoning Enforcement Officer, Police Department, Public Services Department, Town Clerk, Treasurer/Collector, Tetra Tech Rizzo, PGC Associates.

**Medway Planning & Economic Development Board Meeting  
Tuesday, May 26, 2009  
Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Tom Gay, Chan Rogers, Karyl Spiller-Walsh, John Williams

ABSENT WITH NOTICE: Bob Tucker

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Krista Perry, Milford Daily News

The meeting was called to order at 7:03 pm by Chairman Andy Rodenhiser

Krista Perry, reporter from the Milford Daily News was introduced.

**Meeting Minutes**

It was agreed to hold over minutes until the next meeting.

Susy Affleck-Childs distributed the revised updated Master Plan. Jim Wieler will

**Reports**

Chan Rogers - **Route 109** has a crucial meeting with the TIP Committee this week to get it on the 2010 TIP – where we already have two earmarks for design and one for construction, it is pretty significant, but we need to get on the TIP – we were able to move it ahead –

Andy Rodenhiser – Do you need anything from us for that? Are any representatives going to be there?

Chan Rogers – State Representative Carolyn Dykema will be there. We have contacted State Representatives James Vallee and State Senator Karen Spilka. We don't expect all of them to attend.

Chan Rogers – TIP Committee – MAPC committee – to clear the way to go to the state

Karyl Spiller-Walsh - DRC – at the last meeting we discussed buffers, infill housing design standards, what we thought we might need – we discussed the Thayer House project – also signs – Classic Tile Sign – Murphy Insurance Agency

Karyl Spiller-Walsh – I would think the DRC would like to meet with the new building inspector.

**Public Hearing – 7:15 p.m. – Daniels Village ARCPUD**

Andy Rodenhiser – We have received a letter from Jim Williamson of Barberry Homes, requesting a continuation of the public hearing. The letter is dated today. They ask to be continued to June 23 or July 14.

Chan Rogers – There doesn't seem to be any urgency on their part. They seem to be indifferent.

Susy Affleck-Childs – They have not paid the plan review fee as invoiced.

Andy Rodenhiser – The fact that they haven't paid any money has handicapped us in moving forward. I suggest that we continue to June 9<sup>th</sup>.

A motion was made by Chan Rogers that the Public Hearing be continued to June 9<sup>th</sup> with the caveat that fees be paid. Tom Gay seconded the motion which was approved unanimously.

The public hearing was continued to June 9, 2009 at 8:00 p.m.

Susy Affleck-Childs – You have been provided the minutes from the public hearings for the first go around on this development.

John Williams – There is reference in the testimony re: what is done for typical ARCPUDS. Do we have the resources to find out what is normally provided in an ARCPUD? What is normal, what is provided, what is typical?

Andy Rodenhiser – In lieu of them providing a community center, what is the impact?

Andy Rodenhiser – We need to ask Missy Dziczek to provide us with some consultants that are in that business.

Karyl Spiller-Walsh – Let's remember, Jim Williamson was a member of an over 55 development group. He said that any development of over 100 units supported a community center, and anything less than that was not viable.

Andy Rodenhiser – I am not willing to take his word. I would like to have some third party verification of what he says.

### **Wingate Farm Subdivision**

Karyl Spiller-Walsh – I will recuse myself from this discussion as it pertains to my property.

Gene Walsh – We are requesting an extension of our completion deadline. Our road is 80% done, but finishing it is a few bucks, so it is tenuous.

Susy Affleck-Childs – We must be consistent in how we handle these subdivisions. We need to do this as a modification.

Chan Rogers – Is one year enough time?

Susy Affleck-Childs – You could vote to waive the regulation that extensions are only good for one year. Their next step is to file an application for a modification, and then we have a public hearing.

Chan Rogers – We should consider a two year window.

Andy Rodenhiser – We can do that during the public hearing.

Susy Affleck-Childs – By proceeding this way, you can look at the subdivision, both the decision and the plan and see how construction is proceeding.

Karyl Spiller-Walsh – It is an opportunity to do any modifications that we identify.

Andy Rodenhiser – No extension request was filed before the decision lapsed?

Susy Affleck-Childs - Correct

Chan Rogers – I don't have any subdivisions before you, and I am amazed we have this requirement. I don't feel that we should push hard. The developers are not going to put money into the projects if there isn't a market anymore. Why are we so adamant that they have to finish?

Andy Rodenhiser – What do you suggest we change it to?

Chan Rogers – That issue shouldn't be so rigorous so they have to come in every two years.

Chan Rogers – I am appalled by the problem! You are all so rigorous about this like you are out to get them.

Andy Rodenhiser – With Pine Meadow there was a dispute that needed to be worked out. Having to come back here to get an extension provided the incentive to get things worked out and all parties have done so.

Chan Rogers – I have been on here 5 years now. A limit of two years – this is the third of similar problems.

Tom Gay – The rules are the rules, and the decision is the decision. There is a responsibility on the owner's part to keep up with those dates. Bob Tucker has said it is not our responsibility to chase you down to keep your schedule. If we want to go looking at changing the rules, that is a bigger discussion. We have to be consistent in how we apply the rules to everyone.

Andy Rodenhiser – There is another subdivision off of Fisher Street that wasn't built. If they came in now we could now require them to meet the new standards.

Susy Affleck-Childs – That would be particularly true if no construction was even started.

Chan Rogers – I just want to be more judicious on how we apply the rules. Massachusetts has the most expensive housing in the country. Planning Boards contribute to that problem.

Karyl Spiller-Walsh – Medway’s subdivision rules and regs have changed for the greener and the better because of the small subdivisions. The width of the small subdivision roads has been reduced as a result of looking at what is really appropriate – the surfaces have changed – the use of swales and low impact drainage, the shape of detention ponds have changed, all that has much less impact on the development – the use of buffering and the encouragement of leaving of trees and leaving existing conditions are things that were not considered before. The common practice was to nuke. A lot of good ideas have come out of these smaller developments.

Andy Rodenhiser – Almost everything you stated is not in the state subdivision control law.

Chan Rogers – You are taking my statement out of context. I have appeared at the state house on land use reform. You are taking it personally.

Tom Gay – The rules are handed to me, as they exist, I have to administer those rules fairly across the spectrum of people who come across and to work diligently to adapt the rules to what the town wants within the context of the law. That is not personal. It is reading the rules and implementing them. I grew up in this town. I don’t like what has happened. I have experience too.

Chan Rogers – You are missing the whole point. I think our discussion of having a one year limit should be flexible.

Andy Rodenhiser – Susy Affleck-Childs suggested that applicant can come in and request a waiver from the one year extension.

Karyl Spiller-Walsh – Is it possible if you request a one year extension that you can come back and ask for another one

Susy Affleck-Childs – Yes. WE will have Tetra Tech Rizzo go out and do an inspection and provide a report. That expense will be borne by the applicant/developer/owner.

We can tentatively schedule a public hearing on June 23<sup>rd</sup>, but we need them to file an application and pay fees.

## **Master Plan Committee**

Jim Wieler  
Allison Slack  
Dan Hooper

Jim Wieler – 99 pages later and 18 months – 6<sup>th</sup> review draft – I have a couple of very minor edits to this that I can talk you through. You guys essentially need to accept it, and we can crank in a few last changes, and then it will be ready for affirmation on June 15<sup>th</sup> at Town Meeting.

John Williams – I have not been able to read the new text as of yet. There was a part in here in the introduction and the survey results and how they indicated strong feelings that Medway residents were in favor of.

Jim Wieler – As I recall, at the first meeting you asked whether we had paid enough attention to the survey, and did we allow those results to guide us in developing our recommendations. Look at the table of contents. We explicitly call out survey issues in each section. I recall there was some confusion in what we had for economic development goals and the text and we removed the multiuse wording in the text for the Oak Grove area. We didn't absolutely want to specify that it would be mixed use.

John Williams – I was looking for more ingrained connection between survey results and goals vs. ideas which were carried through by the momentum of people who had been involved as town fathers. Did the ideas come purely from the survey?

Jim Wieler – In our second meeting, we discussed how the survey guided this. But what also guides us is our experience and what we know can and can't be done.

Andy Rodenhiser – In reading the Oak Grove section, it leaves it open as to what can happen there. In each of these areas, we will have a specialized task force to work on it.

Jim Wieler – And we did back out some of the more specific recommendations from the UMASS study to make it a little more generic in the Master Plan.

Jim Wieler – There are a couple of changes in the content.

One is the cover. Dan Hooper is working on something with the DRC.

Dan Hooper distributed a draft cover to show positions of photographs.

Jim Wieler – Under contributors, I will refine Gino Carlucci to include his firm name, PGC Associates.

Figure II – Zoning map is being updated by Gino Carlucci.

Jim Wieler – We received some more comments back from Jim Wickis on various pages – clean up edits, etc.

Karyl Spiller-Walsh – Did you have any idea on binding?

Jim Wieler – I don't know what we are going to do.

Jim Wieler – The introduction is going out in the FINCOM booklet for the 2009 Annual Town Meeting. It will reference the location of the Master Plan on line.

Print up at least 100 to hand out at Town Meeting and have 100 more or so to have handy.

Susy Affleck-Childs – What are your thoughts on implementation monitoring? Who?

Jim Wieler – I envision an Excel spreadsheet – how are you doing? Yearly check in.

Andy Rodenhiser – For example the board of health – here is the document and here are the items for you to work on.

Dan Hooper – What is the issue that leads you to think we need another committee to do this? Two to three years from now some of these items will just go away.

Jim Wieler – The reason the 1999 plan worked is because some of the people involved in writing it got involved right away on the Planning Board.

Andy Rodenhiser – When I talked with some of the boards back at the beginning of this update process (ConCom, Parks) they didn't have much of a clue about the activities they were supposed to work on during the past 10 years.

Chan Rogers – Have a guide and update it. But I have a question here on your build out analysis. Do you really think that will happen?

Jim Wieler – We took a look at building permits and averages.

Chan Rogers – I am startled by some of the data re: Milford on page 39. You don't have a number for Holliston. What about the Hopping Brook Industrial Park in Holliston?

Tom Gay – Perhaps a communication plan might be more in order.

Allison Slack – The census comes in next year. Perhaps we should consider delaying the next update to be able to include future census data (wait until 2020).

Andy Rodenhiser – What questions would you have asked on the survey.

Jim Wieler – In the minutes of our last there are some notes on what we would do differently. Frame the questions a little bit better. If we do an online survey, make sure it is the same as the written version. Start earlier on preparing the survey.

Susy Affleck-Childs – Annual survey tied to the annual census – to get feedback on various topics each year.

Chan Rogers – Some helpful data is what percent the school system is of each town's budget. I feel the downturn of the economy is forcing the towns to look at the percent of schools to the budget, and regionalization jumps up.

Jim Wieler – That is very difficult. Each town does it their way – add back in insurance, facilities maintenance, etc.

A motion was made by Karyl Spiller-Walsh and seconded by Chan Rogers to accept the new master plan. All Yes. APPROVED!!

Andy Rodenhiser - With much gratitude for your efforts.

Chan Rogers – I am very impressed you have been able to do this with your own talent and volunteers. Even 40 years ago (in Hingham) it was commonplace to have a consultant come in and pay \$40,000-\$100,000. All the more reason it is much more meaningful to having a master plan. But it is not something you are going to try to rigorously follow.

Jim Wieler – The committee was wonderful – a great group of folks – stuck to the task – it was a good experience. You have that people on committee who are going to be asking what is going on.

Andy Rodenhiser – Thank you for the leadership and commitment made to the town.

### **Restaurant 45 – Request for Extension of Site Plan Completion**

Paul Yorkis – The main issue is the moving of the utility poles. The person I speak with at Verizon thinks it will be this year. The longer the project goes, the more expensive it becomes.

Andy Rodenhiser – Should we talk to our legislators about some type of relief for the municipalities from this sort of hostage taking? Could we just not agree to approve street opening permits for Verizon?

Paul Yorkis – Verizon owns the poles and there is no incentive for them to move a pole, no cost benefit to do so. In fact it costs them to move a pole. They have become a much leaner corporation in terms of their engineering and field staff and their bottom line is ROI for shareholders. We are caught as a community.

Andy Rodenhiser – Isn't it true there has been a taking, and isn't it now in the public street?

Paul Yorkis – One, we are not in compliance with ADA because the sidewalks are not conforming. Two, because poles are where they are, kids cannot walk to the high school, and kids are being bussed; it is having a fiscal impact. And three – for this town, wearing my SWAP hat, I attended a Walkable Communities Workshop. They are delaying Medway becoming a more walkable community. Unfortunately I don't think there is anybody I know in Verizon who cares about the issue.

Tom Gay – All these numbered routes, state, national – they haven't fared any better than the town owned roads. Cottage Street has been dug up too.

John Williams – Pole permits are done in some towns. PUC rate issues.

Andy Rodenhiser – Maybe we should get a rate reduction for all of Medway because of our additional expense.

Paul Yorkis – There are some very good people who work at Verizon who are very frustrated that the company has not been able to respond. Unfortunately, if there is an accident on Summer Street where someone is critically injured, then Verizon will pay attention.

Susy Affleck-Childs – You extended this deadline before. In April 2008. You approved extending it to July 1, 2009.

Tom Gay – Are there any other issues?

Paul Yorkis – An old pedestal for the signal box needs to be removed. It still has electricity coming out of it. That is the state’s contractor’s responsibility. Once done, then they can complete the curbing.

Andy Rodenhiser – Can’t do paving and final landscaping until the road is done.

A motion was made by Karyl Spiller-Walsh and seconded by Chan Rogers to extend the completion deadline for the Restaurant 45 site plan to July 1, 2010. All Yes. APPROVED.

Susy Affleck-Childs – How are things going tenant-wise?

Paul Yorkis – We have signed a lease for some space, but I cannot divulge that information.

A motion to adjourn was made by Karyl Spiller-Walsh, seconded by Tom Gay, and approved unanimously.

The meeting was adjourned at 9:15 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant

**Planning & Economic Development Board Meeting**  
Sanford Hall, 155 Village Street  
June 9, 2009

PRESENT: Bob Tucker; Tom Gay; Karyl Spiller-Walsh; John Williams

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Gino Carlucci, PGC Associates  
Dave Pellegri, Tetra Tech Rizzo

The meeting was called to order at 7:01 pm by Vice Chairman Bob Tucker.

Bob Tucker – Andy Rodenhiser is running late and will be here soon; Chan will be joining us later. He is at the MAPC annual meeting.

**CITIZEN COMMENTS** – None

**Northeastern University Economic Development Partnership Program**

Susy Affleck-Childs – At the June 2, 2009 meeting of the newly organizing Economic Development Committee, Marc Horne of Northeastern University’s Dukakis Center for Urban and Regional Policy gave a presentation about Northeastern’s municipal Economic Development Partnership Program. The group was impressed with this Community Self-Assessment Program and believes this would be an excellent activity for the Town to undertake to help the new EDC as it become organized and develops its focus. The Committee voted to request and recommend that the Planning and Economic Development Board spend \$5,000 in fiscal year 09 funds to participate in this program. This is a one-time fee. \$4,000 is available from the remaining IDC funds. \$1,000 would be needed from the Planning Board’s contracted services line item which presently has a balance of \$4,600.

Karyl Spiller-Walsh – How effective do you think this would be as a point of departure for the EDC considering the costs?

Gino Carlucci – One is the process; it is an organizing mechanism to gather the info. It does provide the comparative analysis, which is also educational, about the types of things the town needs to do to be considered more attractive for investment. It is especially valuable as there is a new EDC to create a basis for actions.

Karyl Spiller-Walsh – Sort of a Planning Board primer for the EDC.

Bob Tucker – It would also be a useful tool for all the individual departments, not just the PB and EDC—that would benefit from this. Also various boards that provide input.

Gino Carlucci – You stay in the program. You can get a new assessment.

Karyl Spiller-Walsh – It gives you a comparison on what basis?

Gino Carlucci – You can ask for a comparison with just a few towns or for the entire data base.

John Williams – I was at the EDC meeting when they did the presentation. What Gino Carlucci says is important – using the data base to help us organize Medway’s presentation to potential developers – also as a primer to the new EDC – it would be a supporting mechanism – I see it as a step in a long process to help us get where we need to be.

Bob Tucker – Is there a motion?

Tom Gay – What is needed?

Tom Gay – I would support this. I move that we fund this with \$4,000 from IDC and \$1,000 from PB.

Karyl Spiller-Walsh – Second.

The motioned passed unanimously.

### **Franklin Creek Subdivision Modification**

Marko Vajentic, Woodstructure Construction, Inc

A motion was made to waive the reading of the Public Hearing notice by Tom Gay, seconded by Karyl Spiller-Walsh. The motion passed unanimously. The public hearing notice is attached.

Bob Tucker – We can dive into this.

Karyl Spiller-Walsh – Is this an actual modification?

Marko Vajentic – We are looking to extend it by a year.

Susy Affleck-Childs – You could vote to waive the length of time and allow for more time if you wish to.

Marko Vajentic – It would help to have some more time.

Tom Gay – We had a fairly extensive discussion about other subdivisions with the issues going on over the last couple of meetings. I am kind of pretty disposed to say we should go by the ordinance (regs) as it provides. I would be more comfortable doing that, and then look at addressing the regs.

Karyl Spiller-Walsh – I see a short list of issues that really need to be addressed (with the regs) – There are a lot of loose ends. This is a mess.

Andy Rodenhiser – Maybe we should have a public hearing on those top 10. Susy, would you put that together, please? Your recommendations are pretty valuable. You are constantly bumping your head up against these problems.

Karyl Spiller-Walsh – And set aside a little bit of time to discuss those.

Susy Affleck-Childs – I recommend June 30, 2010 as a new deadline.

Dave Pellegrini – I prepared a status report for you based on my 5/29 inspection. They added a perimeter drain with a little pump as specified by the building inspector. It is all pretty straightforward. He had mentioned that he might want to eliminate a retaining wall. He had his engineer look at it, and they decided not to. There were some problems with locations of some of the site utilities. No stubs were identifiable. I tried to help. Marko Vajentic had his new contractor find them.

Motion by Tom Gay, seconded by Karyl Spiller-Walsh to extend the completion deadline for the Franklin Creek Subdivision to June 30, 2010. The motion passed.

### **Street Acceptance Discussion**

Andy Rodenhiser – Susy Affleck-Childs and I went to the BOS meeting with Barbara Saint André. What I am taking away is that they want us to weed thru the issues street by street and come up with a recommendation based on the facts of what we see knowing there is a diversity of issues on each one. They were pleased we weeded thru what we did on Ishmael Coffee Estates. They did vote to support street acceptance at town meeting.

Susy Affleck-Childs – The Town Administrator informed me that the Conservation Commission had communicated with her in writing that ConCom is opposed to the acceptance of the streets due to their on-going concerns about the vernal pool on Parcel D. However, there is a superseding order of conditions and a certificate of compliance from Mass DEP.

Karyl Spiller-Walsh – What does it mean? Is there a conflict with the Medway ConCom and the state?

Bob Tucker – Yes. That is where the issue is.

John Williams – If there is a question on giving away leverage, I would want them to comment on the severity of the issue. We all represent the same people. We should give them (ConCom) the opportunity and to communicate with us and if we can help them we should.

Bob Tucker – The ConCom is in disagreement with the state's determination.

Andy Rodenhiser – They lost their appeal.

Andy Rodenhiser – I am told it is functioning.

Karyl Spiller-Walsh – What happened to the original discussion about the fact that the vernal pool was a man made vernal pool initially.

Andy Rodenhiser – I think we have done everything we can to be amicable to ConCom.

Bob Tucker – I don't see why we need to hold them hostage as well. We have \$20,000 in the bond account.

John Williams – I am thinking back to the Economic Development Partnership presentation we went thru. One of the things we talked about is how professional the permitting process is in the town. I think we have to make an effort to outreach to the other boards. We are going to need cooperation and help from the other boards. What have we done to reach out to ConCom? How can we throw our support to them? It sounds like we are not fully engaged with them.

Karyl Spiller-Walsh – We have an excellent rapport with ConCom in a lot of different manners. This might be the very first in an extremely long time when there has been a hiccup. It is a procedural problem we have now. Do we follow a state mandate, or are we missing something? Up to now we have had an amazingly excellent rapport. I think we are missing a link

Andy Rodenhiser – This has been going on for several years. My personal feeling as a member of this board is that we have to have respect for the others boards, but we don't have to do everything in lock step. I don't happen to share the same opinion always on what should be done. If there are procedural issues they should be doing everything they can. In this instance we have reached out to them, and we agreed to hold back \$ 20,000 for the vernal pool.

Tom Gay – There have been multiple reports on the progress on this.

Andy Rodenhiser – There are 3 other lots that are yet to be developed, and ConCom won't sign off on those lots because of this issue. They are inflicting a lot of pain on this developer. That is their jurisdiction, but I think they are using the leverage.

Karyl Spiller-Walsh – We don't want to get into that stuff. I am trying to see how we can aid and abet ConCom. I don't know if we can or should

Bob Tucker – I think we have done what we can. They have got the courts that they are working with.

Karyl Spiller-Walsh – The process is almost completed.

A motion was made by Bob Tucker, seconded by Tom Gay to recommend street acceptance for Independence Lane and Freedom Trail in the Ishmael Coffee Estates subdivision. The motion was approved unanimously.

### **Birch Hill** Subdivision

Susy Affleck-Childs – I have reviewed the file. There is a list of things we require for street acceptance that they have not provided. She (Ellen Rosenfeld) has worked really hard to get the deeds, but it is not quite complete. This is one that we will probably have to do by eminent domain.

Andy Rodenhiser – What we might need is some more discussion.

Karyl Spiller-Walsh – I think there is an ambiguity here.

Susy Affleck-Childs – The checklist is a reminder of what they need to provide. WE don't have signoffs from the other town boards/departments; no proof that taxes are paid, etc.

Andy Rodenhiser – Her argument was that we can't hold back on the bond reduction because of street.

Karyl Spiller-Walsh – When she started the subdivision, none of this was a procedure or policy at that time. I know she had a modification, and that gave us some more leeway. It is a complicated.

Andy Rodenhiser – When you make a modification, you fall under the new rules.

A motion was made by Bob Tucker and seconded by Tom Gay to not recommend street acceptance at this time for portions of Ivy Lane Hunter Lane The motion was approved - 3 yes and 1 abstain (Karyl Spiller-Walsh).

### **The Meadows Street acceptance**

A motion was made by Bob Tucker seconded by Tom Gay to not accept these streets (Cardinal Circle and Goldenrod Drive). The motion passed unanimously.

Chan Rogers arrives – 7:45 p.m.

### **Daniels Village ARCPUD Public Hearing Continuation**

Jim Williamson – Barberry Homes

Andy Rodenhiser – You are of the opinion that you don't have to pay any funds into the plan review consultant fund, and I guess the board would like to hear some justification, because certainly we need to get a consultant to get information relative to information you are going to present to support whatever outcome is needed.

Jim Williamson – Our position is we have made no changes to the plan. It was extensively reviewed before by the Planning Board, the Design Review Committee, ConCom, the Department of Environmental Protection, and National Heritage. We spent approximately \$250,000, and there are no changes to the plan.

Andy Rodenhiser – Didn't you appeal the decision?

Jim Williamson – We appealed it in regard to one condition – re money to senior citizen. If you look at the court filing, we only had one objection to the one condition re: senior citizen center. I believe the judge found it wasn't legal to require us to make the donation and sent it back.

Andy Rodenhiser – They remanded the decision.

Jim Williamson – I guess it is up to you how you want to handle it.

Bob Tucker – And I think we have very clearly sent our opinion on that to you.

Andy Rodenhiser – You are refusing to pay?

Jim Williamson – I think the board could go ahead and approve this if you want to end this. Amend the decision and take out that single condition.

Andy Rodenhiser – On what basis?

Jim Williamson – Because it is illegal.

Andy Rodenhiser – I don't think your interpretation is shared by the majority of the board. We are okay with what the judge decided. I think the remand means it comes back, and we have to vet the project again.

Jim Williamson – It comes back to you for whatever action you feel is appropriate. I don't disagree that you don't have the right to do what you want.

Karyl Spiller-Walsh – In reflecting back on Daniels Village and the discussion about larger and smaller, some good and some fair, there were some decisions along the way that I personally feel were some compromises, with the understanding that there would be a donation to the senior center. We thought it was a generous compromise to some of the things we had asked for. So, in reviewing the plan again, so if there is no contribution, there may be some changes to the plan that to take place in lieu of the donation. We may need to go back and revisit these issues.

Andy Rodenhiser – You came back with a list of issues that you were whining about that were too expensive and you asked for breaks on other things, and you got them. Senior center payment but no granite curbs. The DRC is saying it was a collaboration. The judge noted that there was not testimony that was offered about the impact of the development on the senior center. If we can provide that, we might put the condition back in there – the judge might see that.

Karyl Spiller-Walsh – Are you open minded to gift something to the senior center and boost some other things without going thru any engineering changes?

Bob Tucker – The court vacated the decision, and that means you start from scratch. We do have new members on the board. I would not expect them to not want to go thru the same process we went thru the first time. I understand there are costs. That is the risk you take when you go to court.

Karyl Spiller-Walsh – Let's ask it again. It isn't the same situation. We have an existing plan that has an intensive amount of minutes and a clearly well engineered plan and process and a very nice presentation by Jim Williamson about the open space and the sensitivity to reduce the numbers to preserve the vista. That is all in the planning. You have a very advanced starting point.

Jim Williamson – I do have the boards with me. I can make a presentation.

Susy Affleck-Childs – The judge could have thrown out the one condition, but judge vacated whole decision and remanded it back to the board for reconsideration.

Andy Rodenhiser – Without having the benefit of our consultants here to evaluate the plan, relative to the senior center analysis, how do we proceed?

Karyl Spiller-Walsh – That is one arm of the development plan that I wasn't really talking about. I was talking about density.

Tom Gay – As one of the new guys, it is more basic. We are now 2-3-4 years down the line. Things have changed. Maybe we cannot hold him to changes in rules and regs, but certainly conditions in the town have changed. We have a new engineer who has not even seen this. There are new people on this board, and personally I trust the board and developer had some in-depth negotiations and arrived at some decisions, but because this has been turned back there are questions about the negotiations on both sides. I don't think it is a whole lot to have \$2,500 be put in an account to sit and be available. I can't see wasting any more time.

Susy Affleck-Childs – I need you to take a formal vote on assessing plan review fees for outside consultants.

Andy Rodenhiser – Didn't we do this before?

Susy Affleck-Childs – You discussed and agreed and did everything but vote. You need to take a formal vote on this matter.

A motion was made by Bob Tucker, seconded by John Williams to assess the minimum \$2,500 plan review fee as a deposit toward the cost of outside consultants.

#### Discussion

Karyl Spiller-Walsh - It is a catch 22. The developer is not changing anything on the plan that had an approval.

John Williams – This is a special permit process. I suspect how they arrived at the number of units and contributions to the senior center were based on a give and take. There was a negotiation. Part of that was a promise to make a contribution.

Karyl Spiller-Walsh – That is not the right assumption.

Andy Rodenhiser – I asked Jim if he was OK with the senior center payment and he said yes. Then he said no and he recanted.

John Williams – All that is part of what went into the decision. I think that could result in a different design on the property.

Bob Tucker – It is a brand new hearing.

John Williams – To remove that one condition it ruins the entire integrity of the decision.

Andy Rodenhiser – That risk was with them when they appealed it.

Karyl Spiller-Walsh – In the very beginning, in the ARCPUD rules and regs, an option is provided for a retail and community center. Jim explained that when the numbers get under 100 units, it is not profitable to include such a center. He agreed to make the contribution in lieu of making the community center on site.

Andy Rodenhiser – The difficulty is that we don't have the ability to pay for a professional to validate what Jim has stated about the on-site community center.

Tom Gay – I agree with all of you. But it is a little more basic. We are reopening this thing. We need to go thru the process. We are all dedicated to the idea of not running thru money. I don't think there is any danger. I have spent a lot of time and reading thru the minutes. We are 3 years down the line here. There are conditions that have changed in the town. I just think it is good business. You claim you have already spent \$250,000. I don't think it is a lot to put \$2,500 into the (plan review) account.

Bob Tucker – We also know more now than we did then.

Jim Williamson – Are you expecting that that would be the maximum that would be charged?

Susy Affleck-Childs – No. That is a deposit.

Bob Tucker – That must have been a risk you evaluated when you decided to go to court.

Jim Williamson – It was reviewed the first time, it hasn't been changed. We did calculations. You had a very good consultant. You can go two ways – start from scratch or just take the condition out. It would be helpful to me if you want to send me a letter explaining how you anticipate the review process to proceed and what you anticipate. Do you anticipate redoing the drainage calculations?

Andy Rodenhiser – Yes. If a community center is built instead of a contribution to the senior center. You might lose units, and you might need a parking lot.

Jim Williamson – Do you think we will need to do another traffic study? This is what bothers me. If I knew it was just \$2500, that is one thing, but we don't know.

Bob Tucker – That is a risk that you take.

Jim Williamson – If you want me to do a quick overview of the site plan, I can do that.

Bob Tucker – There is a motion on the floor.

The motion was approved unanimously.

Andy Rodenhiser – Might I suggest we continue this to next Tuesday night. That would give him an opportunity to respond to the vote, and probably talk with his employer. We all need to be in on this. It will be a special meeting on June 16<sup>th</sup>.

John Williams – I am available for the next 2 Tuesdays, then a two week absence.

Andy Rodenhiser – I will be gone the first week of July after the holiday.

Jim Williamson – You are not holding me up.

Chan – I am here.

Tom Gay – OK

Karyl Spiller-Walsh – I am saying it is okay, I think so.

Special meeting – Tuesday, June 16 at 7 pm – at the Senior Center to continue this public hearing.

Jim Williamson – Thank you very much.

### **Speroni Acres Subdivision – Status Report**

Fred Geisel, engineer

Lou Caccavaro, attorney

Lou Caccavaro – When we were here last, Mark Louro had expressed his concerns about drainage. I would like our new professional to explain his work and inspections and calculations. We are looking to identify what is on the ground and how that compares to what was approved and then to discuss how to proceed? Plan modifications perhaps?

Fred Geisel – We surveyed in detail – 50-60 shots on each detention pond. We looked at everything to get a clear picture. We have done some preliminary calculations.

Karyl Spiller-Walsh – Do you have a map to show us?

Fred Geisel – **Pond/Basin #3** is between lots 2 and 3 (between 4 and 6 Little Tree Road). In terms of capacity, it is in good shape. It doesn't have a lot of water coming into it. There is a low point right after the forebay which is fairly large and deep. There is a little standing water sitting there. There is evidence of some water. It is constructed pretty much to the dimensions it was supposed to. It is within the easement. The banks were done steeper than designed so it is wider at the base than it needs to be. It is deeper than it needed to be. If the board felt necessary we could fill in the low area so there wouldn't be standing water. If you are going to have a low point, it should be near the outlet.

Karyl Spiller-Walsh – How close is that to the house?

Fred Geisel – The edge of the pond at the top of the bank is about 20 feet to the building foundation.

Andy Rodenhiser – The Haineys are to the left of the pond.

Karyl Spiller-Walsh – Let's get rid of that standing water.

John Williams – Is there any chance the inlet is?? Is this a permanent solution?

Fred Geisel – It is a low spot. We could raise the grade so that the water wouldn't stand – we could lessen the slope or push it off into the basin so that the slope would be lessened – the neighbors have planted forsythia and other shrubbery around the basin so it - it was probably over designed.

Donna Hainey – Absolutely I would like to see these changes. I can't go outside at night because of the bugs.

Robert Hainey – I would like to see 3 foot drain pipes all the way across.

Fred Geisel – The forebay is well constructed and it has rip rap on the down stream side, and it slows the water down but lets the water go thru.

Bob Tucker – Can I go there to look?

Donna Hainey – Yes.

Karyl Spiller-Walsh – What would you do to landscape it?

Fred Geisel – Fill in and re-grade inside the basin. That would make it work better, and still be in keeping.

Andy Rodenhiser – Is there sufficient capacity in the other basins?

Fred Geisel – **Pond/Basin # 1** is between lots # 5 and 6 (between 10 -12 Little Tree Road). That was basically constructed according to the original plan – same shape and location. The top of the bank is right on the easement line. There could possibly be an issue there. We may need a slope easement. We could work on that. It seems to be just a minor area where the basin was built. There is no issue on the other side of the basin. The forebay in this case is not as deep or as wide as it was supposed to be. It needs to be dug out deeper. There is a rip rap slope. There is not enough holding capacity in this. There is no place for it to settle out. That needs to be done.

Bob Tucker – What type of depth?

Fred Geisel – 2.5 to 3 feet more. Some is siltation that occurred after construction. It filled up pretty quickly. The detention pond itself seems to be pretty good. One part was built lower than designed. We may need to add some fill toward the inside. There might be a slope easement needed - minor bit of filling inside. We might be able to do it internally and gain some height.

Andy Rodenhiser – Is there adequate access for maintenance if we have a narrow top?

Fred Geisel – There is access – room around the side also. We may need a temporary construction easement to get trucks down there.

Bob Tucker – Any standing water issues?

Fred Geisel – I have been out there 2 times with no standing water issues. There are some shrubs growing up on the sides. We would clean out while we were doing work on the basin.

Fred Geisel - **Pond/Basin #2** is at end of Little Tree Road between lots 8 and 9 (15 and 17 Little Tree Road). This is NOT where it was originally proposed. The issue I have been told is that the wetlands were closer than they were shown to be on the plan. I was told the ConCom told them to move the detention basin, so they did. They just slid it up the hill. It is the same shape but the forebay has been completely moved. I am not sure why. When we go back to the as-built it shows a PVC force main for the sewer going right thru here. If it is in the way, it can be moved.

Bob Tucker – It is a force main.

Fred Geisel – Yes, it goes along the back of the lots

Andy Rodenhiser – So there is no piping under pressure in the public way.

Fred Geisel – Right, the town doesn't want that.

Bob Tucker – Is there an association to maintain the sewer line?

Donna Hainey – No.

Andy Rodenhiser – If that pump chamber is not being maintained . . .

Fred Geisel – Each person is responsible for their own, and the rest is a PVC force main.

Lou Caccavaro – The line within the easement is for the benefit of all.

Karyl Spiller-Walsh – The original design was 2-3 times the size of this as-built plan.

Andy Rodenhiser – You have reviewed the drainage calculations with Mark?

Karyl Spiller-Walsh – They should have replicated the wetlands and moved the detention pond to the house lot.

Andy Rodenhiser – Have you computed the drainage?

Fred Geisel – What I have looked at is not what was originally designed, they added another detention pond (#3) at the beginning of Little Tree Road (instead of installing a cul-de-sac at the end of the roadway). That pond was designed for more capacity than what was really needed. We need more capacity at pond #2.

Karyl Spiller-Walsh – Where are you going to put it?

Fred Geisel – There is some room to work. We could build on the inside. It is a fairly steep slope.

Chan Rogers – It is very precipitous.

Fred Geisel – Steep but negotiable and stable. We could lessen the slope. We might be able to add capacity on the back/outside.

Karyl Spiller-Walsh – Refresh me. What is in the cul-de-sac? Is it just paved? What is the diameter?

Fred Geisel – The paved diameter is 100 feet.

Karyl Spiller-Walsh – What is roadway width?

Fred Geisel – 28 feet paved width.

Karyl Spiller-Walsh – Is there any room in the center of the cul-de-sac to put in some drainage and take out the pavement?

Dave Pellegrini – Like a rain garden?

John Williams – I am concerned about being far enough away from the wetlands.

Fred Geisel – I am a wetlands scientist also. We will have to go to ConCom. The old Order of Conditions is long expired.

Karyl Spiller-Walsh – Isn't it that you are probably on the edge of the wetlands?

Fred Geisel – No, the wetlands are further back. When this was originally designed, the state said you cannot work within 100 feet of wetlands, now they say 50 feet is okay. Some of the new thinking has changed. We can probably work this out. I couldn't see the wetlands from my trips there. I need to look at the ConCom plan and see where they modified the line and see if there is any record of that and then find out how far away we are. We may be able to enlarge the forebay and make it work.

Andy Rodenhiser – So this is an update.

Fred Geisel – Yes, as long as I can figure out what is workable and basically redesign these. Here is what we need to address and then figure out the drainage calculations – with new capacity – sort of like an application – present to you and to your consultant for review.

Andy Rodenhiser – I would suggest they work simultaneous with Dave Pellegrini rather than thru us. That would save some money. Ultimately we are going to look to Dave Pellegrini for his recommendation.

Bob Tucker – As long as we get the info at the same time.

Karyl Spiller-Walsh – One thing you do not have is more land. Is it possible to go into the cul-de-sac and add something there? There is no island in the middle.

Andy Rodenhiser – Let him do his math work.

Karyl Spiller-Walsh – That is what he said the last time and he hasn't come up with anything. We might be receptive to waiving the width of the road a bit and having an island.

Fred Geisel – People have driveways and fences.

Bob Tucker – Don't be afraid to think outside the box.

Lou Cacavaro – Your pleasure would be for him to do a first draft.

Andy Rodenhiser – If you do a modification, the regs would be those in effect now.

Susy Affleck-Childs – It will have to be done as a plan modification.

Karyl Spiller-Walsh – This is not a new problem – we have been looking at this for years.

Donna Hainey – Owen Sullivan did come out to pond #3, and he did make it deeper and make the berm higher on our side, so I thought that was fine for us.

Andy Rodenhiser – He probably did that to make it more compliant with the original plan.

Donna Hainey – I know our house is very close to it. The berm is higher where he did put it, and we put shrubs all around to hide the whole thing.

Robert Hainey – If you dig out, where would that be?

Fred Geisel – We would probably add fill.

Andy Rodenhiser – When he fixed it, he probably dug it out and made the berm higher.

Bob Tucker – I see the force main as a big issue.

Susy Affleck-Childs – I need to check on the money availability for the project in the construction inspection account. There will probably need to be more funds. Mr. Sullivan's track record is not great on this.

Lou Caccavaro – Send it to me.

Andy Rodenhiser – You might be able to buy a small piece from your next abutter, Mike Fasolino who now owns 25 Summer Street.

Susy Affleck-Childs – This board is receptive to low impact options.

## **Street Acceptance - Country View and Broad Acres**

Andy Rodenhiser – Identify the station numbers of the road. I suppose we could accept up to a certain portion, up to the bulb at the Streifers, and don't accept the rest of it. That would minimize the risk to the town. That might reduce some risk.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to not accept Broad Acres Farm Road, Stable Way and a portion of Olde Surrey Lane. The motion passed unanimously.

Andy Rodenhiser – Dave, could you also define for us a station number? Get the lot numbers.

## **Minutes**

May 12, 2009 - A motion was made by Chan Rogers and seconded by Bob Tucker to approve the minutes of the May 12, 2009 meeting as presented with a few corrections as had been provided to Susy by Chan. The motion was approved. Tom Gay abstained from voting as he had not attended that meeting.

May 19, 2009 – A motion was made by Chan Rogers and seconded by Tom Gay to approve the minutes of the May 19, 2009 meeting as presented. The motion was approved. Karyl Spiller-Walsh abstained from voting as she had not attended that meeting.

May 26, 2009 – A motion was made by Karyl Spiller-Walsh and seconded by Tom Gay to approve the minutes of the May 26, 2009 meeting as presented. The motion was approved. Bob Tucker abstained from voting as he had not attended that meeting.

## **REPORTS**

Bob Tucker – Community Preservation Committee - We did have a discussion at the last meeting with the Affordable Housing Committee and the Open Space Committee, and they are looking at joint and individual opportunities. We also had a presentation by Claudia Peters from Medway Public Schools re: the Community Services Leadership program. They are looking for opportunities in which they might be able to serve the town and organizations and interests within the town that can also be used as a learning experience. As these projects are identified and agreed upon, they receive support from a teacher who then puts together a lesson plan in conjunction with the project. It is a real community partnership. I will leave the info with Susy. For example, the 5<sup>th</sup> grade at McGovern School did a program this spring. It had to do with recycling, but they involved math, science and technology, and economics as far as curriculum areas within that one project. Other projects – Medway Walks and food pantry drive. One idea that was mentioned is how to improve attendance at town meetings? She is looking for input from town departments and committees within the town as well as individual citizen suggestions. I don't know if there is anything of interest we could conjure up. The school is looking for ways to get the youth involved in the town for its betterment – worthwhile learning experience out of – I think it is a good idea – good opportunities.

Susy Affleck-Childs – I received this info this morning and have already forwarded it to Habitat for Humanity and to the Medway Community Farm folks.

Karyl Spiller-Walsh /Design Review Committee – The DRC actually did a new cover for the master plan.

Chan Rogers – I went to a seminar on global warming, and then I went to the MetroWest 495 Partnership, both for different reasons. They looked at future for developing suburbs. We went from 200 to 300 million by developing new land and moving out from the cities. The proposals that we develop from 300 to 400 million will not be by new land but by densifying our suburbs. The presentation at the 495 session was a speaker from Virginia Tech. He is predicting that the only way we can expand is to increase our density. Statistically, the suburbs have 50% of our population – cities only have about 10% of the total population with the country – this ties into what we are talking about along route 109 in terms of increasing density – with the global warming problem – 50 years from now people will need to think about using their cars only for trips more than 5 miles – public transit or electric car use is going to be needed – dependent on non combustible engines – it all kind of ties in – the thing I was at tonight, the Metro Futures event is also aiming at this – I made the point it ties into global warming – you are going to have to start worrying about this within the next 5 years especially when China wakes up economically they depend on coal.

Gino Carlucci – On the population increase – in going from 200 to 300 million, we increased that amount faster than China did, because China is limiting child birth dramatically.

Andy Rodenhiser- I had a meeting with Ron Yates regarding the Habitat for Humanity house. We went thru a list of people and resources for him to solicit. He needs an architect to formally submit a set of drawings.

IDEA – perhaps Deidre Sullivan.

Andy Rodenhiser – I received a letter from the BOS, just a reminder about attendance at town meetings.

Chan Rogers – Everybody got the letter.

Susy Affleck-Childs – All elected officials were sent the letter.

Andy Rodenhiser – I had told you I had attended an Assessor’s meeting about the Oak Grove assessments. I had a subsequent phone conversation to update me that they are working on the problem, and in spite of only getting a few abatement requests they are going back and modifying at least 50 that they identified as being problematic – all land of limited/low value. They have identified that the contractor had made some error in calculations based on info from the state.

Andy Rodenhiser – We also have been talking about process improvement work - planning, building, assessor, future ConCom agent – to include all of those folks so there is a uniform approach.

Susy Affleck-Childs – I have been invited to be part of the interview team for the Building Inspector position. I am looking for affirmation that zoning enforcement is a key element for the job.

AGREED.

Susy Affleck-Childs – WE have received a request for a site plan certificate of completion for 133 Milford Street. Bob Tucker has offered to do an inspection for us.

Gino Carlucci – I am working on the zoning map – A black and white version is almost ready.

Andy Rodenhiser – We have spoken with Paul Yorkis relative to Route 109 and having an updated zoning map to show new boundary of the district will be valuable.

The Board gave its OK to go ahead and get the zoning map updated and printed.

Bob Tucker – During the month of July – I am about to start a project. I may end up with the second shift. My availability may be impinged.

Andy Rodenhiser - Please send Susy Affleck-Childs dates for vacations.

### **Election of Officers**

Karyl Spiller-Walsh – I nominate Andy Rodenhiser for chairman. Chan Rogers seconded the nomination. Approved.

Andy Rodenhiser – I do enjoy working with you.

Andy Rodenhiser – Are there any other motions? We have two other offices - vice chair and clerk.

Karyl Spiller-Walsh – I nominate Bob Tucker as vice chair. Tom Gay seconded the nomination. Approved.

Andy Rodenhiser – We have the Clerk, now.

Motion by Bob Tucker for Chan Rogers to serve as Clerk.

Chan Rogers – I do not want to do that any more. I have other responsibilities as chairman of the Board of Water & Sewer Commissioners now.

Bob Tucker – I would like to move that Tom Gay take over duties as clerk. The nomination was seconded by Andy Rodenhiser. Approved.

Tom Gay – I agree to serve.

Bob Tucker – I agree to serve.

Susy Affleck-Childs – We will also do our liaison positions at the next meeting.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 10:08 pm.

Respectfully Submitted,

Susan Affleck-Childs  
Planning and Economic Development Coordinator

May 15, 2009

**NOTICE OF PUBLIC HEARING  
Medway Planning & Economic Development Board  
Franklin Creek Subdivision Modification**

In accordance with the provisions of M.G.L, C. 41, s. 81A – 81GG and Medway's *Rules and Regulations for the Review and Approval of Land Subdivisions*, notice is hereby given that the Medway Planning and Economic Development Board will conduct a public hearing on Tuesday, June 9, 2009 at 7:15 p.m. in the Sanford Room of Town Hall, 155 Village Street, Medway, MA to consider an application of Wood Structure Construction, Inc of Medfield, MA to modify the *Franklin Creek Definitive Subdivision Decision/Certificate of Action and/or Plan*.

The subject property is a 2.7 acre site located at 18 Franklin Street, presently owned by Wood Structure Construction, Inc. (previously owned by John Early and Timothy Sheehan). On January 17, 2006, the Planning Board approved the site for a 3 lot private way residential subdivision, construction of 425 linear feet of private roadway (Franklin Creek Lane), and installation of infrastructure and utility services including a stormwater drainage system and extension of town water and sewer. The subdivision is comprised of the following parcels as shown on Medway Assessors Map 2: 2B 76-2, 2B 76-2 and 2B 76-3, all with Franklin Creek Lane addresses. The Planning Board endorsed the Franklin Creek Definitive Subdivision Plan on May 9, 2006.

In July 2007, the property was conveyed to a new owner Wood Structure Construction, Inc. Road and infrastructure construction was begun but not completed within the three year time period after the plan endorsement data as specified in the subdivision decision. A modification to the Franklin Creek Subdivision Certificate of Action is required to establish a new completion date for roadway and infrastructure. The Board will also hear any public testimony that is offered pertaining to matters of subdivision construction and possible plan modifications.

The previously approved *Franklin Creek Definitive Subdivision Plan* is on file with the Medway Town Clerk at 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 am to 1:00 p.m.

Interested persons or parties are invited to review the previously approved plan, attend the public hearing, and express their views at the designated time and place. Written comments are encouraged.

*Andy Rodenhiser, Chairman*

To be published in the *Milford Daily News* – Monday, May 25, 2009 and Tuesday, June 2, 2009

cc: *Owners of Land, Abutters, and Parties of Interest within 500'*

*Planning Boards – Bellingham, Franklin, Holliston, Milford, Millis & Norfolk*

## **Medway Planning and Economic Development Board Special Meeting**

Tuesday, June 16, 2009

7:00 p.m.

Medway Senior Center, 76 Oakland Street

**PRESENT:** Andy Rodenhiser Rodenhiser, Karyl Spiller-Walsh, Tom Gay Gay, Bob Tucker tucker, Chan Rogers, John Williams

**ALSO PRESENT:** Susy Affleck-Childs Affleck-Childs, Planning and Economic Development Coordinator

Gino Carlucci, PGC Associates

Betty McCall Vernaglia, owner of Daniels Village property

The meeting was called to order at 7:00 p.m.

### **Public Hearing Continuation – Daniels Village ARCPUD**

Andy Rodenhiser – We received an email note from Jim Williamson this afternoon. (The note is attached and made a part of these minutes.) Barberrry Homes has terminated their agreement with the property owner (Betty McCall Vernaglia) and assigned the plans over to her.

Betty McCall Vernaglia – I signed a release with them yesterday, but I would like to keep this going. I like the plan. I want to pick up where they left off.

Andy Rodenhiser – Is it your intent to sell the property?

Betty McCall Vernaglia – Yes.

Andy Rodenhiser – John Schroeder is here. He is chairman of the Open Space Committee. He would like to speak with you about the property.

Susy Affleck-Childs - I spoke with Town Counsel this afternoon. She felt it would be OK to keep the public hearing open to provide some time for the property owner to consider her options.

Andy Rodenhiser – So we have an old application, a decision that was vacated by the court, and now the applicant has terminated its agreement with the property owner.

Betty McCall Vernaglia – They exercised their right to terminate the agreement. I have a lot to catch up on.

Bob Tucker – I think it would be fine to continue the hearing and give her some time and then have her come back to meet with us.

Tom Gay – I would like the benefit of counsel re: the status of the application. Can she assume Barberrry's application?

Andy Rodenhiser – I would bet she would need an assignment of the application.

Karyl – I doubt that. I think it would cease and desist. There is no longer a decision.

Andy Rodenhiser – The basis for the waivers hasn't been discussed. Some members have said they cannot make a decision without going thru the project. 2 current members were not part of the board when we first looked at this project.

Karyl - I think the application is null and void.

Bob Tucker - Let's continue for a month, get some more input from town counsel and give Ms. McCall some time to get up to speed.

Karyl Spiller-Walsh – John Schroeder could be your new best friend.

Bob Tucker – Let's take a step back here and take a deep breath. I move we continue the public hearing to July 14, 2009. The motion was seconded by Chan Rogers.

Susy Affleck-Childs – Town Counsel advised the property owner should communicate her intentions in writing to the Planning Board.

Karyl Spiller-Walsh - Do you have any representatives?

Betty McCall Vernaglia – I am a realtor myself

Karyl - I wouldn't want a continuation to impede any other options.

Susy Affleck-Childs – The full project files are available to you to review. I would be glad to provide you with any of the information – the original decision, the minutes, the court ruling, etc.

Chan – She needs some legal advice.

The motion to continue the public hearing to July 14, 2009 was approved. The public hearing will be continued to 7 pm. The meeting will take place in Sanford Hall at Medway Town Hall.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh, to adjourn the meeting. The motion was unanimously approved.

The meeting was adjourned at 7:35 p.m.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

**From:** Jim Williamson [jimbhi@rcn.com]  
**Sent:** Tuesday, June 16, 2009 3:22 PM  
**To:** Susan Affleck-Childs  
**Cc:** Betty McCall Vernaglia @Betty McCall Vernaglia mcv.com; rtruax@glmengineering.com  
**Subject:** Daniel's Village Public Hearing of June 16, 2009

Susan Affleck Childs  
Medway Planning Board

Dear Susy;

The agreement between Barberry Homes Inc. and Betty McCall Vernaglia McCall Vernaglia (owner of the 50 acres on Winthrop Street) has been terminated and Barberry no longer has the right to purchase the land. Ms. McCall Vernaglia is now the owner of the plans and engineering per our agreement with her. I would suggest the Planning Board continue this evenings Public Hearing on Daniel's Village for a month or two and give Betty McCall Vernaglia an opportunity to determine where to go from here. Betty McCall Vernaglia's phone number is 508-533-6100 should you wish to contact her.

Jim Williamson  
Barberry Homes

**From:** Susan Affleck-Childs [mailto:saffleckchilds@townofmedway.org]  
**Sent:** Tuesday, June 16, 2009 9:18 AM  
**To:** Jim Williamson  
**Subject:** Reminder - Medway PB mtg tonight - MEDWAY SENIOR CENTER

Hi Jim,

Just a reminder that the Medway PB meeting tonight for the Daniels Village ARCPUD public hearing will take place at the Medway Senior Center, 76 Oakland Street at 7 pm.

Are you planning to attend?

Thanks.

*Susy*

**Susan E. Affleck-Childs**  
Medway Planning Board Assistant  
155 Village Street  
Medway, MA 02053  
  
508-533-3291  
saffleckchilds@townofmedway.org

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**TOWN OF MEDWAY**  
**Planning & Economic Development Board Meeting**  
Sanford Hall, 155 Village Street  
June 23, 2009

PRESENT: Bob Tucker; Tom Gay; Chan Rogers

ABSENT WITH NOTICE: Andy Rodenhiser, Karyl Spiller-Walsh, Gino Carlucci, Dave Pellegrini

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant

The meeting was called to order at 7:15 pm by Vice-Chairman Bob Tucker once a quorum was established.

**Rolling Hills Subdivision – Request to Extend Completion Deadline**

Olga Guerrero – I have requested an extension for one more year (to complete the subdivision). I have been in the real estate business for 27 years. I didn't expect this kind of economy.

Susy Affleck-Childs – A one year extension would go to November 21, 2010

Bob Tucker – I would like to commend you for staying on top of the schedule.

A motion was made by Tom Gay, seconded by Chan Rogers, to grant a one year extension for the Rolling Hills Subdivision to November 21, 2010.

Olga Guerrero – Thank you for the time.

**Citizen Comments**

Peter Badger – I live on Blue Ribbon Lane off of Alder Street. I noticed the sewer line is moving along very well. In previous meetings with the IDC (many years ago), we had discussed the problem of thru traffic. Is there a plan to address that issue? I spoke with the Planning Board about 12 years ago. They were supposed to close the end of Alder Street where it connects to Trotter Drive. You could talk to Mr. Brodeur who was chairman of the Planning Board at that time. There is a cul-de-sac at the end so that says there was some intent to close it off. I have noticed some increase in traffic for the end of Alder Street. We live a short distance from the industrial park. Years ago it was a concern to us.

Susy Affleck-Childs – So you understood that Alder Street was supposed to end at Trotter Drive?

Peter Badger – Yes. I attended meetings back in 1995 and 1996. I remember discussions with Mr. Maciolek at town meeting.

Bob Tucker – Is Alder an accepted street?

Susy Affleck-Childs – yes

Peter Badger – I would like to see if the road could be closed off in some way.

Susy Affleck-Childs – I would think in this day and age, the police and fire folks are not going to want to reduce access to the industrial park businesses.

Bob Tucker – Susy Affleck-Childs, can you try to do some research?

Susy Affleck-Childs – I can do that.

Peter Badger – Some sort of restricted access would be an option. There are presently signs that say no truck traffic but that doesn't work very well.

Tom Gay – I think the best thing to do is to go back through and see what the commitments are and see what the plan was.

Susy Affleck-Childs – Is Jimmie Brodeur still in town?

Peter Badger – I had proposed a gated entry years ago - 1995-1996. We have been here since 1990.

Susy Affleck-Childs – I can try to do a little bit of background work, but this is truly a matter for the Board of Selectmen. They are the Road Commissioners.

Other people to contact – Paul Desimone, Raphaella Rozanski, Marian Cole, Jim Brodeur, Lee Henry, Joe Dzikczek,

Peter Badger – My recollection is that they said they would do something to close it off. My phone number is 533-4247. Peter Badger – Thank you for your time.

### **Appointments to New Economic Development Committee**

**Susy Affleck-Childs** – The Committee has been meeting. The bylaw creating the EDC was approved at town meeting last week. The following lists the candidates.

#### **2 year terms thru June 30, 2011**

Kai Imgenberg, 8 Newton Lane

Ron Cornwell, 13 Deerfield Road

Tim Borchers (non-resident) – Owner of Borchers Law Group

Mike O'Mara, 21 Oak Street

Paul Yorkis, 7 Independence Lane

#### **1 year term thru June 30, 2010**

Carolyn Chodat, 85 Fisher Street, Owner Classic Properties & President of Medway Business Council

John W. Williams, 18 Cottage Street

Ken Bancewicz (non-resident) – Facilities manager at CYBEX

A motion was made by Chan Rogers, seconded by Tom Gay to approve all the appointees to the New Economic Development Committee. The motion was approved unanimously.

### **Pine Meadow Subdivision**

Susy Affleck-Childs – There are 3 items to sign – the plan modification, bond agreement, and lot release document.

Gary Feldman – I would like to get everything done this year up to the final paving.

A Motion was made by Chan Rogers, seconded by Tom Gay, to sign the plan modification, bond agreement and lot releases and to hold the bond agreement and lot release until bond amount is paid in full. The motion was approved unanimously.

### **133 Milford Street Site Plan Completion**

Susy Affleck-Childs – I have a draft of our Certificate of Site Plan Completion. There are still some open ended items. Generally, we like to wait until we have proof that CONCOM has issued its Certificate of Compliance. We do have the sign off from DPS on the sidewalk and from the BOH on the septic system. Bob Tucker reviewed the as-built plans (info – date, source, etc.) conducted an inspection and prepared a report for you.

NOTE - The Board reviews the as-built plan.

Tom Gay – Everything looks better and nicer than what they agreed to.

Bob Tucker – He has set the bar at the right location for others to follow now.

Tom Gay – A nice clean look – they put in granite for curbing where they only had to do berm.

Bob Tucker – He did plant trees along the side of the property on the east end. If you look at the trees on the eastern end where the neighbors are they will probably inter-grow in a few years. They have gone and they added to it and have come up with a good product.

Motion by Tom Gay, seconded by Chan Rogers, to accept the as-built plan as presented – the motion was approved unanimously.

### **Ishmael Coffee Estates (ICE) As-Built/Street Acceptance Plan**

Susy Affleck-Childs – Town meeting voted to accept these streets (Freedom Trail and Independence Lane). You now need to sign the As-Built/Street Acceptance Plan.

A motion was made by Chan Rogers, seconded by Tom Gay to accept the plan and sign it. The motion was approved unanimously.

Susy Affleck-Childs - July 13 is the Board of Selectmen meeting for them to sign plan and accept deeds/easements. Then the documents are recorded at the Norfolk County Registry of Deeds.

### **Meeting Minutes**

It was decided to hold over the minutes from the June 9 and 16<sup>th</sup> meetings and consider them at the July 14<sup>th</sup> meeting.

### **Committee/Reports**

Chan Rogers – We are making a presentation on the Route 109 reconstruction at the Medway Business Council's next meeting, a breakfast meeting on Thursday. There was a Chronicle episode last week on route 109 from Dedham to Milford – very impressive program.

Bob Tucker – Susy, What is the status of establishing a committee for the community farm at 50 Winthrop Street? One of the recommendations as a committee was to follow through on that. Has the Board of Selectmen taken any action?

Susy Affleck-Childs – The Board of Selectmen has signed the lease. I do not believe they have officially appointed a committee. I will check on that.

Susy Affleck-Childs – Habitat for Humanity is holding several workshops for interested families. The BOS will sign the lease next week at the June 29<sup>th</sup> meeting.

Susy Affleck-Childs – The update to the Medway Zoning Map will soon be completed and printed with money from this fiscal year.

Bob Tucker – The 2B Oak Street barn renovation is coming along nicely.

Susy Affleck-Childs – The new Assessor is looking to update the maps.

TOM GAY – I would like to explore some ways to use the aerial imaging software (PICTOMETRY) a little more especially as we talk more about potential sites. I would even like to see if we could project it on the wall here at town hall.

Chan Rogers – We need a projector

Bob Tucker – Or a monitor

Tom Gay – They aren't that expensive anymore.

8:15 PM – JOHN WILLIAMS arrives.

Tom Gay – Talk to Rich Boucher about technology.

John Williams – Is it possible we can use some grant money.

Susy Affleck-Childs – I keep hearing that the Medway cable is supposed to do some upgrades in Sanford Hall.

Bob Tucker – Is there any other business?

Susy Affleck-Childs – Nothing from me.

Motion to adjourn was made by Chan Rogers, seconded by Tom Gay. The motion passed unanimously.

The meeting was adjourned at 8:20 pm.

NOTE – The next meeting is July 14<sup>th</sup>. Bob Tucker will not attend.

Respectfully Submitted,

Susan Affleck-Childs  
Planning and Economic Development Coordinator

fvhl/sac

**July 14, 2009**  
**Medway Planning and Economic Development Board**  
**Sanford Hall, Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Tom Gay, Chan Rogers, Karyl Spiller-Walsh  
ABSENT with NOTICE: Bob Tucker, John Williams

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant

The meeting was called to order at 7:05 p.m.

Good evening - welcome – July 14, 2009 meeting –

**CITIZEN COMMENTS - None**

**Public Hearing Continuation – Daniels Village ARCPUD**

Andy Rodenhiser - Betty McCall Vernaglia (property owner) is here – I understand you want a continuation of the public hearing.

Betty McCall Vernaglia – I did hear from Greg Caparossi at The Trust for Public Land. We are scheduled to talk this week. I would like to pursue this with him. Thanks to John Schroeder. I had never been aware that this could be an opportunity for me.

The public hearing was continued to Continue to October 13, 2009 – 7:15 pm at Sanford Hall

**Meeting Minutes**

June 9, 2009 – A motion was made by Karyl Spiller-Walsh, seconded by Tom Gay, to accept the June 9, 2009 minutes. The motion passed unanimously.

June 16, 2009 – A motion was made by Karyl Spiller-Walsh, seconded by Tom Gay, to accept the June 16, 2009 minutes. The motion passed unanimously.

**Reports of Task Force/Groups**

Chan Rogers – I met with the Medway Business Council on June 25 – we did a presentation on the Route 109 reconstruction. Two things came out of the meeting – the manager for the Verizon facility in the Industrial Park asked about having a traffic light at Trotter and Milford Streets, and in discussing this with him, it was primarily for the benefit of the exiting traffic onto Route 109 in the 5:15 pm time frame. A traffic signal light at an intersection can be an expensive proposition – \$25,000 to \$50,000. I didn't say anything at the time. I took his request under advisement and I asked Dave D'Amico to check with the police department to see if they could have an officer there for 10 minutes everyday at night, and that tends to back up the traffic. There is no problem in the morning.

Andy Rodenhiser – I know there was a design for a light there at one point in time.

Chan Rogers – Putting in a light to deal with high demand for 10 minutes a day is quite a bit of money, and a nuisance for the rest of the day.

Chan Rogers – Also, a resident of High Street really got upset about the idea of a light change at Franklin, Milford, Highland, and Main Streets, and he thought it would do everybody in who has free reign right now. I assured him that people would not be inconvenienced by this prospect; otherwise I thought the meeting went quite well. People were supportive and appreciative.

Andy Rodenhiser – Any concerns expressed by the businesses relative to construction and access?

Tom Gay – there was a lot of talk about the need for new curb cuts. There didn't seem to be major concerns. The bigger concerns were about past history. I thought that the general reaction to the plan and discussion was very well received. Some stated it was overdue.

Chan Rogers – I felt attendees were anxious to have something DONE!!!

Tom Gay – I think, in general, people were pleased about the new ideas, agreed it was a treacherous stretch of road – people agree time is right and it needs to be taken care of.

Andy Rodenhiser – any talk about setbacks

Tom Gay – no

Andy Rodenhiser – Karyl Spiller-Walsh, is there anything from DRC?

Karyl Spiller-Walsh – no

Susy Affleck-Childs – I would like to have a discussion with them . . . re: their proposed amendment from the floor at town meeting re: DRC bylaw change. That caught us by surprise. I want to understand the concern.

Andy Rodenhiser – Let's post it as a joint meeting.

Chan Rogers – I understand DRC has had some difficulty at the Senior Center in terms of meeting space.

Karyl Spiller-Walsh – The DRC is now meeting in the guidance room at the high school – it is nice, but no square tables, or conference room. But the tables don't rock like they do at the senior center

Chan Rogers – the only other meeting room in this building (town hall) has been usurped.

Susy Affleck-Childs – WE have been very busy with MUNIS permitting. WE are scheduled to go LIVE the end of August.

## **Request for bond reduction for Franklin Creek Subdivision.**

Susanna Vajentic representing Wood Structure Construction.

Dave Pellegrri – Marko Vajentic called us and asked us to review the site again. He asked us to look at it in terms of some changes- loam and seed, water services, and underground utilities; and Susy Affleck-Childs asked that we add some legal fees as we are now doing with all bond estimates. I now have a better idea that really needs loom and borrow – there are some areas where the trees will stay. 2 out of 3 water services were installed and underground utilities are all connected and in. We recommend a new bond amount of \$46,983.

Andy Rodenhiser – Susanna, any objections?

Susanna Vajentic - NO, we are OK.

Andy Rodenhiser – Does the board have any questions?

Susy Affleck-Childs – The original bond was for \$78,675; we did a reduction in August 2008 to \$59,621.

A motion was made by Chan Rogers, seconded by Tom Gay, to approve this bond reduction of \$12,638 (to \$46,983).

Karyl Spiller-Walsh – I am choking on the contingency. I think it is a lot.

Tom Gay – Without the contingency, I wouldn't second it, I don't know that I am comfortable with complete % reductions.

Dave Pellegrri – even if the % complete is wrong, there are always things THAT COME UP.

Andy Rodenhiser – is this an industry specific form you are using for the bond reduction?

Dave Pellegrri – I thought it was similar to what you were used to (with VHB).

Andy Rodenhiser – Maybe add a column to add the previous value.

Dave Pellegrri – We can do that. Absolutely.

The motion was approved.

Susy Affleck-Childs – I will contact the bank and notify them that they can reduce the loan amount.

## **Country View Estates - Ted Cannon**

Andy Rodenhiser – Dave, would you give a brief report.

Dave Pellegrini – when we came on with the project, there was a bond release request. We went out and did a site visit. Dave D’Amico and Jimmie Smith informed me about the water issues at the end of Broad Acres Farm Road (at Summer Street) and we noted it in our inspection report. When I looked out at the site a little closer, it was nothing that it could have been other than a capacity issue. I looked at the culvert. The culvert that is there now is 21” inch. It is called out on the existing conditions plan. I talked to Susy Affleck-Childs. The plans show 21” and then there was a note indicating it was to be upgraded to a 36” culvert. Susy Affleck-Childs did find the original subdivision decision from October 12, 1999 and it indicates the culvert would be enlarged to 36”.

Susy Affleck-Childs distributed a copy of the decision

Dave Pellegrini – I spoke with VHB. VHB indicated that there was no reason for it to be eliminated. They had come on board after the drainage had been installed.

Andy Rodenhiser – Is it in their punch list?

Susy Affleck-Childs – I don’t recall that it was.

Andy Rodenhiser – I think I remember some discussion about you guys saying the state had taken it over.

Dave Pellegrini – I think it is all connected. As part of the Summer Street construction they installed catch basins. If it was just at the end of Broad Acres, the water goes over the crown. The state-installed catch basins aren’t working because they are going into a 21 inch culvert.

Karyl Spiller-Walsh – any clogs?

Dave Pellegrini – I looked, I didn’t see anything, and Dave D’Amico had one of the state guys look and he didn’t see anything either.

Dave Pellegrini – I went back and looked at the drainage reports. The original analysis did not call for any expansion of the culvert size.

Karyl Spiller-Walsh – It was clear on the plan that it was to be larger.

Dave Pellegrini – the modeling showed flooding, but the original plan showed no change to the culvert.

Susy Affleck-Childs – PMP was the former engineer. I expect that probably during the review process, it was decided to upgrade to 36”.

Andy Rodenhiser – Ted, can you explain why it wasn’t done?

Ted Cannon – no, Greg Whelan had no idea why it had not been installed. He wasn’t aware of the problem. But he did recall this. But he wasn’t sure why it hadn’t been completed.

Andy Rodenhiser – is he going to correct it?

Ted Cannon – no, I don't believe he has the present capacity to do that.

Karyl Spiller-Walsh – I am wondering why, when we had that conversation with the photographs and we were including the manhole discussion and ice all over Summer Street and it was a real danger – the entire cross of Summer Street was sheer ice – it was a topic of discussion, how were we going to solve it. Nobody brought it up at that time.

Tom Gay – all that was said is that it appears to be inadequately sized.

Andy Rodenhiser – if he doesn't have the capacity to address it, - it may involve some type of claim against VHB for not having called this out, maybe some insurance claim back against Greg Whelan, and ultimately the town will do what it has to do to protect its interest. It is cheaper and easier to deal with this now.

Ted Cannon – if he could do it, Greg would do so.

Andy Rodenhiser – general rule is that the state does not allow the town to disrupt the road for 5 years after it is paved.

Chan Rogers - for the state to have redone Summer Street, they should have done some kind of analysis, and I don't understand why they didn't discover this problem.

Karyl Spiller-Walsh – it would be interesting to see if Jim Wieler remembers anything about this.

Tom Gay – it bothers me that VHB was the reviewer of the as-builts, and was the designer of the Summer Street reconstruction

Susy Affleck-Childs – some history here . . . Greg Whelan did road construction work before the PB even approved the plan.

Karyl Spiller-Walsh – I remember discussion with VHB about the manhole cover and some concerns about the sink level. Something was not set in correctly.

Andy Rodenhiser – that will all fall apart.

Chan Rogers – that condition is creating a damn to prevent flow.

Andy Rodenhiser – that is a separate problem from the culvert. But now that structure cannot drain.

Karyl Spiller-Walsh – there was so much focus on the manhole that the conversations about the culvert were really minimized.

Andy Rodenhiser –whatever surface water may have drained off Route 126 is going off proportionally, and is being added to the 21 inch pipe.

Karyl Spiller-Walsh – was it sheeting in the past rain storms recently?

Dave Pellegrini – I didn't see

Tom Gay – the last ones were so hard I had canoes on my street.

Chan Rogers – the theory is that it only occurs once in 100 years.

Ted Cannon – I have an idea as I learn more here. I will check with Greg Whelan and get back to Susy Affleck-Childs to try and see what will be done. He is in a tough spot. He would like to get this done and move on.

NOTE - Andy Rodenhiser distributed Draft motions dated July 14<sup>th</sup> from Barbara Saint Andre.

Andy Rodenhiser - it is important to note it might be a good idea that we have a more thorough and complete review of what is going on relative to the other side of the road, and have Dave do a complete and thorough analysis of that – if we are going to adjust this bond, we are going to do it once and do it properly with an engineer's pencil relative to what should and shouldn't be considered.

Chan Rogers – In view of what we found, I find this statement here to be in order.

We could authorize Dave Pellegrini to do a review and to look at it more closely, and based on a report that comes back we can decide.

Susy Affleck-Childs – I added 25% to the Paolini construction estimate. It comes to \$50,546.25

Karyl Spiller-Walsh – If it was working, we wouldn't care.

Andy Rodenhiser – Dave, have you seen this estimate yet? Does it seem reasonable?

Dave Pellegrini – yes

A motion was made by Chan Rogers, seconded by Karyl Spiller-Walsh that the Medway Planning and Economic Development Board finds that there remains outstanding work to be completed in the Country View Estates subdivision to install a 36" culvert under Summer Street as set forth in the Subdivision Decision dated October 12, 1999 and as shown on the endorsed Country View Estates Definitive Subdivision Plan, and that the Board adopts the construction estimate dated July 7, 2009 prepared by Paolini Construction for the Medway Department of Public Services to install a 36" culvert under Summer Street in accordance with the Board's Subdivision Decision and its Subdivision Rules and Regulations, and that the Board finds that the amount of subdivision surety required under G.L. c. 41 §81U for the Country View Estates subdivision totals \$60,000, and hereby requires the applicant to deposit additional surety with the Board in accordance with the Subdivision Control Law so that the balance of the surety held by the Board will equal this amount, said additional surety to be deposited with the Board immediately.

## Discussion

Karyl Spiller-Walsh – this is such an unfortunate calamity.

Chan Rogers – if the state had done its work, they would have found the problem.

Karyl Spiller-Walsh – I see a lot of little responsibilities that were lost. I see VHB had some responsibilities, because of all the difficulties the site was facing, they overlooked this piece

Andy Rodenhiser – that makes them culpable.

Andy Rodenhiser – Greg came in, and said everything was done, and asked for his money back.

Dave Pellegrini – I was just trying to think through everything in terms of the cost – if that was going to be constructed, it may need additional permitting with ConCom . . .

Karyl Spiller-Walsh – it bothers me a lot that once the road is surfaced, we are not allowed to dig it up.

Chan Rogers - now that the state is culpable there is some urgency to fix the inadequate pipe.

Andy Rodenhiser – maybe they would do a different process.

Chan Rogers – they could jack a pipe under that.

Karyl Spiller-Walsh – Would the state do the work?

Chan Rogers – it would be their contractor.

Andy Rodenhiser – ultimately there is a source for this – errors and omissions insurance

Karyl Spiller-Walsh – but that takes time

Decision – all yes – The motion was approved.

A motion was made by Chan Rogers, seconded by Karyl Spiller-Walsh that the Board hold a hearing at its next meeting, scheduled for July 28, 2009, as to whether the Country View Estates Subdivision is in default under the Subdivision Control Law and the Board's Subdivision Rules and Regulations, for failure to complete the construction of ways and installation of municipal services in accordance with the Board's Subdivision Decision and the Subdivision Rules and Regulations; and further to send notice by certified mail to the developer Greg Whelan/Broad Acres Management, and to the holder of the subdivision surety, Charles River Bank of the scheduled hearing. The developer will be given the opportunity to be heard personally and/or through counsel at this hearing as to whether the subdivision should be found to be in default and whether the Board should take the surety

that is being held for the subdivision in order to complete the construction of ways and installation of municipal services in accordance with the Board's Subdivision Decision and its Subdivision Rules and Regulations.

Vote – The motion was approved unanimously.

A motion was made by Chan Rogers, seconded by Karyl Spiller-Walsh to authorize Dave Pellegrini to develop a further bond estimate for other issues

Ted Cannon - scope??

Andy Rodenhiser – follow wherever it takes him to address these issues. We want to resolve the problem

Susy Affleck-Childs – it should include the manhole issue as well.

Chan Rogers – that was a Mickey Mouse solution. They need a better resolution.

Andy Rodenhiser – maybe it needs a different type structure – or just a ton of rip rap. That is what we are authorizing him to look at because it is connected.

Chan Rogers – Andy Rodenhiser has several times described the situation – a ditch that comes down, goes into a funny kind of CB which is into a culvert under Broad Acres and literally they took out some brick to reduce the invert level so the water would flow.

Andy Rodenhiser – it actually goes under the cast iron grate, so the benefit of the mesh is not there.

Chan Rogers – it is truly a Mickey Mouse solution to a drop inlet type catch basin.

Andy Rodenhiser – they set the structure too high, and it wasn't low enough. It was set too close to the road, and it was – they probably hit rock . . .

Ted Cannon – clearly there is a defect in the culvert. Install that and see how it works.

Dave Pellegrini – it gets complicated when we broaden the scope. If you want me to look at the capacity of the 36" it would get us to a huge drainage analysis

Chan Rogers – go up to District 3 (Mass Highway) and check with them if any hydraulic analysis was done on that culvert crossing. they are supposed to look at all of the culverts when they are going to redo a road.

Andy Rodenhiser – Does that mean, the analysis would be done on the basis of the 21" pipe?

Chan Rogers – the analysis should tell you what size the pipe is needed.

Dave Pellegrini – I am pretty sure

Andy Rodenhiser – A 25-30 acre area is served by the crossing

Dave Pellegrini – when they designed the drainage systems, I believe they assumed a 36 inch pipe because that was what was shown on their existing conditions plan.

Chan Rogers – look at the drainage analysis at the field office.

Andy Rodenhiser – we are looking for you to review the inlet side of the pipe to the outlet side on the other side of Summer Street which would have been the developer's responsibility. From that point on is really the state's issue. Rick Merrikin is the engineer of record who performed the engineering, and stamped it, and is responsible for what happens downstream.

Dave Pellegrini – with that, I am assuming that Rick Merrikin modified his drainage calculations to account for the 36" larger pipe.

Chan Rogers – Greg Whelan presented plans for a subdivision, streets, lawns and houses instead of woods and natural state, so there is going to be lots more water coming down faster. that is the condition he had to work with. it required a 36 inch pipe, and that was new condition that was decided

Andy Rodenhiser – PMP was the engineer at the time that identified the issue.

Dave Pellegrini – I haven't seen anything from Rick Merrikin re: a revised drainage analysis for 36"

Susy Affleck-Childs – I can look through old Country View files and see if there is any review letter from PMP re: 21 inch vs. 36 inch.

Andy Rodenhiser – you need to find out where you need to go with this. Right now it is pretty much related to this drainage issue at the end of the street.

Dave Pellegrini – I will call Mass Highway and speak with Rick Merrikin. If there aren't any calculations, I am wary for us doing a full design and taking responsibility for the whole thing at this juncture.

Dave Pellegrini – existing 21" pipe is an old corrugated metal and the invert is rotted out.

Tom Gay – by putting this in place, this gets us started.

Karyl Spiller-Walsh – do we need to make a recommendation to the BOS to proceed on the estimate and to proceed to do the work?

Susy Affleck-Childs

Dave Pellegrini – I will not actually put together a new bond estimate yet. I will research and brief you at the next meeting.

Susy Affleck-Childs and Dave Damico are to meet with Suzanne Kennedy.

The motion was approved.

### **Board Liaison Discussion**

The Board discussed approved the following individuals to serve on the committees on which the Planning and Economic Development Board has official representation:

Community Preservation Committee	Bob Tucker
Design Review Committee	Karyl Spiller-Walsh
Street Naming Committee	Susan Affleck-Childs

In addition, the following assignments were made for Liaisons to other Town Boards & Committees:

Affordable Housing Committee	Susan Affleck-Childs
Board of Health	Andy Rodenhiser
Board of Water/Sewer Commissioners	Chan Rogers
Capital Improvements Planning Committee	Chan Rogers
CONCOM	Bob Tucker
FINCOM	Andy Rodenhiser
Economic Development Committee	John Williams & Andy Rodenhiser
Medway Business Council	Andy Rodenhiser
Open Space Committee	Karyl Spiller-Walsh
SWAP	Chan Rogers
Town Administrator/Board of Selectmen	Andy Rodenhiser
ZBA	Tom Gay
GIS Task Force	Tom Gay
Medway Community Farm Liaison Committee	Bob Tucker
2B Oak Street /Thayer House Project	Karyl Spiller-Walsh
Medway Tercentennial	Karyl Spiller-Walsh
Route 109 Reconstruction	Chan Rogers
Oak Grove Task Force	Andy Rodenhiser

### **MORE REPORTS**

Tom Gay reported on GIS meeting last week with Susy Affleck-Childs and Will Naser.

A motion was made by Karyl Spiller-Walsh, seconded by Tom Gay to adjourn the meeting. The motion was approved unanimously.

The meeting was adjourned at 8:55 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

**July 28, 2009**  
**Planning and Economic Development Board Meeting Minutes**  
**Sanford Hall, Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Bob Tucker, Chan Rogers, Karyl Spiller-Walsh, Tom Gay  
ABSENT with NOTICE: John Williams  
ALSO PRESENT: Susy Affleck-Childs, Planning and Economic Development Coordinator  
Dave Pellegrini, Tetra Tech Rizzo  
Barbara Saint Andre, Petrini & Associates  
Tony Pachelco, FINCOM Liaison

The meeting was called to order at 7:05 p.m.

**CITIZEN COMMENTS - None**

**Minutes of July 14, 2009** – Chan Rogers offered a series of amendments/corrections.

Motion was made by Chan Rogers to approve the minutes as amended, seconded by Karyl Spiller-Walsh. All votes yes, except Bob Tucker who abstained as he was absent for that meeting. Motion approved.

**Committee Reports**

Open Space Committee – The Trust for Public Land TPL presentation at the BOS meeting last night

New Conservation Agent started last week – Trish Brennan. She will work Mondays and Thursdays

New Community Farm Liaison Committee has been appointed. Bob Tucker serves as rep from PB and CPC.

**45 Place Master Signage Plan**

Paul Yorkis representing Restaurant 45 – we have forwarded to the Planning Board copies of our proposed signs – two parts to the master sign plan – in your requirements for a master sign plan, you talk about commercial signage but we have included all the traffic signs as well.

In the Certificate of Action approving this project, one of the requirements was to produce a master sign plan. We met with the DRC last week and shared with them what I am sharing with you tonight.

Bob Tucker – You show the ADA signage requirements, and you are to be commended.

Paul Yorkis – there is a small error in the ADA signage. The sign location needs to be relocated

Paul Yorkis – Karen Mullkins from Signs Plus in Milford designed this package for us. I would like to go back to the other board showing the existing signs and proposed signs. We are not going with awnings as we had originally included in the site plan. All of the proposed signs meet or are less than the maximum allowed – we not asking for any exceptions or waivers –

Signs are made out of carved plastic and will be painted, so we won't have an issue with wood rot. Look at low maintenance. Proposed wall signs would be illuminated with gooseneck style lighting which we think is in keeping with the exterior. The freestanding sign is to be lit from beneath.

Andy Rodenhiser – Looks durable, won't split

Bob Tucker – On your ground up lighting, I am not a big fan, it gives too much spillage into the sky and can impact neighbors. Under certain weather conditions it could spill out and partially impact drivers going in either direction. Those are some of the potential problems with lighting. I think the gooseneck looks great.

Paul Yorkis – We talked about that a great deal. There is a real estate firm at 159 Main Street that I am very familiar with that has ground up lighting. Spillage is minimal there, and we are basically using very similar lights. It is the location, aim and type of lighting that is critical. If you look at the Choate Park sign, the illumination there has spillage. We have a pretty good aim at this light. The ideal situation is that you install them so they are not permanently installed until you can see the effect.

Karyl Spiller-Walsh – Spots today can be very direct.

Paul Yorkis – I understand that.

Bob Tucker – One of the things I have been working on is a lighting standard to incorporate into our rules and regs. Looking at a number of adjacent towns that do have lighting standards, the trend is to get away from ground up lighting in its entirety. That is the direction my biggest concern is the impact to adjacent properties and drivers thru the area.

Paul Yorkis – No disagreement from me at all. A lot is how they are installed. I would encourage you in your proposed rules and regs is to make sure that flagpoles are also covered.

A letter dated July 28, 2009 from the DRC was distributed.

Paul Yorkis – We are concerned about the recommendation for the long term life of the place. What is here in the DRC review letter we are very comfortable. We can work with the consistency. We have a tenant who is most eager to submit a sign permit application. We need your approval so they can proceed.

A motion was made by Bob Tucker to favorably endorse the master sign plan, seconded by Chan Rogers.

Andy Rodenhiser – On the photos that have the double letters on it, I didn't follow that. Why?

Paul Yorkis – It is just how Karen put it together.

Paul Yorkis – Also, the finish paving at the site will be done this week. If members see the center concrete rumble street is not yet installed, it will be installed, but they will do all the paving and then saw cut out the area.

Andy Rodenhiser – Are the phone poles in the sidewalk? Is that where they are going to be?

Paul Yorkis – I don't know – I can't speak for Verizon.

Tom Gay – The only freestanding sign is this new one?

Paul Yorkis – As part of the comprehensive sign plan, on the land owned by Restaurant 45 and 45 Place, yes, there is one free standing sign. However, there is a freestanding sign for Restaurant 45 (at the southwest corner of 109/126) for Restaurant 45. It has a license from the town of Medway's Board of Selectmen which is not shown on this plan. That license can be revoked at any time.

Paul Yorkis – It is not calculated as it is not part of the property – it has no impact on the action of the Planning Board.

Paul Yorkis – It is a license.

Tom Gay – Nothing on Rustic Road

Andy Rodenhiser – Wasn't there an agreement for no parking signs on Rustic Road?

Paul Yorkis - That is an issue between Mark Smith and the owner of Rustic Road.

Andy Rodenhiser – Any further discussion?

The motion to favorably endorse the master sign plan passed unanimously.

Paul Yorkis – If you want to know when we will be fooling around with the light positions, I can call you.

Bob Tucker – If I am available, great.

Paul Yorkis – Thanks very much.

### **Fisher Street Scenic Road issue**

Tom Gay – What is the skinny on this letter?

Andy Rodenhiser – I saw that the trees had been cut and I talked with Susy Affleck-Childs. She told me that a scenic road permit is only needed when there is road work or a breach in the stone wall – I didn't think they looked like dead trees – the next day, I went and walked – there wasn't much left – they were dead –

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Bob Tucker – Were they cut?

Karyl Spiller-Walsh - Did they grind the stumps?

Andy Rodenhiser – I was surprised that they dropped the trees on private property, and they are still there. We now have this inquiry... who is asking about this. I will make a point to stop by and talk to him – Edward Duggan – they were potentially dangerous trees.

Karyl Spiller-Walsh – They should grind down the stumps, especially on a scenic road.

Andy Rodenhiser – We need to probably change our bylaw or regs.

Andy Rodenhiser – We might want to push for this as a policy change to require grinding of stumps.

Bob Tucker –Let’s give Dave D’Amico a copy of this letter from Mr. Duggan.

Andy Rodenhiser – The Town should put up some notice signs when this is going to happen.

Andy Rodenhiser – The scope of our role is limited – if it is just tree maintenance, no hearing is required – and there is no requirement either to notify abutters.

Karyl Spiller-Walsh – They should finish the job.

Andy Rodenhiser – Grinding the stumps. Not doing this may be a function of the budget.

Andy Rodenhiser read the letter from Mr. Duggan asking about trees on Fisher Street. Attach a copy of the letter. He would appreciate an answer.

Dave D’Amico – We have a very small tree budget, the list of limbs and pruning is huge. \$16,000 is the budget, so my orders to Fred Sibley, who is the deputy tree warden, who hates to take down trees, if it is serious threat to the public, it needs to come down. That is the only thing he is taking it down – it is a threat to the public and it needs to come down. There is no money to grind them.

Andy Rodenhiser – But they just drop them.

Dave D’Amico – That could be an issue. I direct him to put them by the side of the road if possible.

Karyl Spiller-Walsh – If there is a piece of property that belongs to the town, and there are dead trees and parts of them have already fallen, they are a danger. Is it possible a private person could take them down?

Dave D’Amico – We have done limited things like that if a tree is down in front of somebody else’s property. The lawyers would say NO to do that. I weigh it on a case by case basis. I could spend \$100,000 a year.

Karyl Spiller-Walsh – Liability left and right.

Susy Affleck-Childs –I will draft a letter to Mr. Duggan and have Dave D’Amico look at it and Andy Rodenhiser.

## **Other Items**

Rhondi Chapman – I am the second liaison to your board from FinCom.

## **Bond Discussion – Country View Estates**

This discussion is in regard to the letter dated July 16, 2009 to Greg Whelan and Ted Cannon.

Andy Rodenhiser – In summary, Dave (Pellegrini), you are saying that VHB had understood the 36 inch pipe would be in place.

Dave Pellegrini – People remember a decision was made to upgrade to a 36” – no drainage calculations were done. VHB said they don’t have calculations using that 36” for the design. They assumed it was going to be incorporated into the construction – Mass Highway cannot find any drainage design.

Karyl Spiller-Walsh – The calculations they used in the site plan had to be done based on the 21 inch pipe.

Chan Rogers – How an engineer sizes pipe for under a road?

Dave Pellegrini – They modeled it with a 21” and it exhibited flooding. What people are telling me is that historically there was not a flooding issue here. They felt that they were decreasing the peak runoff to that pipe by having detention ponds.

Chan Rogers – Quite complicated.

Dave Pellegrini – There was projected to be an increase in volume but not peak when they did the original drainage calculations. Lee Henry (DPS Director at that time) spoke up, and said it did exhibit flooding, and he insisted that it be increased. No one can remember how they determined that it would be 36 inches.

Chan Rogers – That is an increase of 3 times, because it is the square of the diameter.

Tom Gay – In reviewing this stuff that was sent to us, apparently they all remember a discussion, but the notes say he donated property for the town’s water tower and installed some piping for the town

Dave Pellegrini – That was Paul DeSimone’s recollection

Dave Pellegrini – I spoke with Jim Wieler (served on PB at the time). He remembered the meeting to upsize the pipe. He was very clear that there was no discussion of swapping responsibility.

Andy Rodenhiser – Chan Rogers, can you check with Water/Sewer on this? Whether that installation occurred?

Ted Cannon - Parcel A has been deeded to the town.

Andy Rodenhiser – In the conditions to the subdivision decision, it references the installation of the water pipe at the applicant’s expense – no discussion of swapping.

Andy Rodenhiser - Have you had a chance to confer with your client?

Ted Cannon – I have. There was some discussion, about the applicant not installing it as he was supposed to and about VHB missing it after having several cracks at it. I asked the applicant about the idea of using the bond money that is there and if VHB contributed some funds, could he do the work? I did contact VHB today and laid out for them that suggestion to make up the difference. Greg says he could do it for probably half of the cost a state contractor would charge. I did explain to VHB it would be time sensitive. I told him the Town would probably look to be reimbursed, so I gave them a proposal.

Dave Pellegrini – we could probably have the state monitor this. What I would be unclear with is the state basically has a layout and a jurisdiction. Would they allow a third party to come in and do some work – I don't know if that will be a huge issue.

Susy Affleck-Childs – Ted Cannon spoke with Mark today.

Andy Rodenhiser – He is required by the decision to do it, but the contract for the road

Dave Pellegrini – I don't think it would be a big – it is something I could find out.

Andy Rodenhiser – Could you let us know?

Andy Rodenhiser – Barbara, is this something we can get worked out?

Barbara St Andre – The condition is for the applicant to do the work.

Chan Rogers – We have a classic case in the north side of Route 109. That was all built before. The culvert under Route 109 is way undersized. There is flooding there because the water can't get thru because of the road embankment. It dams the flow from the subdivision. The standard practice is for the state to have the town increase the pipe sizes. This is a pure case of the subdivision creating the drainage that creates the flooding.

Ted Cannon – There is a significant amount set aside for consulting fees that was already set aside (construction observation account).

Chan Rogers - I would suggest that jacking the pipe under the road would be a way to install it vs. tearing up the roadway.

Dave Pellegrini – Another option is instead of pulling the old pipe out, you could put in another one next to it – but that old one really needs to be improved.

Bob Tucker – Let's do it right.

Andy Rodenhiser – That is for him to figure out.

Andy Rodenhiser – It sounds like this board is willing to work this out – we would just want to make sure that there is a third party.

Dave Pellegrini – Is there any way that the state could put in some money to this? The state didn't catch it either? You could ask?

Dave D'Amico – The project is already over budget. If their contractor was going to do it, I expect we could go back to them and get some better pricing.

Wait for another week or two weeks – try to let them work out something.

Authorize Susy Affleck-Childs to write a letter. Motion by Bob Tucker, consensus.

Chan Rogers – I think the state has egg on its face, to go thru this whole thing and not really do any analysis is awful.

Dave Pellegrini – I need to inform you that Joe Hanlon now works at Tetra Tech Rizzo. He worked at Daylor and TTR just bought Daylor. I don't know if this is a conflict of interest.

Barbara St Andre – I would not provide an opinion on conflict of interest off the cuff.

Susy Affleck-Childs – Who was Joe Hanlon?

Dave Pellegrini – He was the original designer of the Country View plans. – I will write it up the documentation – on Joe Hanlon and send it along to you.

It was decided to continue this discussion to August 11. (Tom Gay will not be here, nor Bob Tucker)

Dave D'Amico – I need an answer in 2 weeks – it is drop dead time.

Ted Cannon – I cannot be here in two weeks.

Andy Rodenhiser – Can we have a special meeting next week – August 4<sup>th</sup> – 7 pm?

Ted Cannon – If I get an answer, I will communicate with you. I will contact Mark Louro.

A motion was made by Bob Tucker to go into executive session for the purpose of discussing strategy regarding pending litigation and to not come back to regular session afterwards.

#### ROLL CALL VOTE

Karyl Spiller-Walsh- yes

Bob Tucker - yes

Andy Rodenhiser - yes

Tom Gay – yes

Chan Rogers – yes

The motion was approved.

8:30 pm – Board entered Executive Session.

8:50 pm – The board reconvened from Executive Session

Tom Gay – I have info on equipment.

A motion to adjourn was made by Karyl Spiller-Walsh, seconded by Bob Tucker. The motion was approved unanimously.

The meeting adjourned at 8:52 p.m.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

July 20, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, Ma 02053

Subject: Scenic Road

Dear Mr. Rodenhiser,

Fisher Street is a designated "Scenic Road" in Medway. The scenic road Legislation as Defined in the General Laws of Massachusetts, Chapter 40: Section 15C. Medway, in its Bylaws, has designated a number of streets and roads to be covered by this laws.

July 14<sup>th</sup>, 2009, a tree service cut down at least three large trees between #50 and #53 Fisher St., the trees were three or more feet in diameter. In looking a these cut trees there are not indications that the trunk had deterioration or rotted. Why were these trees cut down? They could have been pruned if interfering with power or other type line. Isn't this type of cutting subject to the State and Medway By-laws?

Who is policing the requirement of the "scenic laws"? Please inform. Scenic road laws were set up to maintain the rural character of the town for the benefit of all of our citizens. Blatant cutting eliminates some of the amenities which we all enjoy. I am questioning these actions and would appreciate your answer as is applies to both Fisher St. and all "scenic roads" in the Town.

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I look forward to your response.

Sincerely,  
  
Edward J. Duggan  
59 Fisher Street  
Medway, Ma. 02053

**Medway Planning & Economic Development Board Meeting**  
**Tuesday, August 4, 2009**  
**Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Bob Tucker, Tom Gay, Chan Rogers, Karyl Spiller-Walsh,  
John Williams

ALSO PRESENT: Susy Affleck-Childs, Planning & Economic Development Coordinator  
Barbara Saint Andre, Town Counsel  
Dave D'Amico, DPW

The meeting was called to order at 7:02 pm by Chairman Andy Rodenhiser.

A motion was made to go into executive session for discuss strategy on litigation and to return to regular public session afterwards.

Roll call Vote – 7:02 pm

Andy Rodenhiser - Yes  
Bob Tucker -Yes  
Tom Gay - Yes  
Karyl Spiller-Walsh - Yes

7:29 pm – The Board reconvened from Executive Session.

7:30 pm – Tape goes in for regular meeting.

The meeting was called to order at 7:32 p.m. Call to order

**Country View Estates**

Andy Rodenhiser – good evening and welcome, I understand you have

John Bechard, VHB Engineering – I do not have a presentation, but comments. During the time over the last 9 plus years that VHB has been working in Medway, I have been the project manager or principal in charge. After receipt of the letter I spoke with Mark Louro. He couldn't be here due to short notice. I wanted to make sure VHB was here to understand some of the concerns that have been raised, and to offer some thoughts and commentary to the allegations. We take this very seriously. I think it has been well documented with this particular developer and development. This project has been saddled with a few issues since 1999, documented in meeting notes and VHB reports. I am taken aback by the letter you sent us. I did go through some things with Mark Louro in preparation for coming here tonight.

This subdivision was approved in October of 1999, before VHB came on board. This developer constructed 1800 feet of drainage before the plan was approved and it is this area that VHB refused to accept.

It is documented in April 2000 that we didn't inspect it, and we would not take responsibility for it. We told the Planning Board at the time that the only way we would feel comfortable is if the drainage work was to be excavated. The developer refused and thought the Planning Board was being unreasonable – they offered to do spot checks – the DPS director at the time (Lee Henry) and the Planning Board agreed that test pits could be done and spot checks.

This is an on call contract we have with you. We are not on site full time, we are in Medway as needed – given 24- 48 advance notice – this work was done prior to us being under contract. We did do test pits. There are reports covering this. That raises the concern that I have with the project started prior to us being on board. – We advised the board not to accept it, and the board went ahead, and was OK with doing test pits.

Andy Rodenhiser – I don't know about all that. We are talking about a pipe that crosses Summer Street, not the drainage in Broad Acres Farm Road.

John Bechard – the culvert was condition #1 – that was supposed to have been installed prior to VHB coming on board.

Andy Rodenhiser – It is just plain not done.

John Bechard – We never said we would accept the work that we hadn't seen installed. The developer came to the board and said this work was done (1800 feet) – we said we hadn't observed it, and that is why we wouldn't accept it.

John Bechard - I don't understand how the developer's lack of follow through is VHB's responsibility – we are called by the developer or the board or by the DPS director who tells us to be there, and we would dispatch an inspector or director to be there. We weren't brought in to look. We are told where the work is proceeding.

Andy Rodenhiser – You guys were hired by the town to do the road layout and work for the Summer Street reconstruction. That set of drawings indicates a 36" pipe.

John Bechard – That was on record with the town. The AutoCAD base plan was provided to us.

John Bechard – The design of Route 126 did not necessitate the larger size.

Andy Rodenhiser – What record is that?

John Bechard – That the Planning Board had accepted the work

Andy Rodenhiser – But that pipe is not within the subdivision itself.

John Bechard – it is condition #1 of the decision, right

Andy Rodenhiser – yes

John Bechard – Why do you feel it was VHB’s responsibility to verify that the pipe was in the ground?

Andy Rodenhiser – You said you relied on something.

John Bechard – I am relying on the meeting minutes of the board from August 22, 2000

Barbara Saint Andre – When you were drawing up the plans for Summer Street years ago, what were you referring to.

John Bechard – The Country View plans

Andy Rodenhiser – When were the plans submitted for the highway?

Dave D’Amico – 2004

Andy Rodenhiser – The pipe is not in the subdivision. You weren’t concerned – you were relying

John Bechard – there is a plan on record that says the work is to be done

Barbara Saint Andre – The subdivision shows what is going to be done.

John Bechard – We are brought on, and it is discussed by the developer that the work is completed.

Andy Rodenhiser – And we look to you guys for your inspections. The pipe is open on either end; it is visible to anybody from the sidewalk. That part was never in need of excavation or test pits. You would say it is either done or not done.

John Bechard – I am relying on a set of documents that says the work was done on that plan.

Andy Rodenhiser – Can you provide us with something?

John Bechard – You have a record – the meeting minutes.

John Bechard – Our contract with the town states that we can rely info from the town

Andy Rodenhiser – Can I have a copy of the definitive plan?

The Board looked at the plan.

John Bechard – It shows that the pipe was proposed. The minutes explain that the work has been completed. We relied on the town to say that the work was done.

Bob Tucker – You made a comment about Norfolk County.

John Bechard - Norfolk County did the actual field survey.

Bob Tucker – Would they have done any kind of as built?

John Bechard – They identified a plan that showed an existing 21 inch pipe. When we prepared our design for Summer Street, the plans for associated subdivisions were reviewed. We had understood the work was to have been done. It was for the offsite drainage. – The pipe wasn't needed for the Summer Street reconstruction.

Chan Rogers – If you are doing any of Summer Street you would have to be concerned about the existing drainage structures and if they were adequate. Whether there is a subdivision plan on record or not, it would be your responsibility to determine what size pipe it should be.

John Bechard – The 36" pipe was not needed for Summer Street reconstruction work, but for the adjacent subdivision.

Chan Rogers – It doesn't matter why it had to be increased. The 21 inch pipe that was in place is in pretty poor condition, the invert has been more or less rotted out. The pipe should have been replaced one way or another, and this would have been your responsibility as consultants on Route 126 to evaluate that situation.

John Bechard – Documentation provided to us is that the pipe had been installed – info came from the Town

Andy Rodenhiser – Can you provide us copies of that?

John Bechard – I guess I misinterpreted the letter.

John Williams – At no time for the Route126 project was the Planning Board involved?

Andy Rodenhiser – We relied on VHB

Chan Rogers – It is part of the design procedure to determine if the drainage is adequate, and in the process you would have reviewed the culvert for this particular situation/location as to whether it was adequate –

John Bechard – We relied on the pipe being a 36 inch pipe installed.

Chan Rogers – You relied on a proposed plan, not an as-built plan. How did you determine it was adequate?

John Bechard – As an engineer yourself, have you ever relied on info that has been provided to you by a client? Our contract says we can count on info provided by the town.

Andy Rodenhiser – In our research, we learned you also were involved in the Route 126.

Tom Gay – I have never accepted info that I haven't verified on site. I wouldn't do that. Aren't there, in the design work, aren't there manholes that go into this? So though it was designed for the subdivision, it is used for roadway overflow from Summer Street, too.

John Bechard – I said the roadway drainage for Summer Street did not require that size of pipe to go under Summer Street – it didn't need it to be 36 inches. That upgrade was a result of offsite development (Country View Estates). The condition may have warranted that the pipe be replaced. The in-place size (22") was sufficient for our purposes (126 road reconstruction).

John Bechard – Could I ask a question of the Department of Public Services director?

Barbara Saint Andre – I think we are going around in circles.

John Bechard – The design for Route 126 did have 2 manholes built into this culvert. I was never contacted by Mass Highway or the contractor to notify us that the undersized pipe had not been upgraded. If we had known that . . . I wasn't ever contacted.

Andy Rodenhiser – anything else?

Karyl Spiller-Walsh - no

Bob Tucker – You have had an opportunity to read notes that we have not seen. I thank you for your insight.

Andy Rodenhiser – Thank you, we appreciate your time.

Andy Rodenhiser – Does the board want to consider a vote whether or not to vote on whether the developer has defaulted on this subdivision?

Karyl Spiller-Walsh – no correspondence from Greg?

Chan Rogers – He didn't respond to the letter.

Susy Affleck-Childs – We do not have any written response from Greg Whelan.

Andy Rodenhiser – We have a subdivision that is on the verge of default, one way or another. Dave D'Amico has to move ahead and deal with the culvert upgrade before route 126 gets its final top coat of paving.

John Williams – What is the consequence of putting the subdivision into default?

Andy Rodenhiser – We have access to \$8,000 that we can take and use to install the 36 inch culvert

Dave D'Amico – What I need from you is to say whether you think the developer is going to do the work, or whether I should go ahead and do the work. The money stuff has to be worked out somehow.

Karyl Spiller-Walsh – What is the time frame?

Dave D'Amico – They want to pave in September.

Dave D’Amico – I have to do this now. I have been told heads will roll if it gets paved and then we have to dig it up to do this culvert.

Dave D’Amico- There was another drainage issue on Route 126, and they have drainage going into an easement for dispersal. When we went out and looked at it, the location they had selected was pitched wrong. They didn’t go into the field and look at anything. They didn’t verify what they were doing on paper.

Bob Tucker – We have several issues here - What needs to be done now?

Barbara Saint Andre – The issue before the board is the Country View Subdivision, and whether you want to find that the developer is in default. There are two issues here:

One – insufficient security – you have given him notice and he has not provided the supplemental funds you specified

Two – the culvert has not been completed, even though the as-built plans show it as 36 inches

You gave him an opportunity to come in last week, and again this week. The board has the authority to make that finding if you so choose.

John Williams – Is there legal consequence about lying about an as-built plan?

Tom Gay – The 36 inch pipe is not there; and the financial security has not been forwarded, it has been 3 weeks.

A motion was made by Tom Gay, seconded by Chan Rogers to find the developer (Greg Whelan) to be in default based on those two conditions that Town Counsel stated. The motion was approved unanimously.

Chan Rogers - I also believe VHB is also involved

A motion was made to close the public meeting to go back to executive session to discuss strategy with respect to litigation, and to come back to regular session.

Roll call vote

Chan Rogers – yes

Andy Rodenhiser – yes

Karyl Spiller-Walsh – yes

Tom Gay – yes

Bob Tucker – yes

The board moved to executive session.

The board reconvened to public session from executive session at 8:35 pm

**Murphy Insurance Site Plan Certificate of Completion**

Susy Affleck-Childs – Everything is all set; we have sign offs and all necessary paperwork. I recommend you sign the Certificate of Site Plan Completion.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to approve and sign a Certificate of Site Plan Completion for the Murphy Insurance Agency project at 133 Milford Street. The motion assed unanimously.

All signed the certificate of site plan completion.

### **REPORTS - Update on Cumberland Farms property**

Susy Affleck-Childs – I was visited by some of the folks who own the Cumberland Farms property on Main Street. They are interested in doing something there – a gas station/ convenience store. Is this something you to allow by right in CI, or change the zoning bylaw in some fashion? Or change the special permit to be with the Planning Board?

Andy Rodenhiser – One option is to eliminate auto service station from the list of special permit uses. So do you want to make this a priority for us? Disallow it as a use in that district?

Chan Rogers – We already have enough gas stations in town.

Andy Rodenhiser – Does someone want to make a motion to eliminate this as a special permit use in the Commercial I district?

A motion was made by Chan Rogers, seconded by Karyl Spiller-Walsh to propose a zoning bylaw amendment that would eliminate a gas station as a use in the Commercial I zone. The motion was approved unanimously.

Andy Rodenhiser - We need to be fair and consistent in giving any notice to the property owners. Do the public hearing closer to fall town meeting.

### **OTHER BUSINESS**

A decision was made to cancel the August 11, 2009 meeting due to vacation conflicts.

A motion to adjourn was made by Bob Tucker, seconded by Karyl Spiller-Walsh.

The meeting was adjourned at 8:50 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

**Medway Planning & Economic Development Board Meeting**  
**Tuesday, August 25, 2009**  
**Medway Town Hall, 155 Village Street**

**PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay, Chan Rogers, Karyl Spiller-Walsh,  
John Williams

**ALSO PRESENT:** Susy Affleck-Childs, Planning & Economic Development Coordinator  
Gino Carlucci, PGC Associates

The meeting was called to order at 7:10 pm by Chairman Andy Rodenhiser.

**CITIZEN COMMENTS** – None

**Discussion RE: Pine Meadows Subdivision Status**

Tony Tam, Pine Meadow Development LLC – We have 4 partners in this project. I have had my financing set up since December – the other ones are finalizing their plans – we are going to be paying for the final part of the road. We will be putting funds into the bond account in early September. We have commitments and appraisals all done. We will be finishing the road. The final asphalt coat will not be put down until we put in some of the foundations. We don't want to ruin the roadway. That is my update.

Andy Rodenhiser – Do you have lots presold?

Tony Tam – No. We are the ones that finished a house on Independence Lane. We took a \$300,000 hit on that house. We are coming out of the recession now. Banks are getting more comfortable to lend again.

Andy Rodenhiser – I was talking with a guy at Middlesex Bank. They are not doing any loans unless there is a P and S agreement in place.

Tony Tam – We deal with 23 financial institutions. They lend to us because we owe them too much money.

Susy Affleck-Childs – The adjacent property owner, Nick Turi, is very concerned about the lack of progress and the continuing problems he faces due to the halt in construction. He wants to know that something will be done soon.

Tony Tam – We understand. We will do this. I will make this our first priority to be done by the end of September.

**Other Reports**

Andy Rodenhiser – I had a conversation with Fred Sibley last week about his subdivision (Daniels Wood II). He wants to come back before us again, and Paul Yorkis had been tapping on my shoulder about coming back as his representative. Time limitations - Fred has an idea that he

wants Paul to present. I know we have looked at this thing. Apparently there is some wording in the decision that is restrictive in terms, such that he can't sell it or build anything until he constructs the road, so it has put him into a kind of situation.

Gino Carlucci – It sounds vaguely familiar.

Tom Gay – If you open that can of worms . . .

Andy Rodenhiser – He wants to make a presentation on what their concern is. He is familiar with a friend in Littleton where they will do estate zoning. It provides an option whereby a property owner can construct two houses with a driveway.

Bob Tucker – Don't we have one of those in Medway?

Susy Affleck-Childs – WE don't specifically authorize or not permit common driveways . . . .

Andy Rodenhiser – This might be an alternative to full-blown subdivisions. Are you okay with us scheduling time, or are you opposed to this?

Tom Gay – I think the time is fine.

Karyl Spiller-Walsh – I think if we had some time to go over rules and regs, and then have our discussion with them.

Bob Tucker – Please provide a copy of the decision ahead of time, and what part they are concerned about, so we can study it ahead of time. But I don't want to send them a false hope. I would like all of us to do our homework and our due diligence.

Andy Rodenhiser – If we made a mistake, and we can change a sentence or two we should consider that. Apparently there is language something like the road has to be built before it is transferred.

Karyl Spiller-Walsh – I think we should all know the history.

Andy Rodenhiser – Hear what they are asking and whether it is practical and fair.

## **Zoning Articles**

Susy Affleck-Childs – At the last meeting, you talked about options for Commercial I and whether you want to allow gas stations

Gino Carlucci – By not allowing this use, if the use changed, or they added or completed tear down – it would have to go. They would have to go to the ZBA for any changes in the site.

Chan Rogers – We already have 4 gas stations. Having more would usurp space for higher and better uses.

Tom Gay – I understand what you are saying about 4 gas stations in a particular area, but we are offering the chance for a gas station in Commercial V.

Tom Gay – We have multiple banks, restaurants, etc and we aren't limiting them.

Chan Rogers – Multiple gas stations are objectionable to me.

Karyl Spiller-Walsh – And me.

Tom Gay – I don't agree with taking it out completely. We have been trying to bring some consistency

Chan Rogers – Having a string of gas stations is not what this town needs

Tom Gay – But we have more than one commercial district. That one allows for gas station by special permit

Karyl Spiller-Walsh – Can we go back to the discussion? We are trying to level and make similar the commercial districts – to make them consistent. Tom Gay is saying that commercial I and V are equal?

Tom Gay – I would say we want to bring some consistency to certain type of businesses.

Karyl Spiller-Walsh – The whole point of Commercial V, by the nature of where it is and scale, it is different in use and scale than Commercial I

Andy Rodenhiser – What I am getting from Tom Gay is the consistency of how we define and apply the constructs for what we do is what he is referring to.

Karyl Spiller-Walsh – I don't agree with that.

Andy Rodenhiser - I personally am concerned about the density of gas stations along Commercial I.

Karyl Spiller-Walsh – Which is not a huge length.

Andy Rodenhiser – But I don't want to prevent commerce from happening, and certainly picking up fuel is an important function of any person – we all need gas stations.

Chan Rogers – they will only be needed another 25 years.

Bob Tucker – If we make them non-conforming conditions that may make things very difficult for future fuel type changes/technologies. I don't want to drive these people out. If they can't modify their facility by being non-conforming, that could pose a real problem in the future. I don't think it is a great area for building fuel stations.

Andy Rodenhiser – if you go into Nobscott in Framingham at Edgehill and Edmunds, there are 2 stations that are shuttered. The town gets no benefit from that either. They become dead lots because of old contaminants.

Tom Gay – Fuel companies do have deep pockets. There are very few independents like Norm Green and the guy across the street (Energy). That is my concern. You make the others nonconforming, that creates a problem. We can debate it.

Andy Rodenhiser – Susy, if we have this as a special permit, could we use this to decide?

Susy Affleck-Childs – Only if the text in the bylaw provides for that to be a factor in the decision making.

Chan Rogers – Do you want the center of town to be multiple gas stations? I am saying we have a nice site but they want to put a big gas station in there. What will it be like? – Humongous – usurping the entire area. I don't feel that we need it. Any gas station at that location is what I don't want.

Andy Rodenhiser – No plan has come forth. It was just an idea that was floated to Susy that they were considering it. For the public at home, there is no plan that has been brought down to this board.

Tom Gay - Commercial V has the Planning Board approving gas stations with conditions and standards. Commercial I has the Zoning Board of Appeals making the decision with no specific standards.

Tom Gay – The better control in my mind and fairer is to make it alike – the conditions could be tighter because we are dealing with different size lots. The way it is administered should be the same.

Andy Rodenhiser – 15,000 square foot lot with setbacks.

Tom Gay – You can talk about any business, other than just a few. Most are not consistent with the vision for Commercial I. What we would like, and what the reality is, may align or not – providing the opportunities and the way they are administered is important to me

Andy Rodenhiser – Gino, could you look at those existing conditions where they are and where they may be proposed, and maybe do a compare and contrast for Commercial V to see where it is applicable and not and to see how a potential bylaw might work.

Gino Carlucci – Sure, I have a lot of that info already.

Andy Rodenhiser – I am trying to imagine a new building and canopy in Commercial I.

Karyl Spiller-Walsh – Personally, the reason we didn't go forward with the greater number of pumps goes back to original concept of Commercial V – that the scale was a very big issue. We distinctly saw a big difference in the level of commercialism in Commercial V.

Tom Gay – People came down here to the public hearing to talk about it – the part that intrigued me was that people were unaware a gas station could go anywhere there, but they definitely were concerned about scale.

Karyl Spiller-Walsh – We made them allowable because we could control the scale.

Tom Gay – Make it ours, not the Zoning Board of Appeals.

Andy Rodenhiser – Put in language to allow us to consider intensity of that use in the district. It would give us some flexibility.

Chan Rogers – There is a tendency to overbuild these gas stations. Both in Bellingham – you never see more than 3 cars in these locations. They seem to overbuild thinking people will come. A two lane road cannot adequately feed a large gas station.

Gino Carlucci – Those pumps there are extremely slow.

Chan Rogers – Why haven't they done something before?

Tom Gay – Because there was a 50 foot strip along there that was zoned residential to prevent commercial use from going all the way to Pond Street.

Andy Rodenhiser – We learned you cannot egress from commercial/industrial land thru residentially zoned land. That little strip was a construct that prevented access from Pond Street. That is crazy in today's traffic. We are far better off having an access opportunity on Pond Street.

Karyl Spiller-Walsh – Does that mean making Commercial I and Commercial V consistent?

Andy Rodenhiser – I thought we agreed Tom Gay did not want make Commercial 1 and Commercial V similar.

Tom Gay – Administration of the areas is where consistency should be. Consider same kinds of rules.

Chan Rogers – My pet peeve is that temporary Ceramic Tile sign that has been up for a long time.

Chan Rogers – Almost across the street – Medway Block has about 15 little signs

Andy Rodenhiser – Those are product banners

Tom Gay – There are tons of those things that are out there especially in liquor stores

Tom Gay - if any clamp down is going to come, it needs to be preceded by some notice that enforcement is going to come. If he commits to doing that, he needs to provide

Bob Tucker – And he needs to be consistent.

Chan Rogers – The Planning Board is still the steward of the bylaw.

Andy Rodenhiser – I want to have Gino Carlucci prepare some type of analysis, and maybe even suggested language.

Gino Carlucci – Yes I can do that.

Chan Rogers – it has been designated that there will be a fall town meeting. Are there any limitations? Whereas in the past, we have had lots of zoning articles, we should make use of the November meetings so we don't gang them up all in the spring.

Andy Rodenhiser – They don't like it when we have so many zoning articles.

Susy Affleck-Childs – I would like to ask you to consider the issue of home occupations – The bylaw provides very little guidance. I would like to bring you a draft of some ideas. I will show John Emidy and Gino Carlucci.

### **Discussion on Subdivision Rules and Regs.**

Andy Rodenhiser – The purple sheet is kind of a time line that Susy and I have laid out. We will try to stick to that. If we get tied up, we can adjust.

Discuss on Subdivision Rules and Regs.

### **Other Business**

No minutes from July

A motion was made by Bob Tucker to draft a letter of support for CPA continuation – SB 90, seconded by Karyl Spiller-Walsh. The motion was approved unanimously.

A motion to adjourn was made by Karyl Spiller-Walsh, seconded by Chan Rogers.

The meeting was adjourned at 9:38 pm.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

**September 8, 2009**  
**Planning and Economic Development Board Meeting**  
**Sanford Hall, 155 Village Street**

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

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

The meeting was called to order at 7:05 p.m. – Welcome by Andy Rodenhiser

**CITIZEN COMMENTS – None**

Susy Affleck-Childs – I apologize for the mix-up on not getting the board packets delivered to the police station last Friday so you could pick them up over the weekend. I didn't discover the problem until late this morning.

NOTE – make up a board packet for Tony Pachelco

**INFORMAL SUBDIVISION DISCUSSION – 88 Lovering Street**

David Faist, Faist Engineering for Chandrika and Ramakrishnan Koundinya, 88 Lovering Street

David Faist – I am here with the Koundinyas. They own property at 88 Lovering Street. Back at 2002 there was a preliminary subdivision plan for the site for 2 lots with their existing house as one lot – approved back then in June 2002 – never got past the preliminary stage. One of the issues is the right of way – there is a setback issue. They do not wish to move their house. They have looked at various options. We have another idea that was not part of the 2002 submission.

WE envision a very similar set up – but with this proposal, a sewer connection is not feasible. We went back and looked at the site – the existing house has a septic system – we have now proposed a smaller house with septic – but we would need a waiver for the standard right of way width requirement so they don't have to move their house

The area is in the ARII zone – minimum lot size is 22,500 – but each lot will have about 1 acre.

Our main intention – is to create a second lot – is it worth spending money?

Bob Tucker – Is there sufficient room on the lot for the 100% expansion?

David Faist – There are several drainage easements on the property. One is active that goes down the east side. The easement that goes across is left over from subdivision behind.

Bob Tucker – What is the topography?

David Faist – Fairly flat – small buffer in the back to wetlands

Karyl Spiller-Walsh – wetlands area is the wooded part?

David Faist – Yes

Karyl Spiller-Walsh – Is it holding water now?

David Faist – I haven't been out there lately.

Karyl Spiller-Walsh – I remember before, during the preliminary presentation, there were 2-3 abutters who came and commented – there was a lot of concern about the drainage easement on the right (east) – that there are tremendous torrents of water flowing down there. That was a big concern. I am trying to remember, was there discussion on detention

David Faist – it was just noted that drainage would have to be part of the definitive design. At this stage, we would be looking at a gravel 18 foot driveway – much smaller house footprint – we would have to meet new stormwater standards.

Andy Rodenhiser – Pave the road?

David Faist – Gravel would be better for storm water.

Andy Rodenhiser - Why didn't you propose this before?

David Faist – It wasn't us.

John Williams – This doesn't pass the bar for an ANR plan, right?

David Faist – No. We need to test the waters with you on the idea of a 25 foot right of way vs. a 50 foot right of way.

Andy Rodenhiser – The reason is that you don't want to have to move the existing house out of the setback.

Andy Rodenhiser – They have been to the Zoning Board of Appeals, and they would not grant a setback requirement from the house to the right of way.

Andy Rodenhiser – He is asking for a waiver to go down to a 25 foot right of way with an 18 foot gravel driveway

Andy Rodenhiser – What did we do on Sibley's?

Susy Affleck-Childs – Let me check the decision. They did not seek a right of way waiver.

Andy Rodenhiser – Is there really room for drainage systems?

David Faist – We will need to do some soil testing.

Karyl Spiller-Walsh – Would the existing septic pass Title V?

David Faist – I don't know.

Karyl Spiller-Walsh – We have visited this issue. Is there any way to control or limit the size of the house on the new lot?

Andy Rodenhiser – Only as part of mitigation for the waiver. The number of bedrooms determines septic.

Andy Rodenhiser – Do you want to even consider a waiver?

Karyl Spiller-Walsh – To me, it is not the only issue.

Andy Rodenhiser – If you want to grant the waiver, then everything else matters.

Tom Gay – I would really like to analyze this.

Karyl Spiller-Walsh – The premise is one I understand. The only reason this isn't more lots, it is because of wetlands and easements.

Chan Rogers – The main reason for a wide ROW is to serve multi-lot subdivision.

Bob Tucker – If we haven't set precedent with such a reduction, I am hesitant. There might be a better way to skin a cat.

Susy Affleck-Childs – You can look at this type of issue as we consider changes to our subdivision rules and regs.

David Faist – If you need more time for a decision

Bob Tucker – I am concerned about where else this could crop up

Andy Rodenhiser – We might consider a zoning bylaw change to consider this type of thing. With a special permit.

Susy Affleck-Childs – Waivers are supposed to be in the Town's best interest.

Karyl Spiller-Walsh – We are at a precipice. We might consider the same right of way and then provide a lesser road width – advantage to the town is less storm water.

David Faist – My client – they really don't want to have to move their house.

Gino Carlucci – depending on how an estate lot provision was drafted, if it went that route, the setback could be from a side lot line vs. a front lot line.

Chan Rogers – I don't have any problem doing this – there is 2 acres of land

Tom Gay – You could see this issue on the next few lots on Howe Street.

Andy Rodenhiser – I think it could be a watershed moment.

Chan Rogers – I don't see it as crucial.

Bob Tucker – In general, I don't mind as it pertains to the specific lot, but I am concerned about opening up a can of worms. I am not ready to be put in that position.

Chan Rogers – I don't see that happening.

David Faist – At this stage I guess – would the Planning Board like more time? We still have some planning time.

Andy Rodenhiser – We are working on our subdivision rules and regs and we could look at this issue of ROW width for small subdivisions.

David Faist – There is about 150 feet of frontage for the current lot now (on Lovering Street) – the new right of way is needed for frontage for a new lot.

#### **INFORMAL DISCUSSION WITH JOHN EMIDY, NEW BUILDING COMMISSIONER**

John Emidy – I just wanted to introduce myself, and let you know if you have problems please give me a call. I have already talked with Susy about some zoning issues that I would to address. – I would like to have an open dialogue with you.

Andy Rodenhiser – I think you will find all of us to be pretty communicative.

Chan Rogers – I would desire this kind of relationship – there are a lot of informal reasons to discuss things with you.

Susy Affleck-Childs - John and Suzanne Kennedy are looking at a nuisance type code.

Chan Rogers – There are lot of temporary signs around town that aren't temporary at all.

John Emidy – I am working my way toward that. I have gotten several complaints on signs. I want to grasp first things first.

Andy Rodenhiser – If you think it would be helpful, through the new EDC, we could probably get an audience for you with the Medway Business Council so you could talk with the business community ahead of time.

Susy Affleck-Childs – Maybe a 90 day window for people to resolve sign problems.

Andy Rodenhiser – Maybe we could make a presentation about what the sign bylaw is and isn't– maybe do some self policing.

Karyl Spiller-Walsh – This is probably a good time since

John Emidy – I am really busy right now. We have a new MUNIS system. I like it, it is a challenge – I think it will be good to share – easier for other departments to get the information.

Andy Rodenhiser – Thanks for coming in.

## **DISCUSSION RE: PROPOSED CONCOM RULES AND REGS**

Andy Rodenhiser – How this is going to effect economic development and land use is something we should be careful of. I did give copies of the draft through Susy Affleck-Childs to Dave Pellegri and Gino Carlucci with a heads up that we would be discussing this, that we might be asking them to review this, and look at the impacts and see if there any ideas. WE have also received a communication from Paul Yorkis with his review comments on the draft.

Subsequently, there has been a request from the Town Administrator to have Gino Carlucci review it and compare it with Franklin’s Rules and Regs.

Susy Affleck-Childs – I understand the Medway draft is patterned about Sharon’s.

Karyl Spiller-Walsh – Are there any consistency or contrasts to rules and regs of the Planning Board, like construction of detention ponds?

Tom Gay – There is a definition of a large project. Do these align? Do they apply in the same circumstances? It would be difficult for applicants to be held to various standards. Are we talking about sharing some logic?

Karyl Spiller-Walsh – I see a lot of overlaps and questions – for instance – “critical characteristics and boundaries” – does that mean landscaping? Is there a conflict here?

Bob Tucker – Karyl Spiller-Walsh has pointed out the need for a review in terms of issues of consistency.

Karyl Spiller-Walsh – There are some things that are a lot like our rules and regs

Andy Rodenhiser – Gino, could you look at this thing – how this compares with Franklin?

Gino Carlucci – Sure and also identify issues that are consistent or not with the Planning Board’s rules and regs –

Andy Rodenhiser – I would like to go to the public hearing with a schedule of recommended changes.

Andy Rodenhiser – Dave, from your perspective, how might something like this impact development - if we were to say no more construction or disturbance within 100 feet of a wetland, how would that impact a typical construction site.

Andy Rodenhiser – Gino, do you have a wetlands map? Could you show what the 100 foot buffer zone would limit?

Bob Tucker – On the surface, I am not sure such reduction is in our best interest.

Karyl Spiller-Walsh – The intent could be in conflict with a lot of development of all kinds, especially commercial.

Andy Rodenhiser – Once you get out of the 100 foot area, you don't need permits.

Chan Rogers – I challenge this. I had hoped to have this draft thoroughly reviewed. I think they are usurping the responsibility of this board if that provision is in their bylaw. I would very much encourage this board to request professional review of these regs. They have literally been not available for the past 5 years I have been on this board. They have been totally absent to perform their duties, and then suddenly to come out with a 34 page – it may have a lot of good things –

Andy Rodenhiser – Dave, how would you recommend going about looking at this document?

Dave Pellegri – How it would impact development in general? Look at it from an applicant's perspective.

Gino Carlucci - DEP eased up a year ago on the outer 50 feet and became more stringent on the first 50 feet

Andy Rodenhiser – I think this is going in the wrong direction.

John Williams – I think most communities have a more restrictive policy than the DEP – I think this is a good effort by the ConCom.

Susy Affleck-Childs – We really need to look at both the bylaw and the rules and regs and whether the rules and regs go beyond the bylaw

Chan Rogers – With this, they are having more than one board adjudicate the use of land. There is a potential there for overreaching.

Andy Rodenhiser – A property owner could make a claim of a defacto taking.

Karyl Spiller-Walsh – We can all think of projects where better wetlands protection would be beneficial.

Chan Rogers – There should only be one board in town that adjudicates

Karyl Spiller-Walsh – More autonomy is disturbing.

Susy Affleck-Childs – The next ConCom meeting is September 24<sup>th</sup>. That is when the public hearing is scheduled to begin.

Bob Tucker – Would it be worthwhile for Dave and Gino talk to each other, to have a coordinated effort, then we as a board can go forward.

Agreed

Dave Pellegrini – I would look at the definitions; see if they are the same as DEP or not and how they are different.

Karyl Spiller-Walsh – Please identify any conflicts that might exist between our process and ConCom's

Chan Rogers – I am not sure they have the authority to have a local bylaw be more strict than DEP

Karyl Spiller-Walsh – Does state precedent always win over local? Paul Yorkis always says the state law rules. We need a definitive answer from town counsel.

Andy Rodenhiser – Where are the opportunities for us to dovetail and approve?

John Williams – We should have ConCom representation on this board. We should ask for it. I think it is a disservice . . . the wrangling that an applicant has to go thru – it should be one stop shopping.

Bob Tucker – That is why they hire an engineer.

Andy Rodenhiser – This could create formalized concept.

John Williams – One way to streamline is to get somebody from ConCom on this board.

Andy Rodenhiser – So what you are suggesting that a member of the ConCom be on the Planning Board?

John Williams – Yes.

Chan Rogers – I think we are doing the right thing in having it reviewed. I don't think you can have more stringent regulations than what the state allows.

Karyl Spiller-Walsh – We need to know that.

Andy Rodenhiser – Should we also provide a copy of this review to the FinCom rep?

Susy Affleck-Childs – Sure . . .

Susy Affleck-Childs – This may be a topic of the Economic Development Committee meeting next week as well.

## **The Meadows Subdivision**

Susy Affleck-Childs – We received a communication dated August 28, 2009 from Ralph Costello’s attorney, Rich Gallogly, informing us that the subdivision work is complete. Andy and I drafted a response letter dated September 4<sup>th</sup>. See attached. We sent the letter before I had heard back from Town Counsel. She advises that we need to send another response to them to specifically state that the PB does not find the work to be complete.

A motion was made by Bob Tucker, seconded by Chan Rogers to notify them that construction is not complete because of these outstanding items. The motion was approved unanimously.

Dave Pellegrini – I consider the as-built plan as part of construction – I envision that the as-built plans close out construction -

Susy Affleck-Childs – Do you want us to do another inspection – the last one was probably done by VHB a couple of years ago.

Andy Rodenhiser – Let’s have Tetra Tech Rizzo do an inspection and identify any remaining issues

Dave Pellegrini – We could do more of a general inspection.

Andy Rodenhiser – We have a 45 day window to respond. He wants his bond money back to pay GLM for engineering work.

So what happens?

I would even suggest we include Dave’s inspection report in our letter to them.

## **Discussion on Subdivision Rules and Regs**

Note – Send PB members a copy of the Development Impact Report we use.

## **Zoning Bylaw articles**

Gas Stations in commercial I. The board reviewed a handout from Gino Carlucci dated 9/8/09. See attached.

Andy Rodenhiser departs at 9:30 pm

Discussion on size of vehicular fuel stations

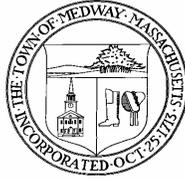
Board wants to see consistency on the number of allowable pumps Commercial I and V districts

A motion was made by Chan Rogers, seconded by Karyl Spiller-Walsh to adjourn the meeting. The motion was approved.

The meeting was adjourned at 10:30 pm.

Respectfully submitted,

Susan E. 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*

September 4, 2009

Mr. Ralph Costello  
Cedar Trail Trust  
C/o Unique Homes  
503 Main Street  
Medfield, MA 02052

RE: The Meadows Subdivision – Goldenrod Drive and Cardinal Circle

Dear Ralph,

Thank you for submitting revised as-built/street acceptance plans for The Meadows subdivision which includes all of Goldenrod Drive and Cardinal Circle. The plans were prepared by GLM Engineering, with a revision date of 8/25/09. We were pleased to note GLM's indication that the revised plans now show a number of items that VHB Engineering had specified as being necessary as long ago as November 2007. Those items pertain to flowage easements, plan title, surveyor's certification and signature blocks. Thank you for making those changes. Today, I provided a set of the revised as-built/street acceptance plan to Tetra Tech Rizzo, the Town's current engineering consultant, for final review. We await their report.

On September 1, 2009, we received the letter dated 8/28/09 from Attorney Richard Gallogly on your behalf in which he states that construction of the ways and installation of municipal services at The Meadows has been completed. He also provided signed sewer, trail and drainage easements. On 9/2/09, I mailed those original easement documents to Medway Town Counsel, Barbara Saint Andre, of Petrini & Associates. Barbara is on vacation and will return next week. Please be advised that we understand that there are still outstanding issues relative to the deeds to convey the roads to the Town of Medway.

There also remain a number of other items you have not yet provided to the Town, despite our repeated requests for you to do so. The Planning and Economic Development Board requires these items for street acceptance. They were specified in the Street Acceptance Checklist which we have previously provided to you on several occasions, as far back as

December 2007. These items are listed below. You need to submit or arrange to have these items submitted to the Planning and Economic Development office.

1. Letter/Certificate of Completion/Compliance signed by you, and signed and stamped by your engineer to certify that construction of the subdivision roadways and infrastructure has been completed in accordance with the approved/endorsed Definitive Subdivision Plan for The Meadows.
2. Conservation Commission Certificate of Compliance if there is an outstanding Order of Conditions relative to construction of the subdivision road and infrastructure. If not, we need a written communication from you certifying to the fact there the Medway Conservation Commission never issued an Order of Conditions applicable to the subdivision's road and infrastructure.
3. Memoranda from the following Town boards/departments to indicate that they have conducted an on-site inspection of the road and infrastructure and that all work has been completed to their satisfaction. Please contact the individuals listed below to request their inspection and review. They will receive copies of this letter and may contact Susy Affleck-Childs our Planning and Economic Development Coordinator if they have any questions. Their memos should be directed to her.
  - Department of Public Services – Dave D'Amico, 508-533-3275
  - Police Department – Sergeant Jeff Watson, 508-533-3212
  - Fire Department – Chief Paul Trufant, 508-533-3213
4. Proof from the Medway Treasurer/Collector's office that Medway taxes are current for any property within the subdivision that you or an associated entity to which you are a party still own. If you no longer own any house lots, please provide a written communication from you to that effect.

Thank you for your attention to these matters. If you have any questions, please contact Susy Affleck-Childs, our Planning and Economic Development Coordinator at 508-533-3291.

Best regards,

Andy Rodenhiser  
Chairman

cc: Patricia Brennan - Medway Conservation Agent  
Dave D'Amico - Director Medway Department of Public Services  
Richard Gallogly – Rackemann, Sawyer & Brewster  
Dave Pellegrini, Tetra Tech Rizzo  
Barbara Saint Andre, Petrini & Associates  
Kim Shorey, Medway Treasurer/Collector's office  
Rob Truax, GLM Engineering  
Chief Paul Trufant - Medway Fire  
Sergeant Jeff Watson - Medway Police

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**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)

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**TO:** Medway Planning Board

**FROM:** Gino D. Carlucci, Jr.

**DATE:** September 8, 2009

**SUBJECT:** Potential Gas Stations in C1 District

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Attached is a list of parcels indicating existing and potential gas station sites in the C1 district. It should be noted the “potential” sites are listed based on size and it is unlikely that most of them would ever be considered for replacement by a gas station, however defined. The purpose of their inclusion is intended to indicate the relative value of other forms of development (and potential tax revenue) compared to gas stations.

As the table indicates, other types of development generally have significantly more value than gas stations. The average building values of the three existing stations is \$66,300 or \$136,133 when the canopies are included. This compares with an average value of \$396,130 for other types of development.

It should also be noted that the Irving gas station on Hartford Avenue in Bellingham is located on 7.87 acres, considerably more than the stations in Medway. It is unclear if additional development is possible on this site. The current assessment of the land is \$676,400, but it sold for \$1,186,390 in 2006. The high value may be an indication that additional uses are possible. There is no assessment for the building yet in the Town’s Assessor’s database.

Another comparative example is the Tedeschi facility on West Central Street in Franklin. That site is .756 acres, more in the range of the Medway parcels. The assessed value of the 2612 square foot building on that site is \$441,900 plus \$94,700 for the canopy for a total of \$536,600. The land is assessed at \$233,300.

**EXISTING AND POTENTIAL GAS STATION SITES IN C1 DISTRICT**

<b>SITE</b>	<b>MAP/ PARCEL</b>	<b>AREA (acres)</b>	<b>FRONTAGE</b>	<b>BUILDING ASSESSMENT</b>	<b>LAND ASSESSMENT</b>
<b>EXISTING STATIONS</b>					
<b>Mobil</b>	6-41B	.60	175	\$69,400 + \$102,900* = \$172,300	\$168,900
<b>Shell</b>	6-319	.34	125	\$145,100 + \$84,100* = \$273,900	\$145,500
<b>Energy</b>	6-36	.26	123	\$53,800 + \$22,500* = \$76,300	\$145,100
<b>Average</b>		.4	141	\$66,300 + \$69833* = \$136,133	\$153,167
<b>POTENTIAL SITES</b>					
<b>Cumberland Farms</b>	5-277A	.69	162	\$344,200	\$130,200
<b>Charles Building</b>	6-41	1.1	125	\$85,200	\$152,300
<b>Post Office</b>	6-41C	.95	152	\$254,500	\$258,900
<b>Car Wash</b>	6-41Z	.69	100	\$168,200	\$194,200
<b>Burger King</b>	6-41X	1.2	175	\$887,200	\$259,700
<b>Dunkin Donuts</b>	6-38B	.52	102	\$404,300	\$145,700
<b>Middlesex Bank</b>	6-38C	1.29	155	\$734,900	\$294,000
<b>Medical Building</b>	6-38A	.59	110	\$431,700	\$129,800
<b>Cenedella House</b>	6-39	.50	150	\$126,300	\$116,500
<b>Bank of America</b>	5-280X	.52	90	\$524,800	\$145,700
<b>Average</b>		.81	132	\$396,130	\$182,700

\*Detached structure, apparently the canopy

**September 22, 2009**  
**Planning and Economic Development Board Meeting**  
**Sanford Hall, 155 Village Street**

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

**ABSENT WITH NOTICE –** Tom Gay

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

Bob Tucker – We need one more member to make the quorum. We knew one member would be absent and that Andy Rodenhiser would be late arriving around 8:15 or so. Karyl Spiller-Walsh will be here in 10-15 minutes. We can't conduct business until then so if you would like to wait, we can as well.

The meeting was called to order at 7:33 p.m. by Vice Chairman Bob Tucker.

**CITIZEN COMMENTS -** None

Bob Tucker – I apologize for being delayed. We do have to have a quorum to meet. We now have the quorum.

**Public Hearing – 4 Main Street Site Plan Modification**

A motion was made by Chan Rogers to waive the reading of the public hearing notice, seconded by Karyl Spiller-Walsh. The motion was approved by all present voting yes. The public hearing notice is attached.

Bob Potheau – I was trying to rush this to get it done before winter. That is going to be impossible now, so there is not as much pressure on you. We can work thru the process. I will be away on a project for many months. What I would like to do is try to get thru so the permitting is in place for next spring.

Bob Potheau – the site plan is a modification. The board had voted this in the past. The building that is along Route 109 is a nonconforming building which was built many years ago. I want to take that building down. Less space might be better. – I am here to take the building down. – I believe that is my goal. If we can't do it, and it becomes too complicated (because of the bank), it may have to stay.

Chan Rogers – which one?

Bob Potheau – Let's look at page 3 of the plans – it is the front part.

Bob Tucker – Susy, is there anything that would preclude him from getting a demolition permit without going through the site plan review process?

Susy Affleck-Childs – I am not sure but not demolishing it might have to be a plan modification.

Bob Potheau – It was a junkyard office. There is some pushing and pulling. It seems suitable to go about it this way. We are doing very little except taking it down and putting up a fence

Bob Potheau – the existing two story building will remain – the one in front is what will come down – all the nonconformity would be removed which is that portion that is near the road – and we would pave it - we are talking about 5-6 more cars to park there – we aren't changing the drainage or any of the parking ratios – it is very limited – we are going to incorporate a master sign plan with this endeavor . . .

Bob Potheau – What we would be putting up is vinyl fencing and not the steel fence as was presented as part of the original application package.

Bob Potheau – There will be 42 feet of the adjacent building showing (after the demolition). We would use the mortarless NOVA brick in a beige color – same style as the other buildings. The color would better match the MetroWest building – trying to make it look continuous – not have any concrete block when it shows.

Bob Tucker – Would you take it all the way up to the roof soffit?

Bob Potheau – We would do it on the part that is showing to the west of the fence. I will do it myself on the part behind the fence.

The fence is about 20 – 22 feet back from the road and we will have a side yard that we don't now have.

Bob Tucker – The west end of the building . . . That portion of the wall that would be open to view?

Bob Potheau – That would be all nova brick.

Susy Affleck-Childs – But there will be a portion above the fence?

Bob Potheau – It is probably 3-4 feet there above the fence. We do have the brick for it.

Bob Tucker – You say you would do the work as a homeowner; you may want to talk to the building inspector. He may classify it as a commercial building and not just a homeowner type project.

Chan Rogers – What is the modification that you want to do?

Bob Potheau – The modification is taking the building down.

Bob Tucker - Let's get Gino Carlucci's comments in here for the record

Reference 9-18-09 review comments from Gino Carlucci, PGC Associates. – See Attached.

Bob Potheau – We will want permission to have a sign on that wall.

Karyl Spiller-Walsh – I think this will make a huge difference.

Bob Potheau - It will tie everything together.

Bob Potheau – That ugly pile of concrete is all gone. We were waiting to do it until the building came down, but now that we have to wait until the spring, we went ahead and did it.

Gino Carlucci's comments – Comment # 2 – I talked about the lighting. There were lighting locations shown. Are there additional light poles?

Bob Potheau – No additional lighting – no more pole lights

Gino Carlucci - There was a note in the waiver requests re: that don't match – there are lots of details in this modification that don't really apply. Some of the waivers refer to existing conditions and not to this phase of work.

Bob Potheau – I think it is just the islands.

Bob Potheau – There is one thing left which is to install a high berm across the back to direct the water correctly. When we put the finish paving coat we will do that – the only change.

Susy Affleck-Childs – When would you do that top coat and berm?

Bob Potheau – summer 2010

Gino Carlucci – Will there be auto storage in front? I may have been a little confused. There was a waiver request. Is it really auto display for MetroWest? It can't function as a parking lot because you can't go in and out.

Bob Potheau – It does not function as a parking lot.

Gino Carlucci – Better word is auto display or storage vs. parking.

Gino Carlucci- comment # 9 – The dimensions mentioned for the sign islands do not match the drawing. You should check that. It says they are 7 x 15, but the drawing shows it at 4 x 10.

Bob Potheau – We will make it conform.

Gino Carlucci – the retaining wall detail is still on the plans.

Bob Potheau – That is a left over from before (earlier phase)

Bob Tucker – The wall behind your house?

Bob Potheau – It is not visible from the street. It will be 2 x 4 concrete blocks. That is all it is – 4 feet high with the cap.

Gino Carlucci – There is a detail showing a wall and a fence - if it is 4 feet high, the wall needs a fence on top.

Bob Potheau – There will be a fence drilled into the concrete. It will be a mesh fence it will not be visible to the public.

Bob Tucker – Any retaining wall over 4 ft may require a building permit – local discretion.

Bob Potheau – It is the stackable concrete blocks.

Gino Carlucci – The only other comment – the plan shows handicap spaces to the far back of the parking lot. It is not really a concern of the site plan review. The building inspector might want the handicap spaces next to the building and not way out back.

Bob Potheau – Those buildings have not been built or inspected.

Susy Affleck-Childs – We have received a letter from John and Claudette MacNeil of 107 Oakland Street. I will read it into the record.

NOTE – The letter is attached to the minutes.

Bob Tucker– What is the status of all that?

Susy Affleck-Childs – I checked with the Board of Selectmen/Town Administrators office – For the business license for Metro West Auto Sales, there are no limitations on the business hours or lighting or on the number of cars.

Bob Potheau – There never was a limitation on the number of cars.

Bob Potheau – There are 2 security lights on all the time, but rarely are the light posts. We have addressed the issue of lights shining on the public ways. We are not in here for this at this point.

Chan Rogers – It is an opportunity for the board to review things that are going on there that are disruptive to the public, and you want approval, and we have a right to make some restrictions if there are some things that need to be addressed.

Bob Potheau – I would say to you that any further restrictions on lighting would mean I would withdraw this application. Those lights are on an automatic timer.

Bob Tucker – They should be checked to make sure the timer works.

Bob Potheau – I would suggest the board drive by and see what is on as security lights.

Bob Tucker – I will do so. We will take a look at that. I remember you did some adjustments.

Bob Potheau – We put shades onto the lights so they wouldn't shine onto the public way. We brought that to the board and addressed it. We haven't changed anything since.

Chan Rogers – I move we close the public hearing.

Bob Tucker – Is there any other information the public would like to offer as testimony?

Mr. MacNeil, 107 Oakland Street – The neighbors said there is no use coming to the meeting because he always gets his way. Those lights are on until 11 pm most nights.

Bob Tucker – We will take this into consideration.

Bob Potheau – I would like to make a comment regarding that issue.

Chan Rogers – If we get complaints we will communicate to you that you need to straighten out.

Bob Potheau – Every person has a piece of property, and we are permitted to do something with that property. I am not violating any site plan. My site plan does not have any limitations. The lights are not on all night. It is not the auto mile. There isn't much traffic. I can't have you scaling back what I have. That is almost like a taking of my property.

Chan Rogers – We are just saying we don't want you to have the lights on after 11 pm.

Bob Potheau – Then I would be giving up something that I already have now.

Bob Tucker – I am going to listen to any testimony, and we will take it under advisement.

Bob Potheau – I sleep in the bedroom right next to those lights. I don't believe we have created a nuisance.

Bob Tucker – There is a motion before us to close the public hearing. Is there a second?

Gino Carlucci – I believe Mr. Potheau has some more work to do on the master sign plan. You may want to keep the hearing open.

Chan Rogers – I withdraw my motion to close the hearing. Instead, I move to continue the public hearing to October 13 at 8 pm. The motion was seconded by Karyl Spiller-Walsh, and was approved unanimously.

Karyl Spiller-Walsh – Just a thought about the lights that you leave on. You are going to get a lot of glare on that vinyl fence.

Bob Potheau – The security lights are on either side of the building and they shine down directly

Bob Tucker – I will take a drive by tonight.

Bob Tucker – Would you take a second look at those four 100 watt bulbs?

**Daniels Wood Subdivision** – informal discussion

Glenn Murphy, attorney  
Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering  
Fred Sibley, property owner

Glenn Murphy – thank you for the opportunity – I am here in my capacity as of counsel to Borchers Law – also here are Fred Sibley, Dave Faist and Paul Yorkis. I understand the process has been ongoing – we are a new team working on Fred’s behalf – we hope to open up a meaningful and expeditious dialogue – so he can move forward and the PB can be satisfied – I believe from my perspective we’ll relate to the engineering and design of the project – I would like to turn over to Dave Faist

Dave Faist – I walked the site and reviewed the drainage calcs – I would like to focus on the drainage – sheet 4 of 6 – you will see – Rick Merrikin had provided drainage calcs and a catch basin system – In looking through the calcs they are fairly standard – one of the main things I wanted to discuss and ask the Planning Board’s consideration of a more practical approach instead of an underground structure. Look to the Mass stormwater standards usually administered through the wetlands protection act. This project is a single family house with a paper street created with a gravel driveway. Under state storm water standards, single family homes are exempt, but there are storm water standards in the subdivision rules and regs. The soils in this are type B. Dan O’Driscoll did some soil testing in the area where the house is going to go. The house location on the original plan is not accurate. It will have to be moved to be able to install a septic system. Would you consider giving a waiver on the storm water standards?

Dave Pellegri – the storm water law does exclude single family homes.

Dave Faist – It would be a request for a waiver from the storm water standards.

Susy Affleck-Childs – Do you propose any sort of storm water guidance?

Dave Faist – There is a stone wall that runs along the north edge of the property. It runs out to the land behind. It will direct the water off the site onto Fred Sibley’s property.

Karyl Spiller-Walsh – The septic system will be raised.

Fred Sibley – It goes into the woods and sinks into the soil on my property.

Dave Faist – Given that it is only a 14 foot gravel driveway vs. a bituminous paved driveway, the runoff is minimal.

Bob Tucker – Would you look at still installing cul tec?

Dave Faist – I would still recommend a roof drain – that is a simple – that is more the house and lot design. That can be installed fairly easily and it does put the water back in.

Fred Sibley – The proposal on the plan included curbing which directs water

Bob Tucker – We wanted to have the curbing to avoid any pooling.

Fred Sibley – The water generated by that little pipe probably wouldn't even make it down the hill – there is no sign of any disturbance at all since Todd (Allen's) house was built.

Bob Tucker – I remember one of the neighbors next to Todd Allen was very concerned.

Dave Faist – With a new grading scheme it would help promote infiltration..

Karyl Spiller-Walsh – What is the size of the house footprint?

Dave Faist – The alternative we are showing is 30 by 60.

Chan Rogers – What are we being asked to consider?

Bob Tucker – This is an informal discussion regarding a modification to the subdivision plan.

Susy Affleck-Childs – The board is obligated to consider how waivers are in the town's best interest. You will be asked to explain that.

Paul Yorkis – With respect to a non-drainage question - I would also like to reiterate our thanks for this informal meeting. I think it is important and appreciated.

Paul Yorkis – In the Certificate of Action, if I am reading it correctly now, there is a requirement before the property is conveyed that the driveway be constructed. There is somewhat of a problem with that. for a person to purchase the property they would get a construction loan that would cover land cost and construction costs. to have the requirement that the driveway be constructed before a building permit is issued is problematic, because you can't get a loan unless you have a building permit. – most banks that I interact with want to see that building permit before they will close – that has created somewhat of an obstacle – I am asking for the board to consider modifying that so it would allow the property to be conveyed in a way that would allow somebody else to build the driveway

Susy Affleck-Childs – I don't want the Board to comment on that at this time - you are obligated to have the road built or security provided . . . in lieu of construction. We will need to get counsel's input

Paul Yorkis – it is a unique set of circumstances – am I asking that there be some consideration to revising that – if you need some documentation

Susy Affleck-Childs – I would want you to provide a very specific request for what is the problem and how you would like it to be changed – I would look to you to make a specific proposal understanding our legal obligations – something we can bring to counsel to review Also . . . I understand the subdivision plan and decision were not recorded. So I don't know if we are talking about a new plan or a modification?

Fred Sibley – I held off on recording it because I would be charged taxes for a house lot

Susy Affleck-Childs – right now the lot really doesn't exist

Bob Tucker – we could actually rescind the plan

Glenn Murphy – give us a time limit to pull things together –

Gino Carlucci – I am not sure the Registry will accept a plan after 6 months –

Glenn Murphy – I will check on that

Paul Yorkis – my sense is that the board will consider some things but we have some work to do – could you give us a sense of how much time you can afford us to put together something

Bob Tucker – I would have hoped that you would have come in tonight with a schedule – you set the schedule – you know what the rules and regs say, I know three of you have been through this more than once – you guys set the schedule – you understand where the pitfalls are –

Karyl Spiller-Walsh – I have a lot of concern about the ultimate footprint on the property – we have had a lot of experience with house lots that have been approved with storm water management issues that develop as the footprints change – I would be concerned that what you propose and what works is what will actually be built

Dave Faist – if you look at that particular plan, it doesn't even show a septic location - we will do a limited drainage evaluation based on new grading

Dave Pellegrini – make the stormwater work – typically getting rid of the catch basins is a good thing – some sort of swale might be an option.

Paul Yorkis – we will shoot to submit something in 4 weeks –

### **ANR Plan – 28 Norfolk Avenue**

Paul DeSimone, senior – it is really - - house #28 – Lardin – they are purchasing lot 1A from house at 26 Norfolk (lot #2) – it is non conforming anyway in terms of lot sizes – the reasons for her purchasing this is if she sells her property which she intends to do she will have a conforming lot – the edge of the deck on the left side of the house is just about on the property line right now – it has been that way for 20 years – she approached the neighbor and asked if they would sell some land to make it a conforming lot – she went before the ZBA and they told her it was not a zoning issue and told her to go see the PB –

Gino Carlucci – there are 3 technical things that we ask for – the dimensional requirements for the zoning district, whether it is a scenic road, and whether it is 61 A and B – this is information that we want to see on ANR plans

Gino Carlucci – I do note in my comments a recommendation not having to do with approval or denial –the large lot is already nonconforming – in some cases, some ZBAs would see the lot as a new lot and a strict ZBA could say it was non preexisting but simply nonconforming and that could create a problem - it certainly complies and meets the substantive requirements for endorsement as an ANR plan.

Bob Tucker – Chan, any comments?

Chan Rogers – nothing that can be done to make house #26 more conforming than it is but I can't see that your observation would apply

Gino Carlucci – I have seen it happen in other towns.

Bob Tucker – anything that has to go on the drawing?

Gino Carlucci – dimensional requirements, scenic road, and 61 A – those are pretty simple to add

Chan Rogers – I would move approval of the ANR plan as presented with those changes.

The motion was seconded by Karyl Spiller-Walsh. The motion passed unanimously.

Susy Affleck-Childs – so Paul, please make those changes on the plan and bring it back to us. I will contact the board and have them come in a sign.

Bob Tucker – make those changes, bring the drawing into Susy Affleck-Childs and she will let us know to come in and sign it

Paul DeSimone – ok

### **Discussion on Proposed ConCom Rules and Regs**

NOTE – Attached is a preliminary review letter from Gino Carlucci and Dave Pellegrini.

Gino Carlucci – the definition of buffer zone deems it to be a RESOURCE AREA – this creates circulate reference throughout – logically it keeps continuing

NOTE - Andy Rodenhiser arrives – at 9:15 pm

Andy Rodenhiser – a couple of things right off the bat – is the only time that we are going to introduce these comments is at the public hearing? what if we were to request that they put off the hearing to provide more time?

Bob Tucker – the BOS asked them to delay and they declined – depending on what they get for comments – as Glenn Trindade described it, they weren't trying to ram anything through

Andy Rodenhiser – Paul Yorkis is saying that they are exceeding their authority with the rules and regs as proposed

Chan Rogers – I agree that they are exceeding their authority – I believe it does a real job on industrial development

Andy Rodenhiser – Dennis Crowley asked that I bring to the board that we would ask the ConCom to delay the public hearing –

Chan Rogers – I appeared before the BOS last night during citizens comments - I had two real concerns – the capricious way they reorganized town hall and that it was not conducive to employee morale - I did mention my concern that I thoroughly objected to the concom rules and regs and suggested to them that they should look at this matter – the chairman (Andy Espinosa) indicated they were doing it –

Susy Affleck-Childs – Suzanne and the Board of Selectmen have asked our consultants to look at the ConCom's rules and regs as well.

Chan Rogers – I need to be home at 9:45 pm for some personal business. My personal opinion is that we may have to meet on the 29th to be prepared for the Oct 1<sup>st</sup> public hearing – but my basic position is that the board ought to request the hearing be delayed - I think Oct 1<sup>st</sup> is too early for us to give a considered opinion - we don't know that there are other ConCom's in the Commonwealth that are imposing this level of restriction on growth and development

A motion was made by Bob Tucker, seconded by Chan Rogers to request that the Conservation Commission delay the public hearing so that we have additional time to prepare some comments to present. All Yes. The motion was approved.

Andy Rodenhiser – How do we want to proceed?

Dave Pellegrini – Gino Carlucci was just starting to talk about the comment s-

Bob Tucker – I would like to have a chance to digest the comments – I just got them today and haven't had the time to review

Andy Rodenhiser – what would you recommend as an alternative? I don't want to be just negative – what could be an alternative to achieve but also be mindful of the effect that this will have on development – I can't believe they actually wanted to have this kind of impact – they haven't had the benefit of working with Gino and

Chan Rogers –I think those kind of issues are simply unknowing –I think there is a lot of idealism in all this – it borders on naiveté in terms of impact

Andy Rodenhiser – we are spending money to have our dev process reviewed (green light, red light, yellow light – Northeastern University) – this is certainly a red light – we are taking the wetlands protection act and really pushing down on the dev community who will be confused and confounded by these new regs in Medway – it almost seems that not all circumstances should fall under the presumption that these areas should all receive protection by default

Chan Rogers – because of other constraints, we only have small areas devoted to industrial uses – we can't have regs that will further restrict development in those areas

Andy Rodenhiser – the idealism that you spoke of, it is hard to have integrity in what you say – wetlands need protection no matter where they are

Chan Rogers - I think there is justification because we have already had so much – double whammy impact on the area of industrial is going to be counterproductive to the town ever having a better tax base – it feel it is overzealousness would be a mistake – I believe they are well motivated

Dave Pellegrri – I think it is good that Suzanne picked a number of communities to compare –

Dave Pellegrri – extending the area may be OK to give them the ability to review more protects – but the danger is in the very strict definitions

Gino Carlucci – they are not really extending their jurisdiction – but they are just saying now that within the buffer area you can't build –

Andy Rodenhiser – I think there is a problem – when Cybex looked at this, they felt it would eliminate their addition

Gino Carlucci – they need to clarify the definitions first

Andy Rodenhiser – they may not be aware that anything is wrong

Chan Rogers – I think we should get our info to them as soon as possible

Andy Rodenhiser – give it to them as a comprehensive package – 3 part package –

Chan Rogers - there is a tremendous amount of repetition in these regs – it is superfluous to the implementation – I feel their motivation is such that they are not going to care about what other towns do – I think they will care about the impact of these regs on development

Dave Pellegrri – it didn't seem to me that their intent was to double down

Chan Rogers – I would like to think that they are not aware of the problems

Bob Tucker – don't count on it

Chan Rogers - if they have the unilateral ability to adopt these regs, they are going to do what they want

NOTE – The Board agreed to have a special meeting on Monday night, September 28<sup>th</sup> – 7 pm, location to be determined.

Chan Rogers – I want to share another point – in military I had many hours in a helicopter over eastern mass – everybody thinks it is over developed – we are nowhere near the concern that we are really overdeveloped – I am not one of these guys that is so worried – I think the bigger problem is greenhouse gases – patriot stadium is a fantastic mesh of development with environmental protection

Chan Rogers – I think it is terrible that the Conservation Commission has not been visible

NOTE - Chan Rogers leaves at 9:50 pm

Bob Tucker – let's hit the highlights of Gino Carlucci and Dave Pellegri's memo.

Bob Tucker – do they allow for waivers?

Gino Carlucci – they call them variances but they say they would grant them only in rare and unusual cases –

Gino Carlucci – a wetland has 100 feet of protection – but a pond I believe has 200 feet

Gino Carlucci – another thing that is a problem – comment #3 – they require that anybody must submit a full build out of the entire property – my suggestion is that applicants would have to provide a full delineation of all the wetlands - a full build out plan for the entire property is unreasonable

Gino Carlucci – there is a clear contradiction between the regs and the bylaw re: an extension of time – there are also contradictions on septic systems.

Bob Tucker – I think they know what they are writing – I am going to assume they have a basis – there are some pretty savvy people on the ConCom.

Susy Affleck-Childs – These are folks that are highly passionate about their mission.

Gino Carlucci – To contrast with DEP, if you leave the 50 foot buffer alone with no disturbance at all, Mass DEP allows for more flexibility in the 50 – 100 ft area.

Bob Tucker - is there a reasonable way to go after a variance on these things – apply a level of consistency – I can see a lot of people objecting and contesting and the town being a loser on a lot of cases – I think in the long run it would not be in the town's best interests

Dave Pellegri – we do a lot of work in Framingham – we propose activity in the no touch areas and we can make it work -

Gino Carlucci – Buffer areas can be improved

Attach Gino Carlucci and Dave's memo

Andy Rodenhiser – what is a sensitive resource receptor?? That should be defined so people know . . .

Dave Pellegri – do they have any discussion on redevelopment?

Gino Carlucci – only to the extent where they talk about already disturbed areas

Dave Pellegri – what about getting rid of pavement – could you do that?

Bob Tucker – I am not comfortable with how they describe variances

Gino Carlucci – they do talk about maintenance of existing structures

Andy Rodenhiser- can you go right to comment #17 re: variance

Bob Tucker – it is still way too subjective – you will have every applicant claiming they will be aggrieved by the town –

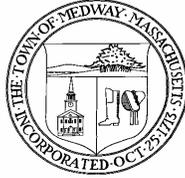
AGREED - Let's meet Monday, September 28<sup>th</sup> at 6:30 pm – and address some other issues

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to adjourn the meeting. Unanimous vote. APPROVED.

The meeting was adjourned at 10:15 pm

Respectfully submitted,

Susan E. 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*

August 30, 2009

***NOTICE OF PUBLIC HEARING***  
***4 Main Street - Site Plan Modification***

In accordance with the Medway Zoning Bylaw, Section V. Use Regulations, Subsection C. Site Plan Review and Approval and the provisions of Chapter 40A, Massachusetts General Laws, notice is given that ***the Medway Planning & Economic Development Board will conduct a Public Hearing on Tuesday, September 22, 2009 at 7:15 p.m. in the Sanford Room of Medway Town Hall, 155 Village St., Medway, MA to consider the application of Robert Potheau of Medway, MA to modify the previously approved site plan for 4 Main Street in order to implement Phase III of this redevelopment project.***

The subject premises at 4 Main ST is an approximately 5.5 acre parcel owned by Robert Potheau of Medway MA. The property is located on the north site of Main Street/Route 109 in the Business Industrial zoning district. The parcel is immediately west of the Town of Millis, east of Industrial Park Road and directly across from Oakland Street. Site reference is Medway Assessors Map 6, Parcel 479.

Phase III of this development project pertains to the middle portion of the parcel. The proposed work is shown on a plan entitled *4 Main Street Modification of Site Plan*, dated July 31, 2009, prepared by Merrikin Engineering of Millis, MA and DeSimone Associates of Medway, MA. The applicant proposes to demolish the existing, dilapidated, approximately 2500 square foot, one-story block building that sits very close to the roadway. The existing 2 story block building with gambrel roof that is located immediately behind and adjacent will remain in place. The existing wooden fence and concrete block wall will be removed and replaced with approximately 100 linear feet of decorative white vinyl fencing. The portion of the remaining building that faces Main Street and which is outside of the fence and visible from Main Street shall be refaced with brick in a similar color to the brick that is used elsewhere on the site. The present gravel driveway in front of the fence will be graded and paved in bituminous materials for use by MetroWest Auto Sales for auto display. Other site work includes the installation of three 7' by 15' planting areas for business and development signs. A master sign plan for the entire site will also be finalized.

The application and proposed site plan modification are on file with the Medway Town Clerk at 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. Interested persons or parties are invited to review the plans, 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 & Economic Development Board, 155 Village Street, Medway, MA 02053 or emailed to: [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org). Questions should be directed to the Medway Planning and Economic Development office at 508-533-3291.

**Andy Rodenhiser, Chairman**

To be published in the *Milford Daily News*:

Tuesday, September 8, 2009

Tuesday, September 15, 2009

cc: *Planning Boards* – Bellingham, Franklin, Holliston, Milford, Millis and Norfolk

*Medway Town Officials/Departments* – Board of Selectmen/Town Administrator, Board of Assessors, Board of Health, Building Inspector/Zoning Enforcement Officer, Community Preservation Committee, Conservation Commission, Design Review Committee, Disability Commission, Fire Department, Economic Development Committee, Police Department, Public Services Department, Town Clerk, Tree Warden, Water/Sewer Department, Zoning Board of Appeals.

**PGC ASSOCIATES, INC.**

*1 Toni Lane*  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)  
pgca@comcast.net

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September 18, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

Re: Potheau Site Plan, 4 Main Street

Dear Mr. Rodenhiser:

I have reviewed the site plan modification submitted by Robert Potheau of 4 Main Street, Medway, MA. The plan was prepared by Merrikin Engineering Co. of Millis and DeSimone and Associates of Medway.

The plan proposes to raze an existing building on the site, add a façade to the remaining building (currently behind the building to be razed), pave the area to the front of the site, remove an existing fence and wall and add a new fence and new retaining, and add three sign islands to the site.

I have comments as follows:

1. Section 203-1 strongly encourages a pre-application meeting. No pre-application meeting was held. Since this is a modification to an existing approved site plan, this step is less important than for a new project.
2. Section 204-5 D requires certain information on the proposed site plan. There is no information on lighting (other than a note stating new lighting will match existing light poles and will be directed downward, but locations are not shown), limited information on building elevation, and no details on the proposed signs. Also, limited landscaping information is provided (again, a note makes reference to plantings for a “new” building and no locations are shown). A waiver request notes that a short wall and plantings have been proposed, but unless the reference is to the sign islands, it is unclear where or of what nature the wall and plantings are.
3. Section 205-2 requires certain design standards. As noted above, no design details are provided.
4. Section 205-3 requires information on internal vehicular and pedestrian circulation on site. No information on such circulation is provided. The front of the site is shown as “auto storage.” However, this area is only 20 feet wide. It may be sufficient to park a row of cars in an angled

position, but they will be unable to be placed or removed independently. Also, maneuvering through the storage area appears difficult (but probably doable) due to the sign islands.

5. Section 205-7 requires provisions for snow storage. No information on this provided.
6. Section 205-8 requires adequate lighting around all buildings, parking areas, walkways, entrances, etc. It also requires certain features such as cut-off lenses, maximum height of 20 feet, etc. No lighting information is provided.
7. Section 205-9 includes requirements for trees and landscaping. As noted previously, limited landscaping information is provided. It also requires 1 tree per 6 parking spaces. It does not appear that this has been provided. The applicant has requested a waiver landscaping be added to this existing site.
8. The handicapped space serving the building to remain may not comply with ADA and AAB requirements.
9. The dimensions for the sign islands indicated in the project description do not match the scaled dimensions on the plans.
10. The retaining wall detail indicates a fence in front of the top of the wall. The plans do not show such a fence and it is unclear if a fence is necessary (it is not necessary if the wall is less than 4 feet high).
11. It appears that some of the waiver requests are for existing conditions rather than for the proposed new work. For example, there are waiver requests to not require curbing on existing parking areas and to allow parking areas to back into access driveways.
12. It may be more appropriate to justify the waiver to allow “parking” in front of the site because it is actually a display area for cars that are for sale as opposed to a parking area (the narrow dimension of the area would not be usable as a parking area).

If there are any questions about these comments, please call or e-mail me.

Sincerely,



Gino D. Carlucci, Jr.

9/18/09

Dear Planning Board Members,

Re: Site Plan Modification  
of 4 Main St. Medway, Mass.

We the abutters living across  
Rt 109 at 107 Oakland St, Medway,  
have nothing against the  
demolishing of the existing  
deteriorated building which is an  
eyesore, upon entering Medway  
since many years. Our main  
concern is the lighting at  
4 Main St. The lighting  
at that property are suppose  
to be turned off at 10 pm and  
are on until 11 pm and later.  
There are several high lights  
around the property that are  
on almost all night. We  
understand they want to put in  
three 7' x 15' planting areas which  
will have some illuminated signs  
we are against this also.

Also there was no rest  
of how many cars could  
be on that sight, we know  
it was 27.

Thankyou for taking all  
this into consideration.

Colanette True Field  
John W Moore Field

107 Oakland St.

RECEIVED  
SEP 22 2009  
TOWN OF MEDWAY  
PLANNING BOARD

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**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
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pgca@comcast.net

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September 17, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

**Re: Draft Conservation Commission Rules and Regulations**

Dear Mr. Rodenhiser:

I have reviewed the draft Conservation Commission Rules and Regulations. My primary focus was to identify any conflicts between the Rules and the Medway wetlands bylaw, Planning Board Rules and Regulations and DEP Rules and Regulations. I also identified potential impacts on development projects, and I have prepared a Town-wide map indicating Medway wetlands with 25, 50 and 100-foot buffer zones delineated, as well as maps of the Industrial I and III districts enlarged. It should be noted that this map understates the situation as it only includes those wetlands that are available from MassGIS. It also does not indicate riparian areas. David Pelligri of TetraTech Rizzo has also reviewed the draft Rules and Regulations. He has provided comments on my comments as well as several additional comments, all of which appear in *italics* below.

My comments are as follows:

1. Section 1.03 Jurisdiction – This section states that a buffer zone surrounding a Resource Area is itself deemed to be a Resource Area protected by the By-Law. I think this creates some confusion since there are later references to “Resource Area” and it becomes uncertain as to whether the buffer one is included or not. This is especially true when distances from the “Resource Area” are mentioned. Perhaps something like the following would have the same effect without the confusion: In addition, the buffer zone surrounding a Resource Area it itself deemed to be a resource protected by the By-Law.”

*Throughout the document there are references to buffers and resource areas, however they are defined differently in the Regulations and the WPA. As I read the Regulations there is technically no buffer zone associated with the Medway By-Laws. Once the buffer zone is defined as a resource area, the definitions need to be clarified.*

*Additionally, it is unclear how the buffer zone applies to the outer Riparian zone which itself is a Resource Area.*

2. Section 1.04 Definitions – Several of the definitions in this section simply refer to the section of the bylaw where those terms are described. The DEP regulations also do this. It would be simpler to include the definition in the definitions section and not repeat it later in the

*Planning*

*Project Management*

*Policy Analysis*

document or delete it from the Definitions section and rely on the description in the later sections.

*The “Bank” definition references section 2.5 for the definition. I believe the definition is in Section 3.01.*

*The WPA does not exclude economics from their definition of “Best Available Means”. While economics should not define this term, it should be included as a component of the definition.*

*Several definitions in this section extend, but do not conflict with, the coverage of the By-Laws beyond the WPA. For example, the definition of “Owner of Land Abutting the Activity” extends the coverage beyond the WPA by adding “lake, and pond” to the end of the definition. Additionally, the definition for “Pond” in the By-Laws requires an area of 5,000 square feet, while the WPA requires an area of 10,000 square feet.*

*The definition of “Prior Disturbance” notes that “any disturbance in the vicinity of the project”. This wording of vicinity is typically too vague for regulations.*

*Some of the items described in the definition of a “Small Project” such as the construction of decks, patios, pools, sheds, etc are exempt from the WPA if they are beyond 50’ from the mean annual high-water line within the Riverfront Area or from the BVW. This extends the coverage of the By-Laws beyond the WPA but does not conflict with the WPA.*

3. Section 2.3 – This section seems to require that an “entire project, including full build out” must be included in any Filing. I am not sure it is reasonable or useful to require that a plan for an owners entire property be required if the present need requires just a small part of the land. I think it is reasonable to require a resource delineation of the entire parcel or parcels (in part to ensure that incremental development does not result in a self-induced hardship), but for large parcels it may be difficult to project potential development that may not happen for many years since economic and market changes may result in very different projects in future years. Also, this section includes a reference to “adjoining subdivisions under the control of the same owner but not yet built, shall be considered the same project.” The term “subdivisions” should probably be changed to “parcels” since even in the residential districts there are development options other than subdivisions, e.g condominium developments.
4. Section 2.9- *This section requires the completion of actions associated with the MEPA submittal prior to the close of a hearing by the Commission. This will make the permitting of the project more difficult for the applicant because when filing the ENF the applicant does not always know whether an EIR is required. Therefore, the ENF response would need to be received prior to submitting the local Notice of Intent to ensure proper timing of approvals.*
5. Section 2.11 – This subsection says that Determinations of Applicability cannot be extended beyond their initial 3-year term. This is contrary to the Wetlands By-Law which, in Section 21.6, expressly authorizes a single 1-year extension provided a written request for it is received at least 45 days prior to expiration.

6. Section 2.13 – Same as 2.11, except it does allow the Commission to approve an extension. However, the By-Law specifies that a 1-year extension can be obtained if requested 45 days prior to expiration.
7. Section 2.17 – Subsections (a) and (b) are contradictory since (a) says it presumes septic systems compliant with Title 5 or Medway Board of Health requirements protects the interests identified in the By-Law, then (b) says they can't be within 100 feet of a Resource Area because they don't protect those interests.

*Additionally, subsection (b) requires a 100' offset from the Resource Area. Because the buffer zones are defined by the By-Laws to be resource areas themselves, this requires the system to be located 200' from the Resource Area as defined by the WPA. This could substantially restrict development.*

8. Section 2.19 provides for the Commission to limit lawn area and impose irrigation restrictions. I think this is a good idea, but I wonder if there is a legal basis for this authority for the Commission.

*Section 3.02 (2) (a) when describing Freshwater Wetlands this section states "Said Resource Areas shall be protected whether or not they border surface waters". It should be noted that the WPA does not include this stipulation, therefore the By-Laws may extend the local jurisdiction.*

9. Section 3.04 (1) (b) defines "Isolated Land Subject to Flooding." This definition does not include a minimum area. This conflicts with the By-Law, which states that in order to be afforded protection, Isolated Lands Subject to Flooding must encompass a minimum surface area of 5000 square feet. It should also be noted that DEP regulations define Isolated Land Subject to Flooding as encompassing at least a ¼ acre-feet of water with an average depth of at least 6 inches at least once per year.
10. Section 4.01- *When this section refers to Wetlands I assume they mean Freshwater Wetlands as defined by the Regulations.*
11. Section 5.06 specifies Minimum Performance Standards. It establishes a "No Disturb Setback" of 25 feet. This is accordance with the By-Law. However, the By-Law provides exceptions for certain utility work, agricultural practices and emergency projects. The regulations should include language such as "except as provided in the By-Law."
12. Section 5.06 also provides for a 100-foot "No Build Setback," and "No Disturb Setbacks" of 25-, 50- and 75-feet for different circumstances. The 25-50-foot setback applies to already-disturbed areas. The 50-foot setback applies to new disturbances on previously undisturbed land. The 75-foot setback applies to certain specified sensitive areas. The By-Law does not provide for these but it does not preclude them either so there is no direct conflict unless the intent of the By-Law is to allow disturbance in these areas. This, of course, reduces the land available for building by 75 feet adjacent to any wetlands and for disturbance of any kind (e.g. for parking, lawns, storage, etc. by 25 to 50 feet. It should be noted that a 50-foot "no-build"

setback is common and there is scientific evidence to support such a setback. Logically, greater setbacks will generally provide better protection, but at the cost of reducing developable area.

13. Section 5.06 also states that the Rules and Regulations should not be construed to preclude access paths, vista pruning of construction of water-dependent structures within the buffer zone subject to the discretion of the Commission. It is not clear under what process such discretion may be obtained. It would seem appropriate for this to occur under a Request for Determination of Applicability. It should be noted that DEP regulations provide for “minor activities” that are not subject to regulation. These include unpaved pedestrian walkways for private use, fencing (as long as it is not a barrier to wildlife); vista pruning more than 50 feet from a resource area; planting of native species of trees, shrubs or groundcover (excluding turf lawns); conversion of lawn uses to decks, patios, etc. (if more than 50 feet from resource area); conversion of impervious surfaces to vegetated surfaces with erosion controls; and temporary activities with negligible impacts.
14. *Section 5.06 (a) states that the No Build Setback shall be 100 feet from any Resource Area. Since the By-Laws define the buffer zone as a Resource Area, this would require a No-Build setback 200’ from the Resource Area as defined by the WPA. Clarification of these terms as previously stated would alleviate this issue.*
15. It should be noted that DEP regulations also exempt from regulations certain activities within the 50 to 100 foot buffer zone if certain conditions are met. The conditions include that the buffer zone does not contain slopes greater than 15%, there are no Estimated Habitat areas in the buffer zone, the buffer zone does not border on an Outstanding Resource Water (i.e. vernal pools, public water supplies, or Area of Critical Environmental Concern), impervious surface in the 50-100 foot portion of the buffer zone will not exceed 40% and no alteration of the 50-foot buffer zone will occur, stormwater management complies with DEP standards, and no Notice of Intent for work within the 50-foot buffer will be filed during the three years of the Order of Resource Delineation. Such exempt work may be authorized through an Abbreviated Notice of Resource Area Delineation.
16. Section 6 Vernal Pools – The regulations state that a depression that possesses the physical characteristics of a vernal pool will be assumed to be one whether or not it is certified as such by DEP. The burden of proving it is not a vernal pool will be on the applicant, and this may require that observations of the depression during the appropriate seasons take place.
17. Section 7 Variance – The Rules and Regulations provide for the opportunity for the Commission to grant variances from the rules but only in “rare and unusual cases.” It is the responsibility of the applicant to provide “clear and convincing” evidence that the proposed work will not have any adverse effect upon the interests protected by the By-Law. It may also grant variances in cases where not doing so would result in an unconstitutional taking of the property, or where the work will have an overriding public benefit.
18. Section 8.02 specifies that plans shall include elevation contours and indicate the referenced datum used. Since the Planning Board requires North American Vertical Datum of 1988, it is probably a good idea to specify this standard to avoid conflict with Planning Board standards since an applicant is likely to apply to Conservation Commission first.

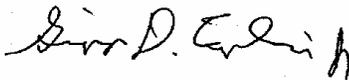
19. Section 8.03 specifies drainage information. It requires drainage calculations for the 1, 10, 25 and 100-year storms, while Planning Board requires calculations for the 2,10, 25 and 100 year storms. These should be consistent.

*Section 8.03 (2) states that storm drains and retention basins shall be designed for a 10-year frequency, while the Planning Board requires that the storm piping system be designed for the 25-year storm.*

*Section 8.03 (2) states that culverts shall be designed based on a 25-year storm, while the Planning Board requires the culverts be designed for the 50-year storm event.*

If there are any questions about these comments, please call or e-mail me.

Sincerely,



Gino D. Carlucci, Jr.

Sincerely,



David R. Pellegri

**September 28, 2009**  
**Planning and Economic Development Board - SPECIAL Meeting**  
**Sanford Hall, 155 Village Street**

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

**ABSENT WITH NOTICE** – Tom Gay

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Sean Reardon, Tetra Tech Rizzo  
Glenn Murphy, Conservation Commission  
Brian Snow, Conservation Commission  
Dave Travalini, Conservation Commission  
Glenn Trindade, Board of Selectmen

The meeting was called to order at 6:45 p.m.

**CITIZEN COMMENTS** - None

**Miscellaneous Business**

Susy Affleck-Childs – I have distributed to you the draft Sign Violation Warning form John Emidy and I have worked on. Also a working list of likely sign violations. That will start soon.

I also have a letter to you from Dick Steinhoff. Letter is attached. He is buying 146 Main Street and wants to talk with you about using the adaptive use overlay district option. He pretty much wants to demolish the building and build a new office building. By AUOD bylaw requires renovation. I believe this comes down to how you want to define renovation. How much can be demolished/removed and still consider it to be rehab?

Karyl Spiller-Walsh – Okay by me

Andy Rodenhiser – It protects the neighborhood –

Bob Tucker – Okay, let's see what he has to say.

Susy Affleck-Childs – With this, we would consolidate site plan review with the AOUD special permit process into one hearing.

**Meeting Minutes**

A motion was made by Chan Rogers, seconded by Bob Tucker to approve the minutes of the July 28, August 4, August 25 and Sept 8, 2009 meetings. The motion was approved.-----

## **Discussion on Proposed Concom Rules and Regs**

Reference to:

- draft ConCom Rules and Regulations – undated document, 34 pages in length.
- 9-17 09 review memo prepared Gino Carlucci and Dave Pellegrini (attached).

Gino Carlucci – I want to apologize for not including info on Medfield – their info is not on line; and the ConCom offices were closed on Friday and Monday – I can add info later

Andy Rodenhiser – sounds like the chair of the ConCom is going to be continuing the public hearing anyway so we can continue to give them some data

NOTE - Also here are Glenn Murphy and Brian Snow of the Conservation Commission

Gino Carlucci - In all cases the categories are not perfectly identical, but they are close enough to make this chart. The issues listed on the left side match up the issues we identified in our first letter.

Jurisdictional – seems to be a definitional issue – buffer zone to resource area to buffer zone – seemed a little confusing. In the Millis and Franklin bylaws, there didn't seem to be that confusion, but I know in this chart Tetra Tech Rizzo notes some difficulties with a certain definition – question on how to measure.

Sean Reardon – In the definitions, buffer zone is circular.

Andy Rodenhiser- A key word may be “except” – when we last met, we were looking at the letter and matrix and a set of recommendations. Are you still going to do that?

Gino Carlucci – Yes, I did have a recommendation in the initial letter

Sean Reardon – or follow the guide in the Wetlands Protection Act (WPA). They do a really good job with the definitions.

Andy Rodenhiser –Do you think you can make recommendations/requests in a clear and usable way?

Karyl Spiller-Walsh – It sounds like they (ConCom) have added another layer – another protected area. Does the buffer zone become another resource area - it needs separate definitions – don't want them to become one and the same – peel it back.

Gino Carlucci – Terminology creates confusion.

Sean Reardon – You have to look further in the document. Buffer zone is used later – the way it is now, there is no buffer zone. It appears that that is the intent.

Chan Rogers – They defined the buffer zone as a resource area.

Sean Reardon – 2 critical things- they are adding buffer zones 100 feet more. Under the regs, the riverfront and bordering wetlands now have buffer zones - key is that the buffer zones are now considered resource areas.

Andy Rodenhiser – If they do not intend to increase regulation any more than what they are doing, then this text doesn't match

Sean Reardon – The wording increases the jurisdiction

Bob Tucker – If it is their intent, let it be clearly defined.

Sean Reardon – There should be no other reference to buffer zone – call it something else.

Gino Carlucci – A few definitions that are listed – river/stream –

Andy Rodenhiser – If we see something in the chart under river/stream and it is blank, what should the reader take away from that?

Gino Carlucci – I think this is a matter of lacking one more iteration of the chart. I hadn't included them in mine but Dave did in his. I can add those in.

Sean Reardon – The Medway regs are fairly silent on the riverfront resource area where other sections have their own text. That is not the case here.

Bob Tucker – Would that mean then that it would be comparable to the WPA?

Sean Reardon – I don't think it was their intent to define another boundary beyond the 200 foot.

Gino Carlucci – “Best available means” excludes economics in the Medway regs – none of the other towns address that. Not used in Millis and Franklin

Sean Reardon – The WPA doesn't either.

Bob Tucker – They are basing it strictly on technology.

Gino Carlucci – Question on what distances constitute the buffer zone – varies from town to town re: vernal pool

Gino Carlucci – re: ponds – There were some comments about defining a pond.

Andy Rodenhiser – By no definition, it defaults to WPA.

Andy Rodenhiser – It would be nice to be able to compare among the towns. Is it possible to revise the chart and fill in the blanks?

Sean Reardon – Will there be a redraft (of the ConCom rules and regs)

Andy Rodenhiser – I understand they will open the public hearing, and then continue it, and during that time they will make changes. They will take testimony. They will continue the public hearing.

Chan Rogers – There is going to have to be some major introduction of their position. The proposed regs are onerous and severe as they are now written.

John Williams – You need to provide some context.

Chan Rogers – Now Dave Travalini is telling Andy Rodenhiser that that was not their intent. At some point, some interpretation of what they have written has to be given.

Sean Reardon – It is not an easy task to do this. It is an iterative process. This is a good effort.

Andy Rodenhiser – It is just a matter of timing of the public hearing. There was a fear that the adoption of the rules and regs would make for a flood of applications. They may not be aware of the idea of putting in an effective date. I don't understand the concern there if you aren't concerned about doing deeper.

Chan Rogers – Several potential developers are panic struck by what has been proposed. That is not an exaggeration. Our current industrial park will become useless if these regs are adopted.

Sean Reardon – There is a variance process. It is not like the exclusions are set in stone. There is an opportunity to go beyond. The tone of it is pretty aggressive. If I were reading this as a consultant to a developer, I would read from this that they are serious about defending this area.

Sean Reardon –The variance process is how the commission decides to implement the regs

Sean Reardon – I would come away from reading this as there is a tough row to hoe.

Gino Carlucci – Relationship to the Massachusetts Environmental Protection Act (MEPA) – none of the other towns have that element.

Andy Rodenhiser – impact of that?

Gino Carlucci – concern about time to complete an EIR

Sean Reardon – The MEPA process is a state process for coordinated review. It puts all the state agencies in one pool, and it can take months/years – exceeding certain thresholds and certain types of activities. What triggers MEPA? You want the MEPA and the local ConCom process to occur concurrently. I don't think the language here is such a big deal. Have to keep it open until the MEPA process is completed.

Gino Carlucci – keeping the hearing open is a good thing

Glenn Trindade – We have certain areas that we have designated 43D sites -

Andy Rodenhiser – What is the impact of this on our 43D sites? If we have 180 days to make a local decision, what if MEPA process extends on much longer?

Brian Snow – The intent is to keep the process open. If MEPA decides they want to do xyz, we wanted to be able to incorporate that into the local decision.

Andy Rodenhiser – In the case of a 43D . . . .

Glenn Trindade – MEPA project, certain thresholds – what are they? Comes into play for a huge project

Sean Reardon - 1000 parking spaces is one item. MEPA review and wetlands are not really connected too much. I am not sure what the bang for this buck is. There are mechanisms to change

Bob Tucker – It sounds like we may need to have some additional text at least for the 43D sites.

Sean Reardon – You are creating a linkage here that is not presently there.

Glenn Trindade – 43D sites are not likely to trigger a MEPA review. This is less an issue of 43D and more about keeping a hearing open

Sean Reardon – In most towns it is a totally independent processes. Not all MEPA reviews are tied to wetlands.

Andy Rodenhiser – The board could have rules to allow them to have the provisions.

Sean Reardon – What is the benefit to the ConCom that they don't already have to have this language in there

Brian Snow – We are trying to make the two decisions come together so the advertising and decisions come together.

Andy Rodenhiser – the cost of postage for abutter mailings

Sean Reardon – That is nothing; the real issue is project financing. The bank is going to be looking for the ConCom approvals. To the extent you are linking a local process to a cumbersome state process, it could be a barrier to financing.

John Williams – As you describe it, isn't it a hand in glove ruling that goes along with the ConCom?

Sean Reardon – Depends on the scope of the MEPA review – that covers many things unrelated to wetlands. I could have a MEPA filing that has nothing to do with wetlands but still have a local wetlands filing. MEPA is so much bigger and broader in scope than a local ConCom review. 90% of MEPA has nothing to do with wetlands.

Bob Tucker – The only link should be if there was a . . .

Sean Reardon – Even then, ConCom could seek to continue the hearing until a MEPA review is over. In most cases they aren't going to feel a need.

Andy Rodenhiser – really more of a financing problem, because ConCom can't close a hearing

Bob Tucker – Gino Carlucci, by NA noted in the other towns, there is no tie?

Gino Carlucci – Yes, correct.

Bob Tucker – suggestion – Instead of saying NA, just state what the WPA reg is

Andy Rodenhiser – To know that there is no definition or use of the term

Bob Tucker – I want this to be reader friendly –

Andy Rodenhiser – We want this to be useful -

Gino Carlucci – re: permit extensions – The draft regs directly conflict with the bylaw. The bylaw expressly allows for a 1 year extension. The regs do not allow extensions for RDA and Orders of Conditions

Sean Reardon – WPA allows up to a 3 year extension.

Brian Snow – The problem is that people forget.

Gino Carlucci – re: septic systems- There seems to be a contradiction between the regs and the bylaw.

Sean Reardon – You are talking about quite a ways away.

Andy Rodenhiser – 200 feet

Sean Reardon – yes . . .

Bob Tucker – We need to show where the holes are with this.

Gino Carlucci – Franklin had a reference to septic system. They allow for emergency repairs. None of the other towns had any mention of septic systems

Bob Tucker – What does the WPA provide?

Sean Reardon – Allows work right up to the limit of the wetland.

Gino Carlucci – A septic system would be considered a disturbance.

Sean Reardon – Adding a buffer zone around the flood plain is HUGE. There is a lot of development that would be excluded in the buffer area around the flood plain.

Gino Carlucci –No disturb, no build zones vary considerably among the various towns.

Bob Tucker – Add another column in here on what WPA provides. Show how the various towns compare.

Sean Reardon – Build and disturb are not defined. If it is silent, it could be anything.

Bob Tucker – You should say that those definitions are missing. Those are critical attributes that need to be well defined.

Andy Rodenhiser – How does this relate to the bylaw? Seems to conflict.

Sean Reardon –yes

Gino Carlucci – Hopkinton has different setbacks for different uses. They require a commercial industrial building to be 50-75 feet away from the wetlands, but a road can be as close as 30 feet and a driveway can be 15 feet. They had a finer breakdown.

Andy Rodenhiser – It would almost seem that a building would really have less long term impact than a road.

Brian Snow – Buildings tend to have areas around them that grow with sidewalks, lawn, etc. – a lot of the exterior stuff - added driveways – throw pallets back there

Sean Reardon – POD units or storage container –

Gino Carlucci – re: exemptions – There are exemptions provided. I need to fill that in some more. There are fewer than what is exempted in the bylaw.

Gino Carlucci – Millis didn't have any exemptions listed. Franklin allowed for minor without having to do an NOI

Sean Reardon – Under WPA, exempt means you are exempt from the whole act. to the extent that the local bylaw is different, you are creating a process that might not otherwise be there.

Question – on vernal pools?

Brian Snow – comparison of practice vs. regulation

Andy Rodenhiser – Dave Travalini said they wanted to put a freeze for 100 feet around what they think may be a vernal pool.

Brian Snow – We want to put the hold on the vernal pool area.

Sean Reardon – It is already a power they have through the WPA. I think you are confusing things a bit. This does say people have to wait until spring to do a vernal pool determination.

Andy Rodenhiser – I am told that a project can go forward except for the disputed area.

Sean Reardon –What performance standards would apply?

Brian Snow – Applicants will present a project with a vernal pool on it

Sean Reardon – Is the intent that the regs would extend another 100 feet

Brian Snow – We want the 100 feet from the bank of the vernal pool to be a no disturb zone. Most builders in town know that

Andy Rodenhiser – Does the language match the intent?

Sean Reardon – If it does, it does so awkwardly.

Andy Rodenhiser – Can you make a recommendation?

Andy Rodenhiser – We want to offer a recommendation to the ConCom. We recognize their autonomy. We want to give them a work product they can consider.

Susy Affleck-Childs – It seems we will need at least one more work session.

Chan Rogers – I think it could be a presentation by Gino Carlucci and Tetra Tech Rizzo on behalf of the Planning Board.

Bob Tucker – or at least an overview of what the issues are

Andy Rodenhiser – It is not Brian Snow’s intent, but that is how it is written. That is why people have so many burrs under the saddle.

Gino Carlucci – One last thing on vernal pool – the definition includes the 100 foot buffer zone. The intent could be the same, but say there is a 100 foot no disturb area

Gino Carlucci – re: variances – I would prefer the term waiver. Variance in zoning is very difficult. The language is very aggressive. They do provide for them but only in rare and unusual circumstances.

Andy Rodenhiser – Maybe a variance request form – with explanation on public interest.

Sean Reardon – WPA is years and years of drafting. The moving of the Neponset River for the Patriot Stadium did not require a variance.

Sean Reardon – I have always heard it referred to as a waiver – little bit lower threshold.

Bob Tucker – Holliston has no provisions for waivers. I find that surprising.

Sean Reardon – Chances are it is because they don't have the aggressive language.

Bob Tucker – Please check that out.

Gino Carlucci – re: replication – I didn't look at that for Millis and Franklin. I will now.

Bob Tucker – Are there any other issues that you think should be added?

Gino Carlucci – There was another issue I had identified in my first letter. I just didn't think it would show up in the other rules and regs. It had to do with requiring a full build out plan for all land owned by the applicant. That seemed very difficult to do with a big piece of land. It might be 20 years in build out. Market conditions change, economy changes. If the point was to prevent somebody from creating their own hardship, I think that could be addressed another way.

Andy Rodenhiser – Was it specific? Let's say somebody had 100 acres and only wanted to do 20 acres.

Gino Carlucci – I think you are hitting on some of the problems. Does that mean they are precluded from coming back later?

Sean Reardon – There is also an enforceability issue with subdivisions, enforcement actions.

Brian Snow – We have a lot of properties that have been subdivided over the course of 20-25 years. How do I deal with people?

Andy Rodenhiser – Would it just be not permissible?

Dave Travalini – It is difficult to track previous work.

Andy Rodenhiser – Perhaps you should file Conservation decisions with the property.

Dave Travalini – Sell off 10 lots, then you have the street left, and the developers take a walk. Who do we go after? We can't go after the homeowners. We are looking for a certificate of compliance for the entire development. They should know that going in. If the developer decides to abandon the road, the residents have to pick up

Andy Rodenhiser – Gino Carlucci, could we incorporate as part of our construction in our rules of regs a way for us to bond

Dave Travalini – We have talked about it. . . that idea has been challenged in court – bond was held by the Planning Board, held back dependent on ConCom – determined that ConCom would have to hold a separate bond.

Chan Rogers – We can only bond the road completion.

Andy Rodenhiser – Maybe there are some changes that could be made on our side.

Glenn Trindade - I think the whole purpose of public meetings is to do what you are doing right here. I don't believe ConCom is going to tell anybody that they have all the answers. Dave Travalini said here is my concern – Andy Rodenhiser is saying how can we address it?

Sean Reardon – There are measures that the Planning Board could employ.

Glenn Trindade – Find something that fits the need, which passes muster, makes it easy for folks that want to comply.

Sean Reardon – There are good leverage points – the releasing of building permits and certificates of occupancy.

Sean Reardon – You are going to accept the roadways. ConCom could end up putting an enforcement issue on you.

Dave Travalini – part of the issue that may – you bond the road – what we are talking about different work that may be required – just making it part of a bond. I don't believe the Planning Board can bond ConCom work.

Sean Reardon – That seems odd. If we saw replication work that was part of a subdivision plan, we would include it in a subdivision bond.

Dave Travalini – Can the Planning Board bond wetlands work on private property?

Andy Rodenhiser – I am trying to make the connection with the bonding process.

Andy Rodenhiser – Do formulate what the question might be. Ask town counsel if at some point in time during a ConCom hearing for a matter that is also with the Planning Board, if that resource area is determined to need attention or replication that that is in the public interest of protecting our watershed, the Planning Board is going to basically make that part of the bonding process for accepting streets so that the bond can be connected.

Chan Rogers – I think it can be done.

Karyl Spiller-Walsh – I think it is a spoiler. This is all part of general storm water management process. I don't see how it can really be separated

Andy Rodenhiser – Dave Travalini is talking about wetlands replication that is needed to allow for a road - replication to occur elsewhere on the property. The only reason they were allowed to go forward is because that replication.

Sean Reardon – The subdivision would not be approvable without the replication.

Andy Rodenhiser – We may not have looked at this from this perspective.

Dave Travalini – I seriously suggest you talk to town counsel. You might be overstepping your bounds. She may tell you that it has to be ConCom's. I don't know if you are going to be allowed to do that

Sean Reardon – If it is replication somewhere else not in the subdivision at all, then I could see how that would apply . . .

Dave Travalini – The topics I am concerned about wouldn't fall under storm water management. Reapplication areas don't generally fall under storm water.

Sean Reardon – I think what you are talking about is much less challengeable that these draft rules and regs . . .

Andy Rodenhiser – Sean, can you take this all back to Dave Pellegrini?

Sean Reardon – Based on the dialogue today, we might want to draft a different way to present our input

Bob Tucker – Eliminate the blanks in the form, show us the WPA provisions.

Dave Travalini – There is a recent court decision called the Heeler Decision. Waste of court time if bylaw is not stronger than the WPA.

Andy Rodenhiser – Please get info from Barbara Saint Andre on this case.

Dave Travalini – Town counsel has told us that our bylaw is not really strong because we don't have rules and regs in place. The goal is to define the why and the how.

Andy Rodenhiser – If the bylaw is not any stronger than the WPA, you can't strengthen the bylaw by making stronger rules and regs.

Dave Travalini- But you can define what they need to do. We protect the 100 feet, he said, she said - court asks if the town has told them HOW to protect.

Andy Rodenhiser – Shouldn't we strengthen the bylaw?

Dave Travalini – re: definition of a vernal pool – What the state says and what we consider – it has to be better – not make it more onerous, but better defined. If we say we protect, that is too nebulous – we can't exceed the bylaw.

Dave Travalini – My guess is that we will talk with whoever shows up. Our agent says this, we are getting letters from folks, something from you – we have no problem with discussing and changing it. What we are putting forth is not necessarily the end product.

Sean Reardon – We will prioritize our comments, and a whole slew of other miscellaneous comments.

Andy Rodenhiser – I had said earlier, there was a concern that a flood of plans would come into them at the last hour – in order to set a date in stone for effective date of rules and regs.

Gino Carlucci – With zoning, for special permit requirements, there is no grandfathering even if application comes in before town meeting votes.

Andy Rodenhiser – I also want to distribute a letter from EcoTec Environmental consultants dated 9-24-09. Comments on the ConCom regs.

Bob Tucker – Go ahead and expand and improve upon the matrix.

Bob Tucker – Have concluded we are not going to have all of our info completed for Thursday night (10-1-09)? What do we want to do Thursday night? What do we want to say? I don't want to leave ConCom out hanging.

Dave Travalini – They could just give it to us directly.

Bob Tucker – If we are going to give you a product, we owe you a due diligence look at it ourselves.

Dave Travalini – We will open the meeting on Thursday. I don't see the value in postponing (beginning the hearing). Get people talking. I don't want to sit there and say bam this is it. This will be a majority decision of the board. I can't just unilaterally postpone the public hearing. If there is a case for more information, I see us with some delay. I think we have given a lot of people a lot of time. We followed the bylaw in terms of giving it to everybody. I don't want to wait 2 months to get it in a completed state.

Chan Rogers – What you have proposed is not clear – there is a lot of contradictory info – this whole issue of boundaries on top of boundaries - that has to be sorted out – you have to take a position on it. I don't think there is any way you can go ahead without hearing testimony and take your own time to deliberate.

Dave Travalini – I understand. I can't speak for the rest of the board. We won't ignore anybody

Andy Rodenhiser – We could ask for some more time.

Dave Travalini – Our next meeting is the October 15<sup>th</sup> – get it into our hands before that.

Gino Carlucci – The Planning Board is meeting on October 13<sup>th</sup> –

Dave Travalini – It has gone through a number of meetings and working votes.

Glenn Trindade – The rules and regs can be amended if they need more changes. I have heard some good input tonight. Work toward something that everybody can live with – maybe there is some language in the first pass. That is what these meetings are for.

Andy Rodenhiser – making defensible decisions –

Dave Travalini – The process was done according to the bylaw – town counsel

Gino Carlucci – I think it is okay to work on this through the public hearing. I think it is OK for them to change part of the document.

Chan Rogers – You have heard some concerns about extending out the boundaries ad infinitum.

Andy Rodenhiser – Dave Travalini has already told us that was not the intent – and that would never hold up in court – it could be a taking.

Dave Travalini – These people have not shown up at our meetings to discuss – open to the public and – nobody bothered to show up and say what they think.

Chan Rogers – We have a problem with the compounding of the boundary, and I don't know how they are going to sort that out.

Glenn Trindade – It is just a question of changing the language. We will take that into consideration.

Sean Reardon – I would hope it is their intent to hear what we had to say, and take it under advisement.

Dave Travalini – If you have 6 board members that do not want to be reasonable, what would happen?

Glenn Trindade – What would happen is that the wetlands bylaw would be amended at spring town meeting. I expect the concom will be reasonable. I think tonight was a positive example. I thought this was very useful. Bringing this to bear is important. I think at the end we will have a dam good set of rules and regs that will come out of this.

Andy Rodenhiser – Who should we send to the meeting?

Dave Travalini – You have to gauge what the reasonableness of our board is to grant that extension. I can't tell you whether I will vote for that? If you want to not send the consultants, you have to gauge.

Sean Reardon – I don't know how much value we would add by being there. Put our comments on record and give them to you.

Andy Rodenhiser – I think we have said the 15<sup>th</sup> at the ConCom meeting.

Get comments to Susy Affleck-Childs, distribute to PB members, feedback to Susy Affleck-Childs.

Dave Travalini – If we decide to continue, and we make some changes, I will get that to Susy Affleck-Childs.

Dave Travalini – Trish Brennan says we pretty much fall in the middle –

NOTE - Bob Tucker will attend the 10-1 public hearing – may provide some highlights of the preponderance of our concerns. We are working on our recommendations.

Dave Travalini – We are going to listen to everybody.

Andy Rodenhiser – Thanks to Gino Carlucci and Sean Reardon for putting this together.

## **Blueberry Hill Bond Discussion**

Andy Rodenhiser – What other streets does this have an implication for?

Susy Affleck-Childs -

Chan Rogers – I don't see how anybody can do anything to solve this problem.

Andy Rodenhiser – We need to acknowledge and be prepared for the fall out, and make a decision on a cut off point.

Gino Carlucci – In this case there was a special provision. This is unique because of the agreement.

Susy Affleck-Childs to draft a motion for October 13<sup>th</sup> re: bond refund for Blueberry Hill Road.

A motion to adjourn was made by Karyl Spiller-Walsh, seconded by Chan Rogers. The motion was approved unanimously.

The meeting was adjourned at 9:30 pm

Respectfully submitted,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

## Steinhoff Realty Trust

21 September 2009

Medway Planning and Economic Development Board  
Town of Medway  
153 Village Street  
Medway, MA 02053

RECEIVED  
SEP 21 2009

TOWN OF MEDWAY  
PLANNING BOARD

Re: 1. 146 Main St., Medway In AR-II District, Parcel ID 5-264-0-R  
2. Medway Adaptive Use Overlay District for AR-II  
3. Medway Historical Commission Decision to Demolish 146 Main St., Medway  
dated July 28, 2009

Subj: Working with the Medway Adaptive Use Overlay By-Law

Dear Planning Board:

As you may be aware, Steinhoff Realty Trust is in the process of purchasing the property at 146 Main St., Medway (Ref. 1) which currently is a residence. The 2-story residence consists of approximately 1,832 SF and was built in 1880. The site size is 0.7 Acre. The reason for the purchase is the need for additional small professional business office space for ValuTrack Corporation from our current 700 SF office at 133 Main St., Medway. This property is attractive as it is in the Adaptive Use Overlay District (Ref. 2). However, as the 146 Main St. residence is in a badly run down condition, Steinhoff Realty Trust and the Seller received a decision to allow it to be demolished from the Medway Historical Commission (Ref. 3).

This said, I would like to explore, with the Planning Board, a way to rebuild the 146 Main St. property maintaining a 2-story residential building appearance in such a manner that the Medway Adaptive Use Overlay By-Law remains in effect while:

- a. building a similar looking 2-story building for small professional office environment that meets current building code. If our discussions are positive, Steinhoff Realty Trust will pursue relief from any disability based requirements with the Commonwealth for 2<sup>nd</sup> Floor access;  
plus
- b. add new construction for an additional 2 floors of small business professional offices off the back of the rebuilt building (44' x 60' footprint for an additional 5,280 SF and a total of 7,110 +/- SF). These would be 2 separate floors with no connectivity. ValuTrack Corporation would utilize the upper floor. The lower floor would provide rentable area as would part of the rebuilt structure;  
plus
- c. exploring the use both geothermal for HVAC and wind power for electrical generation so that the completed site is totally Energy Neutral (i.e. produces as much or more energy than it uses.). Note that Steinhoff Realty Trust has met with both Mr. John Emidy, Building Inspector, and Ms. Susan Affleck-Childs, Planning Board Coordinator,

## Steinhoff Realty Trust

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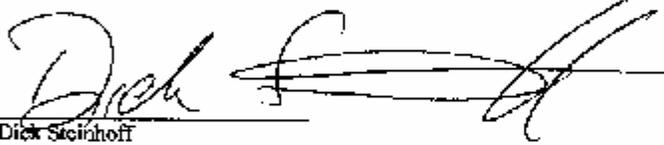
Working with the Medway Adaptive Use Overlay By-Law

regarding adding a Wind By-Law to Medway's By-Laws at the Spring 2010 Town Meeting.

At this point, as Steinhoff Realty Trust has not started any engineering drawings, I am open to working out an approach to achieve the above with the Planning Board that would be beneficial to both the Town of Medway by maintaining the residential architecture and Steinhoff Realty Trust. If this approach is of interest to the Planning Board, I am willing to sit down with the Board and address the above. I will then provide sketches of an approach that, in my opinion, will work.

I look forward to your timely response.

Respectfully,



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September 17, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

**Re: Draft Conservation Commission Rules and Regulations**

Dear Mr. Rodenhiser:

I have reviewed the draft Conservation Commission Rules and Regulations. My primary focus was to identify any conflicts between the Rules and the Medway wetlands bylaw, Planning Board Rules and Regulations and DEP Rules and Regulations. I also identified potential impacts on development projects, and I have prepared a Town-wide map indicating Medway wetlands with 25, 50 and 100-foot buffer zones delineated, as well as maps of the Industrial I and III districts enlarged. It should be noted that this map understates the situation as it only includes those wetlands that are available from MassGIS. It also does not indicate riparian areas. David Pelligri of TetraTech Rizzo has also reviewed the draft Rules and Regulations. He has provided comments on my comments as well as several additional comments, all of which appear in *italics* below.

My comments are as follows:

1. Section 1.03 Jurisdiction – This section states that a buffer zone surrounding a Resource Area is itself deemed to be a Resource Area protected by the By-Law. I think this creates some confusion since there are later references to “Resource Area” and it becomes uncertain as to whether the buffer one is included or not. This is especially true when distances from the “Resource Area” are mentioned. Perhaps something like the following would have the same effect without the confusion: In addition, the buffer zone surrounding a Resource Area it itself deemed to be a resource protected by the By-Law.”

*Throughout the document there are references to buffers and resource areas, however they are defined differently in the Regulations and the WPA. As I read the Regulations there is technically no buffer zone associated with the Medway By-Laws. Once the buffer zone is defined as a resource area, the definitions need to be clarified.*

*Additionally, it is unclear how the buffer zone applies to the outer Riparian zone which itself is a Resource Area.*

2. Section 1.04 Definitions – Several of the definitions in this section simply refer to the section of the bylaw where those terms are described. The DEP regulations also do this. It would be simpler to include the definition in the definitions section and not repeat it later in the

*Planning*

*Project Management*

*Policy Analysis*

document or delete it from the Definitions section and rely on the description in the later sections.

*The “Bank” definition references section 2.5 for the definition. I believe the definition is in Section 3.01.*

*The WPA does not exclude economics from their definition of “Best Available Means”. While economics should not define this term, it should be included as a component of the definition.*

*Several definitions in this section extend, but do not conflict with, the coverage of the By-Laws beyond the WPA. For example, the definition of “Owner of Land Abutting the Activity” extends the coverage beyond the WPA by adding “lake, and pond” to the end of the definition. Additionally, the definition for “Pond” in the By-Laws requires an area of 5,000 square feet, while the WPA requires an area of 10,000 square feet.*

*The definition of “Prior Disturbance” notes that “any disturbance in the vicinity of the project”. This wording of vicinity is typically too vague for regulations.*

*Some of the items described in the definition of a “Small Project” such as the construction of decks, patios, pools, sheds, etc are exempt from the WPA if they are beyond 50’ from the mean annual high-water line within the Riverfront Area or from the BVW. This extends the coverage of the By-Laws beyond the WPA but does not conflict with the WPA.*

3. Section 2.3 – This section seems to require that an “entire project, including full build out” must be included in any Filing. I am not sure it is reasonable or useful to require that a plan for an owners entire property be required if the present need requires just a small part of the land. I think it is reasonable to require a resource delineation of the entire parcel or parcels (in part to ensure that incremental development does not result in a self-induced hardship), but for large parcels it may be difficult to project potential development that may not happen for many years since economic and market changes may result in very different projects in future years. Also, this section includes a reference to “adjoining subdivisions under the control of the same owner but not yet built, shall be considered the same project.” The term “subdivisions” should probably be changed to “parcels” since even in the residential districts there are development options other than subdivisions, e.g condominium developments.
4. Section 2.9- *This section requires the completion of actions associated with the MEPA submittal prior to the close of a hearing by the Commission. This will make the permitting of the project more difficult for the applicant because when filing the ENF the applicant does not always know whether an EIR is required. Therefore, the ENF response would need to be received prior to submitting the local Notice of Intent to ensure proper timing of approvals.*
5. Section 2.11 – This subsection says that Determinations of Applicability cannot be extended beyond their initial 3-year term. This is contrary to the Wetlands By-Law which, in Section 21.6, expressly authorizes a single 1-year extension provided a written request for it is received at least 45 days prior to expiration.

6. Section 2.13 – Same as 2.11, except it does allow the Commission to approve an extension. However, the By-Law specifies that a 1-year extension can be obtained if requested 45 days prior to expiration.
7. Section 2.17 – Subsections (a) and (b) are contradictory since (a) says it presumes septic systems compliant with Title 5 or Medway Board of Health requirements protects the interests identified in the By-Law, then (b) says they can't be within 100 feet of a Resource Area because they don't protect those interests.

*Additionally, subsection (b) requires a 100' offset from the Resource Area. Because the buffer zones are defined by the By-Laws to be resource areas themselves, this requires the system to be located 200' from the Resource Area as defined by the WPA. This could substantially restrict development.*

8. Section 2.19 provides for the Commission to limit lawn area and impose irrigation restrictions. I think this is a good idea, but I wonder if there is a legal basis for this authority for the Commission.

*Section 3.02 (2) (a) when describing Freshwater Wetlands this section states "Said Resource Areas shall be protected whether or not they border surface waters". It should be noted that the WPA does not include this stipulation, therefore the By-Laws may extend the local jurisdiction.*

9. Section 3.04 (1) (b) defines "Isolated Land Subject to Flooding." This definition does not include a minimum area. This conflicts with the By-Law, which states that in order to be afforded protection, Isolated Lands Subject to Flooding must encompass a minimum surface area of 5000 square feet. It should also be noted that DEP regulations define Isolated Land Subject to Flooding as encompassing at least a ¼ acre-feet of water with an average depth of at least 6 inches at least once per year.
10. Section 4.01- *When this section refers to Wetlands I assume they mean Freshwater Wetlands as defined by the Regulations.*
11. Section 5.06 specifies Minimum Performance Standards. It establishes a "No Disturb Setback" of 25 feet. This is accordance with the By-Law. However, the By-Law provides exceptions for certain utility work, agricultural practices and emergency projects. The regulations should include language such as "except as provided in the By-Law."
12. Section 5.06 also provides for a 100-foot "No Build Setback," and "No Disturb Setbacks" of 25-, 50- and 75-feet for different circumstances. The 25-50-foot setback applies to already-disturbed areas. The 50-foot setback applies to new disturbances on previously undisturbed land. The 75-foot setback applies to certain specified sensitive areas. The By-Law does not provide for these but it does not preclude them either so there is no direct conflict unless the intent of the By-Law is to allow disturbance in these areas. This, of course, reduces the land available for building by 75 feet adjacent to any wetlands and for disturbance of any kind (e.g. for parking, lawns, storage, etc. by 25 to 50 feet. It should be noted that a 50-foot "no-build"

setback is common and there is scientific evidence to support such a setback. Logically, greater setbacks will generally provide better protection, but at the cost of reducing developable area.

13. Section 5.06 also states that the Rules and Regulations should not be construed to preclude access paths, vista pruning of construction of water-dependent structures within the buffer zone subject to the discretion of the Commission. It is not clear under what process such discretion may be obtained. It would seem appropriate for this to occur under a Request for Determination of Applicability. It should be noted that DEP regulations provide for “minor activities” that are not subject to regulation. These include unpaved pedestrian walkways for private use, fencing (as long as it is not a barrier to wildlife); vista pruning more than 50 feet from a resource area; planting of native species of trees, shrubs or groundcover (excluding turf lawns); conversion of lawn uses to decks, patios, etc. (if more than 50 feet from resource area); conversion of impervious surfaces to vegetated surfaces with erosion controls; and temporary activities with negligible impacts.
14. *Section 5.06 (a) states that the No Build Setback shall be 100 feet from any Resource Area. Since the By-Laws define the buffer zone as a Resource Area, this would require a No-Build setback 200’ from the Resource Area as defined by the WPA. Clarification of these terms as previously stated would alleviate this issue.*
15. It should be noted that DEP regulations also exempt from regulations certain activities within the 50 to 100 foot buffer zone if certain conditions are met. The conditions include that the buffer zone does not contain slopes greater than 15%, there are no Estimated Habitat areas in the buffer zone, the buffer zone does not border on an Outstanding Resource Water (i.e. vernal pools, public water supplies, or Area of Critical Environmental Concern), impervious surface in the 50-100 foot portion of the buffer zone will not exceed 40% and no alteration of the 50-foot buffer zone will occur, stormwater management complies with DEP standards, and no Notice of Intent for work within the 50-foot buffer will be filed during the three years of the Order of Resource Delineation. Such exempt work may be authorized through an Abbreviated Notice of Resource Area Delineation.
16. Section 6 Vernal Pools – The regulations state that a depression that possesses the physical characteristics of a vernal pool will be assumed to be one whether or not it is certified as such by DEP. The burden of proving it is not a vernal pool will be on the applicant, and this may require that observations of the depression during the appropriate seasons take place.
17. Section 7 Variance – The Rules and Regulations provide for the opportunity for the Commission to grant variances from the rules but only in “rare and unusual cases.” It is the responsibility of the applicant to provide “clear and convincing” evidence that the proposed work will not have any adverse effect upon the interests protected by the By-Law. It may also grant variances in cases where not doing so would result in an unconstitutional taking of the property, or where the work will have an overriding public benefit.
18. Section 8.02 specifies that plans shall include elevation contours and indicate the referenced datum used. Since the Planning Board requires North American Vertical Datum of 1988, it is probably a good idea to specify this standard to avoid conflict with Planning Board standards since an applicant is likely to apply to Conservation Commission first.

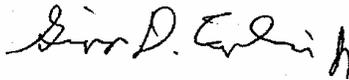
19. Section 8.03 specifies drainage information. It requires drainage calculations for the 1, 10, 25 and 100-year storms, while Planning Board requires calculations for the 2,10, 25 and 100 year storms. These should be consistent.

*Section 8.03 (2) states that storm drains and retention basins shall be designed for a 10-year frequency, while the Planning Board requires that the storm piping system be designed for the 25-year storm.*

*Section 8.03 (2) states that culverts shall be designed based on a 25-year storm, while the Planning Board requires the culverts be designed for the 50-year storm event.*

If there are any questions about these comments, please call or e-mail me.

Sincerely,



Gino D. Carlucci, Jr.

Sincerely,



David R. Pellegrini

## Comparison of Draft Medway Conservation Rules and Regs with Area Communities

### DRAFT 9-28-09 - PGC Associates and TTR

	<b>Medway</b>	<b>Millis</b>	<b>Medfield</b>	<b>Franklin</b>	<b>Holliston</b>	<b>Hopkinton</b>
<b>Jurisdiction</b>	Includes resource areas in addition to those in WPA and Bylaw. Buffer zone definition causes confusion.	Wetlands, water bodies and land within 100 feet of wetlands or 200 feet of streams. No confusion about buffer zones.		Wetlands, water bodies and land within 100 feet of wetlands or 200 feet of streams. No confusion about buffer zones.	Wetlands, water bodies and land within 100' of wetlands and 200' of streams. 100' and 200' buffers described as Adjacent Upland Resource Areas, causes some confusion similar to Medway.	Wetlands, water bodies, and land within 100' and 200' of streams. No confusion about buffer zones. Minor extension of jurisdiction beyond WPA. (1).
<b>Definitions</b>						
<b>River/Stream</b>					Similar to WPA definition of perennial stream.	Same as WPA
<b>Best Available Means</b>	Excludes economics	No definition		No definition	No definition	No definition
<b>Buffer Zone</b>	Any land within 100' horizontally outward from the edge of any resource area as defined in this section. Confusing because of the Resource Area Definition.				Any land within 100' horizontally outward from the edge of any resource area as defined in this section. Confusing because of the Upland Resource Area Definition.	Any land within 100' horizontally outward from the edge of any resource area, 200' from rivers and streams, and 125' from vernal pools.
<b>Pond</b>	5,000 sq. ft.	5,000 sq. ft.		No definition	5,000 SF	No definition
<b>MEPA Relation</b>	MEPA action required to	NA		NA	NA	NA

	be completed before hearing closed.					
<b>Permit extensions</b>	None for RDA, OOC at discretion of ConCom.	1-year extensions allowed		Not addressed	Valid for 3 years. Permit may be renewed for one year periods.	Valid for 3 years A one time one year extension (4)
<b>Issue/Town</b>	<b>Medway</b>	<b>Millis</b>	<b>Medfield</b>	<b>Franklin</b>	<b>Holliston</b>	<b>Hopkinton</b>
<b>Septic systems</b>	Excluded within 100 feet of resource.	Not specifically addressed		Emergency repair allowed, new systems not specifically addressed.	No Reference	Not specifically addressed
<b>No disturb/No build</b>	100-foot no-build  No disturb varies from 25 to 75 feet.	50-ft “no Build.” Disturbance on 50-100 discouraged structures allowed up to 30% of area with alternatives analysis and mitigation.		25-ft No Disturb; No structures 25’- 50’ with exceptions for previously-disturbed areas; Structures allowed in 50’-100’ zone up to 30% of area and mitigation required for more.	No disturb – 50’, however the Commission is granted latitude in assessing the impact to the Upland Resource Area (URA). The URA is broken into several categories including No Disturb, Temp. Disturb, Limited Disturb, and Permanent Disturb. (2)	The Commission is granted latitude in assessing the impact to the Upland Resource Area (URA). The URA is broken into several categories including No Disturb, Temp. Disturb, Limited Disturb, and Permanent Disturb. (3)
<b>Exemptions</b>		No specific exemptions		Minor disturbances on previously disturbed properties may be allowed by Negative Determination with conditions.	No specific exemptions.	Only those specifically noted in Section 206-4 of the By-Laws (2)(7)
<b>Vernal Pools</b>	Includes 100 foot buffer	Has separate definition for buffer zone and	Isolated wetland subject to flooding		Similar definition as WPA with a few	Similar definition as WPA with a few additional

		excludes lawns, gardens and other developed areas.	voted by ConCom to meet requirements of vernal pool as defined by DEP		additional requirements. Has a 100' associated buffer.	requirements. Has a 125' associated buffer. (5)
<b>Issue/Town</b>	<b>Medway</b>	<b>Millis</b>	<b>Medfield</b>	<b>Franklin</b>	<b>Holliston</b>	<b>Hopkinton</b>
<b>Variations</b>		Waivers allowed when in public interest and consistent with intent of bylaw		Allowed if evidence shows interests are protected	No Reference	No reference but the guidelines provide the Commission with latitude.
<b>Replication</b>					Commission strongly discourages any plan that requires replication. In those instances where replication is approved by the commission, specific conditions must be applied as outlined in section 6.3.5 including a replication area 2X as large as destroyed area.	Commission strongly discourages any plan that requires replication. In those instances where replication is approved by the commission, specific conditions must be applied as outlined in section 6.3.5 including a replication area 1.5X as large as destroyed area.

Hopkinton (1) - Resource areas are not required to border water bodies, and vernal pools and their buffers are protected regardless of whether they have been certified under the state program or whether the pool/buffer is located within state protection. Vernal pool buffers are extended from the state 100' to the town 125'.

Hopkinton (2) - Applications and permits required by the Bylaws shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing or lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, sanitary sewers and storm sewers, provided 48 hours notice is provided and work conforms to performance standards and design specifications meet the regulations. Also, the permit is not required for emergency projects necessary for the protection of the health and safety of the public per the requirements in 206-4 (B). Lastly an exception may be made at the discretion of the Commission.

Hopkinton (3) – The commission shall consider proposals for work in the buffer zone in terms of four (4) broad forms of disturbance areas. These terms are determined on a case by case basis unless applicant provides evidence

deemed credible and sufficient that the area or part of it may be disturbed without harm to the values protected by the law.

Hopkinton (4) – The commission may at its discretion issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work.

Hopkinton (5) – The commission discourages any plan that requires replication. In those instances where replication is required by state law and/or approved by the commission, certain conditions found in section 5.6.2 must be met. These candidates require a replication area 1.5 times as large as the area of resource area being destroyed. Actual ratio shall be determined on a case by case basis.

Hopkinton (6) – All storm water runoff systems shall at a minimum conform to best management practices as specified in the DEP Storm water Management guidelines, volumes I and II. The conservation commission may impose the state regulation criteria located in 5.12.1.

Hopkinton (7) – The commission will consider a negative determination of applicability under the bylaw for all projects that qualify under the following guidelines which are more stringent than but otherwise parallels the state regulation criteria located in 5.12.1

Hopkinton (8) – The Regulations provide specific distances for Limits of Work or Disturbance and Limit of Structure from Resource Areas for varying types of work including residential activities, utilities, storm water management, roads, driveways parking lots and all other activities.

Holliston (1) – Resource areas include 100' from resource areas defined in WPA. Holliston has the same issue as Medway where the use of the words “Resource Area” and “Buffer Zone” gets confusing.

Holliston (2) – The commission may require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the 100-foot (200 feet for rivers and perennial streams) adjacent upland resource area that shall meet the specification provided in the regulations and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the commission that the area or part of it may be disturbed without harm to the values protected by the bylaw. The bylaw gives the commission broad description to permit, condition, and prohibit work within the adjacent upland resource areas as the specific situation warrants. Therefore the commission shall consider proposals for work in the adjacent upland resource area in terms of four (4) broad forms of disturbance areas. This approach is intended to allow maximum flexibility for property use while maintaining adequate levels of resource protection. Categories include: No Disturbance Area, Temporary Disturbance Area, Limited Disturbance Area, and Permanent Disturbance Area. In general, work and activity within 100 feet of wetlands should be avoided and discouraged and reasonable alternatives pursued.



**October 13, 2009**  
**Planning and Economic Development Board - SPECIAL Meeting**  
**Sanford Hall, 155 Village Street**

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

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator

Gino Carlucci, PGC Associates  
Brian Snow, Conservation Commission  
Tony Pachelco, FinCom  
Tom Holder, DPW Director  
Dave Travalini, Conservation Commission  
Dave Pellegrini, Tetra Tech Rizzo

The meeting was called to order at 7:04 p.m.

**CITIZEN COMMENTS**

Andy Rodenhiser – A citizen had called Susy and said she would come in regarding 5 Forest Road. She is concerned about a fence around a detention pond on her property that she said the Town had constructed. Forest Road is unaccepted. The fence is deteriorating. She would like the Town to take care of it. She is not yet here.

Susy Affleck-Childs introduced Tom Holder, the new Medway DPW director

Tom Holder – A lot is familiar, getting a handle on new locations, in time I am sure I will have it organized.

Andy Rodenhiser – Is there anything specific that you bring to the table that you would like us to work on, that we could be of service to you to help you get oriented?

Tom Holder – It is early. I haven't come up against anything yet, but you are already talking about accepted or not accepted streets. Those are the types of things I will work on with this board collaboratively to try to find common ground. I am sure we will be working together in the future.

Andy Rodenhiser – We want to be collaborative, that is how we function. So please have a two-way dialogue. If you need us to be cognizant of something or things that need attention, please don't be bashful on things we could improve. As you make policy changes, please share with us so we can be mindful.

Tom Holder – Through Susy Affleck-Childs I will be happy to do all of that.

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*Approved – October 27, 2009*

Andy Rodenhiser - If there is a hot issue, I am sure you can count on Susy Affleck-Childs to come to you.

Tom Holder – As we progress toward starting capital projects, I am sure there will be some things your board will need to make decisions on.

**MEETING MINUTES**

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker to approve the Planning Board meeting minutes of 9/22/2009. The motion was approved unanimously.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker to approve the Planning Board meeting minutes of 9/28/2009. The motion was approved with all but Tom Gay voting yes.

**OTHER BUSINESS**

Susy Affleck-Childs – I want to update on PB meeting secretary position. There was an ad. We have received several resumes. There is another position for a secretary for the Capital Improvements Committee so we may combine interviews.

I apologize; I meant to prepare a motion for you on refunding the balance of the Blueberry Hill Road bond. I let that slip.

**PUBLIC HEARING CONTINUATION ON DANIELS VILLAGE ARCPUD SPECIAL PERMIT (7:20 P.M.)**

Betty McCall Vernaglia – I am still on hold. I am trying to work out something with the Trust for Public Land. That is my first choice. But I do have a prior offer of first refusal. That is a legal matter that I need to take care of. I am still optimistic. I would like to continue the public hearing.

Andy Rodenhiser – Are you willing to pay for the cost to renotify the public when you do decide to come back? We need to be fair to everybody.

Betty McCall Vernagli agreed.

The public hearing was continued to April 13, 2010 at 7:15 pm.

Betty McCall Vernaglia will contact Susy Affleck-Childs a month ahead of time re: status.

Chan Rogers – May I recap this? The developer who backed out is out of the picture. Now the owner wants to consider the various options.

**DISCUSSION ON PROPOSED ZONING BYLAW AMENDMENT RE: HOME BASED BUSINESSES**

Andy Rodenhiser – Susy Affleck-Childs sent out a draft to the PB members.

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Tom Gay – I said I didn't have any real problems with it, but I did have some questions that - I bumped into a few things that I wasn't quite sure about. Re: the definition of a home based business – does that open the door to someone who is a renter being allowed to have a business?

Chan Rogers – I am concerned about someone doing this as a renter.

Andy Rodenhiser – What if an employee takes up that residency? I got an email from somebody who was complaining about the way the town is falling into some disrepair with respect to some various properties, owner vs. non owner occupied, and the impact this has on our community. Chan Rogers's point may bring to light – if there is a person who just rents, would this apply to them?

Karyl Spiller-Walsh – You are very protected by what is in the text. The primary use has to be and appear residential. You can't change the nature of residential character.

Tom Gay – My concern is owner occupied vs. renter occupied.

Gino Carlucci – If anybody exceeds the standards here, then they could seek a special permit.

Chan Rogers – The key issue is whether a renter would be allowed.

Gino Carlucci – You can't use zoning to regulate the ownership - only by use. Even a renter would have to meet the standards.

Chan Rogers – I think you can control this and limit it only to owner occupants.

Susy Affleck-Childs – We need to seek legal counsel on this, whether home based businesses can this be limited to owner occupants.

Andy Rodenhiser – I would think fines would accrue.

Susy Affleck-Childs – page 8 of the Zoning bylaw text specifies the fees.

Andy Rodenhiser – perhaps companion legislation to adjust the fees.

Bob Tucker – This provides discretion on the part of ZEO – I'm not sure I agree with that. We have always tried to be equitable across the board.

Tom Gay – What latitude do we have? Are we opening the door...?

Karyl Spiller-Walsh – I think this is actually pretty restrictive.

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Andy Rodenhiser – It is providing an avenue for all those businesses out there to get into compliance so that the town can enforce those that are not in compliance.

Tom Gay – Perhaps there could be some limitation on storage in unheated structures to stop someone from constructing a huge barn or multiple sheds.

Gino Carlucci – The intent is the measurement of the heated space is where you are living.

Tom Gay – concerned that we might be opening the door to a population of sheds – as written, there is no real limitation

Andy Rodenhiser – What about the Quonset hut type structures?

Andy Rodenhiser – The fact that it is ventilated and heated is one thing – what about fire code?

Gino Carlucci – Those would have to be met, too. Those aren't zoning issues.

Tom Gay – I am afraid it pushes them outside the scope of the

Karyl Spiller-Walsh – Would it be helpful to call out the use of existing buildings?

Andy Rodenhiser – Could we limit this to existing buildings at the time this is adopted?

Tom Gay – Is this more about percentages?

Bob Tucker – We need to control the useable area as it relates to the residence and then maybe back into an allowable storage area based on lot size so you are not putting a mega mansion barn on a 10,000 sq. ft lot. You don't want things out of place.

Karyl Spiller-Walsh – with the way it is written, that should be understood

Bob Tucker – Ideally, you would want these businesses to grow up and out. We really need to have some place they can move to.

Chan Rogers – What is the impetus for all this?

Susy Affleck-Childs – The new Building Commissioner asked. He said there is not much guidance in the bylaw about what home occupation businesses need special permits.

Andy Rodenhiser – It forces these businesses to make use of commercial space that is available.

Tom Gay – on item number #3 re: one non-resident employee with parking. That may limit doctors' offices.

Susy Affleck-Childs – Only by right, they could still seek a special permit.

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Tom Gay – What about multiple people in multiple portions of the building having multiple businesses?

Andy Rodenhiser - The tenant could have a business, as well as.

Gino Carlucci – Only one visitor at a time per premises.

Andy Rodenhiser- What about trucks coming and going from my home? How is that going to suit the neighbors? A wholesaler delivering bulk quantities? the text may be a little vague . .

Tom Gay – commercial vehicles – I had one other question. how about a (non-commercial) vehicle that is all painted up but is used in the business. it could all be parked in the driveway – is that a concern? That is like a sign all over the yard – even if they were lightweight pick up trucks, they function as mobile signs –

Andy Rodenhiser – I would be concerned about a big panel truck that gets a sign parked on it and is never moved -

Gino Carlucci – if 3 members of a family all work in separate businesses and each has a pick up truck with the business name on it, there are no limitations on that as a sign right now.

Andy Rodenhiser – some language to not regulate that kind of situation

Bob Tucker – item 5 – Excessive or offensive noise should be better defined – we should be specific – not subjective.

Andy Rodenhiser – Could we tighten it up?

Susy Affleck-Childs – default to the noise section of the bylaw

Chan Rogers – We are supposed to be preserving the qualities of a residential neighborhood.

Andy Rodenhiser – quiet enjoyment

Tom Gay – one other question re: any prohibited – why those specific types of businesses?

Susy Affleck-Childs – saw these types on other towns' lists of prohibited home occupations

Susy Affleck-Childs – Do you want to put this forth for fall town meeting.

Tom Gay – We try to tackle too much. Maybe we should be listing and prioritizing them and working off a list in an organized fashion. I am concerned that we are not giving enough time to do this right.

Bob Tucker – I don't think this is going to be ready for this go around. The subject has way too many implications and trying to plug the holes in the sinking ship at this point in time.

Susy Affleck-Childs – So we won't have anything for this fall town meeting.

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**PUBLIC HEARING CONTINUATION – SITE PLAN MODIFICATION FOR 4 MAIN STREET**

Bob Potheau - I have copies of my comments on Susy Affleck-Childs's draft master sign plan to discuss tonight

One of the problems we have is someone driving and knowing where to access the site – we need to get permission from the adjacent abutter (Ellen Rosenfeld) to use 6 Main Street as an address for our site. There is also room to use 8 Main Street as an address. (NOTE – The next westerly business is Swenson Granite, 10 Main St).

I did adjust what you had on file – it – this becomes very clear – to use 2, 4, 6, 8. We are most concerned about the safety of someone who is driving.

John Williams – Is there any concern about emergency vehicles being able to respond to you at your home? I would suggest that every structure has its own address.

Bob Potheau – 4A would work for me. I have also included notes on the existing billboard. I want to keep that.

Gino Carlucci – I think it is grandfathered for what is already there.

Bob Potheau – I want people to recognize that it is part of master sign plan. I will want a continuation of this public hearing. I am leaving for Florida for several months.

Bob Potheau – I want a sign to be attached on the front of the middle barn building. It may be used for a business that is located in the rear of the westerly building. I have a national tenant but they need a Main Street sign.

Bob Potheau – I am coming in to take down a building. It is nonconforming and grandfathered. I am turning the property into something that is conforming.

This sign – people would pull into the driveway and see the business right there. I am not asking for anything that is terrible. But this is a deal breaker. I have tenant that wants to take the building. I am asking for an accommodation from the town. What I am giving up is a 3,000 sq. ft building (by doing this demolition).

Karyl Spiller-Walsh – Was that building actually condemned?

Bob Potheau – I am asking for a sign you see along Route 109. I am being upfront now.

Andy Rodenhiser – I remember being at a DRC meeting. I remember you saying that you would take down the building.

Bob Potheau – No, I remember saying that I would keep the building, and come in with a renovation plan.

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Karyl Spiller-Walsh – There was really both discussions

Bob Potheau – We are both right

Tom Gay – There have been a couple different things discussed here - you are planning to take the front down.

Bob Potheau – Yes, that is what I have applied for, as part of the application is a master sign plan. The only sticking point is the sign. Is there something that does not require ZBA approval? I am not asking you to do anything. I am looking for guidance

Susy Affleck-Childs – there are two issues – amount of signage and location of signage

Bob Potheau – I was hoping for some input on what you felt was best, and I would like to go to the ZBA for the special permit for the second development sign with your support. I am not pressing for anything immediately. What is your best wish?

Susy Affleck-Childs – We need to determine whether the bylaw provides specificity that a sign has to be actually on the building where the business is located - this is tricky because there are provisions for off-premises signs, but the sign he wants is on the premises but just may not be on the actual building where the business is located.

Andy Rodenhiser – In the numerous people I have talked to and suggested they go down and talk to Bob about tenants – universally, the conversation goes to the way that the middle building looks – and so whatever he does with it, he will do with it.

Bob Potheau – We all know it makes the most sense to take it down.

Andy Rodenhiser – It makes the most economic sense to take it down because it increases the value of the other buildings. Even the signage you choose will have an impact.

Bob Potheau – I have had a lot of people who have wanted to rent there – I would like to see in the office up front such as a large eye glass place or a sports rehab center. What I am asking to do is to have a tasteful sign on that building. The business would be right there off the driveway.

Bob Tucker – We need to continue the public hearing?

Bob Potheau – I will be out of town but I will fly back.

John Williams – I would suggest you give us some digital photos.

Andy Rodenhiser – Take a ride down there.

It was agreed to continue the public hearing to Tuesday, March 9, 2010 at 7:15 pm

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**Medway Planning & Economic Development Board**

*Approved – October 27, 2009*

**PROPOSED CONCOM RULES AND REGULATIONS**

Reference to review letters dated October 8, 2009 from PGC Associates and Tetra Tech Rizzo Associates. Both are attached.

Andy Rodenhiser – I would like to see specific recommendations in all cases

Dave Pellegrini – We can look at that some more

Andy Rodenhiser – Dave Travalini, chairman of the ConCom is here.

Dave Travalini – Town Counsel is looking at the revised draft. She will be getting us some comments.

Dave Travalini – Our rules and regs say the buffer zone is a resource area. It turns out her reading of the bylaw is that it does say that the 100 foot buffer area around the wetland or vernal pool is a resource area. She is going to look at that and give a final clarification.

Gino Carlucci – I said there is confusion in the bylaw.

Dave Travalini – Gino Carlucci said that in his original letter.

Bob Tucker – People were interpreting that there was now going to be a 200 foot buffer area.

Dave Travalini – there is nothing that states you can't do any work in a resource area. Ours is a fairly common bylaw writing. It is fairly standard boiler plate per MACC (Mass Association of Conservation Commissions). Generally towns that have a similar bylaw have 100 foot around a wetland as a resource area but there is no additional area beyond that.

Andy Rodenhiser – So the 100 foot area as a resource area.

Dave Travalini – What has happened is that we have defined in the bylaw 100 foot from a wetland as a resource area but we haven't defined what a resource area is.

Andy Rodenhiser – So the rules and regs is an attempt to define a resource area.

Dave Travalini – The purpose of rules and regs is to define what you can and can't do in the areas protected by the bylaw.

Dave Pellegrini – I think the issue is that the language was confusing later on – circular reference.

Andy Rodenhiser – Wordsmithing fixes a lot of the issues.

Dave Travalini – It was inartfully worded. The intent is not to expand our powers, but to define them so people know when they come before us what they can and can't do.

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Andy Rodenhiser – You may have even heard us this evening talking about terminology being too subjective. I presume you are going to refine that stuff.

Andy Rodenhiser – so I understand it is 25 feet no disturb, and then they want to provide direction for how to work in next 75 ft – they are not trying to prevent work from occurring.

Chan Rogers – We lose our industrial area if they move into the 75 feet.

Dave Travalini – For the bylaw to work it has to be more restrictive than the Wetlands Protection Act. If it isn't, then the court won't consider the matter.

Andy Rodenhiser – Is the bylaw at present, more stringent?

Dave Pellegrini – Yes.

Andy Rodenhiser – By them putting in place these rules and regs, they are reinforcing their ability to conduct business such that they would have standing in court.

Dave Pellegrini – sounds right

Chan Rogers – Their intent was to expand into the 100 feet.

Andy Rodenhiser – No, the wording was mistaken and they are trying to take steps to correct it.

Chan Rogers – 90% of Medway's land is residential. I wouldn't care how much is restricted there, but the small industrial park that we have is vital to Medway's expansion of tax base. We can't do it anyplace else – we can't further inhibit that space – that would be a disaster.

Andy Rodenhiser – I don't believe they are advocating anything that is beyond what we are already doing.

Dave Travalini – We have a bylaw that says what our jurisdiction is. Rules and regs cannot expand jurisdiction of the bylaw (that has to go through town meeting) -

Andy Rodenhiser – what Dave Travalini is saying is that the original wording (in the proposed rules and regs) was inartfully done. It is not what they want to go forward with – they are back to square one with some process improvements to help administer the bylaw and help applicants.

Dave Travalini – I am hoping to be done with the wording and put it to a vote this week (Oct 15 public hearing).

Andy Rodenhiser – if there some something learned afterwards, you guys are not averse to addressing it (going back to further revise rules and regs)?

Dave Travalini – The other members would have to agree.

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Dave Travalini – It is the same thing you guys have to do with your rules and regs.

Dave Travalini – We don't want to write something that is going to be challenged.

Dave Pellegrini – It seems it is more an issue of whether it is more restrictive – the Planning Board's interests and the ConCom's interests may conflict. They aren't wrong, just different.

Andy Rodenhiser – We are trying to provide them with the analysis as we see it so they can take it into consideration.

John William - Was there ever any thought to make it more restrictive?

Dave Travalini – It has to fall under the guidelines of the bylaw - you can't change the bylaw through rules and regs.

John Williams – Was there any intention? I am a little confused – I was at a meeting of the Economic Development committee where there is a lot of concern.

Andy Rodenhiser – It is essentially Sharon's bylaw.

Dave Travalini – Part is from Sharon, part from MACC wording, we took some things from others places, created some definitions that didn't exist anywhere else, town counsel reviewed several times - the more eyes to look at it the better. Saying you don't like it isn't helpful. We were told by town counsel that we have to do this (adopt rules and regs) to be able to enforce the bylaw. We aren't trying to take over the town. As the bylaw exists now, people can work within 100 feet of a vernal pool.

John Williams – I can see where they may be a disagreement in intent. Is there still a disagreement? Or are we all OK that it is the same?

Andy Rodenhiser – That remains to be seen based on their vote.

Dave Travalini – Town counsel is re-reviewing the revised draft rules and regs. You have had your consultants go over them, wetland scientist has reviewed them – we take those into consideration. We seem to be amendable to changes. But we aren't going to make the regs less restrictive than the bylaw.

Chan Rogers – The army corps is charged with protecting the watershed for Charles River. The town needs commercial property. The wetlands are protected by the Army Corps - you are trying to say that all things watershed should be protected.

Dave Travalini – I am not going to get into a discussion about the Army Corps. They approached us about taking down a dam on the Charles River. Medway was basically hat factories. My guess is that a lot of silt in the bottom of the river contains a whole lot of mercury. I would dispute your claim that they do a good job.

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Dave Travalini – The Wetlands Bylaw was voted by the town’s people of Medway. It doesn’t take into account economics or what type of land. It protects all equally. I can’t tell you anymore than that. It is our job to make sure that the bylaw is enforced.

Chan Rogers – One piece of property in our industrial park does not make a difference in our watershed.

Andy Rodenhiser – He is saying that fairness principle is defaulting to science as opposed to use or zoning.

Dave Travalini – We can’t enforce the bylaw one way for one piece of property and a different way for another piece of property (residential vs. industrially zoned).

Chan Rogers – Right now you are talking about a bylaw that no other towns have.

Gino Carlucci – No other town had a “no-build” area of 100 feet, but most other towns have a 50 foot no disturb.

Andy Rodenhiser – In our case, it is actually better, because we have a 25 foot no disturb.

Dave Pellegrini – The only question I had – it didn’t seem like there was a reference to the riverfront area.

Andy Rodenhiser – So you will clean up the nuances?

Dave Travalini – We are not looking to regulate 300 foot. Gino Carlucci’s suggested wording is probably what it should be.

Dave Travalini – All towns that have this, they don’t enforce any more than 100 feet. We certainly can’t do less than the WPA.

Dave Travalini – Mr. Carlucci explained it well in his first letter. Town counsel said wording needs to be refined. she is going to work on it. We will probably take a consensus to come up with something that works.

Andy Rodenhiser – Gino Carlucci is the Town’s consultant, not just ours. He is contracted with the town. He is available to you.

Dave Travalini – Susy, will you email these review comments to me directly and I will forward to ConCom members.

Susy Affleck-Childs – will do

Gino Carlucci – An issue that is still of concern – the revised version still has the no-build of 100 feet with exceptions being limited to “rare cases”. That seems to be a very high standard.

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Dave Travalini – We only finished going through the definitions (at the first public hearing). we didn't get to everything. We probably haven't addressed the part you are referring to.

Dave Travalini – We understand the wording on septics is wrong, and the 100 ft and 25 ft needs to be fixed. We know we are going to be talking about that stuff.

Andy Rodenhiser – Is there anything anybody wants to address?

Tom Gay – The things that raised the hair on the back of my head have been addressed, rest of work is to be done – as long as the intent is to take these two guys seriously.

Dave Pellegrini - I noticed there was a discussion on bonds from the minutes of the last meeting. It seemed like their regs provide for bonds.

Andy Rodenhiser – The development community doesn't want to be tagged with two sets of bonds for the same thing.

Dave Travalini – I don't think Planning Board can bond ConCom work. – I don't see how the Planning Board can do that.

QUESTION - WHAT IS SCOPE OF PB BONDING AUTHORITY??

Dave Travalini – One of the things you have talked about was not recommending bond release or street acceptance unless there is a certificate of completion.

Andy Rodenhiser – We may be able to not give back a bond without it.

Chan Rogers – It can be done. Foxborough Patriot Stadium.

Andy Rodenhiser – We need to put that in the rules and regs.

Dave Pellegrini – Most of the time, wetlands work ties into the storm water system. It is all tied together.

Dave Travalini – If we hold a bond, it would probably be for replication, it may not have anything to do with a drainage system – it may not come under anything that is under your jurisdiction - I don't see how you can bond for something that is only our own such as replication.

Dave Travalini – You are going to bond the drainage. We aren't going to bond the same thing. But those things that are separate from any other board's jurisdiction.

Andy Rodenhiser – In the grand scheme, we are trying to make the permitting process more streamlined and meaningful to the boards and the applicants, and easier to get the results we all want.

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Andy Rodenhiser – Northeastern University is going to review Medway’s permitting process and try to identify where we have broken links, and stop doing things or do more of what does work. We want to be supportive of each others process and streamline at the same time.

Dave Travalini –I would agree, I don’t think we are going to achieve this utopia until we hold joint meetings.

Andy Rodenhiser – Would you be amenable to addressing some of these things in a joint fashion.

Dave Travalini –I think it is worth exploring – beneficial to us, to the developers and applicants

Chan Rogers – Other towns are doing this every day

Dave Travalini – But I couldn’t sit at a Planning Board meeting and speak for the ConCom.

Andy Rodenhiser – It would be great if we could meet together from time to time. We are meeting on Thursday with the DRC.

Dave Travalini – I don’t know if you and we can all vote.

Andy Rodenhiser – We open the public hearing jointly.

Gino Carlucci – It would be like having two separate hearings at the same time.

Dave Travalini – Right now it is hard enough to get people to show up 2 times a month. I am not against it though.

John Williams –Perhaps if we rearranged the space we could meet together, and then continue our separate meetings.

Andy Rodenhiser – That is good to hear.

Andy Rodenhiser – Is this board OK with us releasing the documents to ConCom and have them (PGC and TTR) represent us at the October 15<sup>th</sup> public hearing?

ALL Agreed

Chan Rogers – All of this is costing the town money. All of this should have been done before you went to public hearing.

Gino Carlucci – I could get to the public hearing between 9:30 and 10 pm.

Andy Rodenhiser – The Medway Business Counsel is meeting on 10/22 at 8 am. I would appreciate it if you could attend. I would be glad to give them a letter or something that could be from you.

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**ANNOUNCEMENTS**

**Development Review Coordinating Council briefing from Cumberland Farms –  
10/15/09**

Andy Rodenhiser – We are meeting with Cumberland Farms on Thursday morning for an informal presentation to various boards and committees re: their ideas to redevelop their Medway location. You are all welcome to attend.

Susy Affleck-Childs – I have posted it as a meeting of the PB just in case 3 of you show up.

Karyl Spiller-Walsh – What may be different is the proportion. I had a thought about these meetings that occur before – they are going to have some kind of image or plan that is already going to be their box one start.

Andy Rodenhiser – The idea of giving feedback – this is designed to give input all at once.

Andy Rodenhiser – an opportunity here – I had a conversation about one of the tenants being able to hook up with Steinhoff property at 146.

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A motion to adjourn was made by Karyl Spiller-Walsh, seconded by Chan Rogers. The motion was approved unanimously.

The meeting was adjourned at 10:15 pm

Respectfully submitted,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

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**PGC ASSOCIATES, INC.**

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pgca@comcast.net

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October 8, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

**Re: Revised Draft Conservation Commission Rules and Regulations**

Dear Mr. Rodenhiser:

I have reviewed the revised draft Conservation Commission Rules and Regulations. I also have revised the matrix comparing some features of the draft regulations with those of other Towns that had been prepared jointly by Dave Pellegrini and me. I added information from Medfield and DEP's Wetland Protection Act regulations and revised the other entries in accordance with the revised draft.

In the comments below, I refer to the comments in the joint letter from Dave Pellegrini and myself dated September 17, 2009 (without repeating the comments, but using the same numbers and title as in the September 17, 2009 letter) and noting how the comments are impacted by the changes in the draft. I also make some recommendations as to how to possibly address those comments that are still applicable. The primary recommendations are in **bold** with accompanying explanatory material in plain text.

My comments are as follows:

1. Section 1.03 Jurisdiction – The primary issue was the definition of the buffer zone as a Resource Area, which created some confusion when the term “Resource Area” was used elsewhere in the regulations. This problem has been cleared up by deleting the phrase that defined the buffer zone as a “Resource Area.” However, as noted in the original letter and in the attached matrix, there is no definition for inner and outer riparian areas. There is a definition of “Riverfront Area” as the same as in the Rivers Protection Act, but it is not clear how the “No Build” and “No Disturb” areas apply to the riparian areas. **I would recommend that this be clarified by reference to the regulations pertaining to the Rivers Protection Act (no disturbance in 100-foot zone, up to 10% in 100'-200' zone with some exceptions. Including drainage and previously disturbed areas).**

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2. Section 1.04 Definitions – Several of the definitions have been clarified. The definition of “Prior Disturbance” still includes the term “vicinity” which is vague. **I would recommend using a specific distance, such as 500 feet of the subject property’s boundaries.**
3. Section 2.3 – This section seems to require that an “entire project, including full build out” must be included in any Filing. – This has not been addressed. **I would recommend that a resource delineation of the entire parcel or parcels in common ownership be required and kept on file in order to document cases where a “hardship” is self-inflicted.** It may require some legal advice to address a situation where land under the control of the same entity is divided into different companies with different names. Also, I suggest that the term “subdivisions” should probably be changed to “parcels” since even in the residential districts there are development options other than subdivisions, e.g. condominium developments.
4. Section 2.9- Requiring that hearing be kept open until MEPA process is completed. – **I suggest that this be amended to address only MEPA processes that involve issues within jurisdiction of Conservation Commission.** However, that could be broader than just wetlands issues. For example, if parking is the trigger for MEPA review, the outcome could result in parking changes that impact a resource area. Nevertheless, this could probably be determined on a case-by-case basis, and it could be at the risk of the applicant who would have to file for a modification if the MEPA outcome results in changes impacting an Order of Conditions.
5. Section 2.11 – This subsection says that Determinations of Applicability cannot be extended beyond their initial 3-year term. This is contrary to the Wetlands By-Law which, in Section 21.6, expressly authorizes a single 1-year extension provided a written request for it is received at least 45 days prior to expiration. – This has not been resolved. **I recommend amending the regulations to be consistent with the bylaw.**
6. Section 2.13 – Same as 2.11, except it does allow the Commission to approve an extension. However, the By-Law specifies that a 1-year extension can be obtained if requested 45 days prior to expiration. -- This has not been resolved. **I recommend amending the regulations to be consistent with the bylaw.**
7. Section 2.17 – Subsections (a) and (b) are contradictory since (a) says it presumes septic systems compliant with Title 5 or Medway Board of Health requirements protects the interests identified in the By-Law, then (b) says they can’t be within 100 feet of a Resource Area because they don’t protect those interests. – This is in large part dependent on what the final “No Build-No Disturb” policy and/or variance policy is approved. **I recommend that this either be made consistent with the WPA or that it be subject to a somewhat more relaxed variance policy.**
8. Section 2.19 provides for the Commission to limit lawn area and impose irrigation restrictions. I think this is a good idea, but I wonder if there is a legal basis for this authority for the Commission. – **This comment stands. I just recommend that legal confirmation of this authority be obtained.**

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9. Section 3.04 (1) (b) defines “Isolated Land Subject to Flooding.” **I recommend that this definition be made consistent with the Bylaw.**
10. Section 4.01- When this section refers to Wetlands I assume they mean Freshwater Wetlands as defined by the Regs. – No additional comment.
11. Section 5.06 specifies Minimum Performance Standards. It establishes a “No Disturb Setback” of 25 feet. This is accordance with the By-Law. However, the By-Law provides exceptions for certain utility work, agricultural practices and emergency projects. The regulations should include language such as “except as provided in the By-Law.” **This comment stands as a recommendation.**
12. Section 5.06 also provides for a 100-foot “No Build Setback” and “No Disturb Setbacks” of 25-, 50- and 75-feet for different circumstances. The 25-50-foot setback applies to already-disturbed areas. The 50-foot setback applies to new disturbances on previously undisturbed land. The 75-foot setback applies to certain specified sensitive areas. **I recommend that the “No Build” setback be eliminated and that the 50-foot “No Disturb” setback for previously undisturbed lands be maintained.** It should be noted that a 50-foot “No Disturb” area is common and there is scientific evidence to support such a setback. Logically, greater setbacks will generally provide better protection, but at the cost of reducing developable area. However, there should be some latitude in the 50-100 area by reducing the standard for a variance from “rare and unusual” to perhaps requiring an alternatives analysis and mitigation, such as some other towns do. This could result in strong protection for the sensitive resources without totally precluding development in those areas. The burden of proof should be on the applicant to demonstrate protection of the resource areas as well as the viability and efficacy of the mitigation.
13. Section 5.06 also states that the Rules and Regulations should not be construed to preclude access paths, vista pruning of construction of water-dependent structures within the buffer zone subject to the discretion of the Commission. It is not clear under what process such discretion may be obtained. It would seem appropriate for this to occur under a Request for Determination of Applicability. It should be noted that DEP regulations provide for “minor activities” that are not subject to regulation. These include unpaved pedestrian walkways for private use, fencing (as long as it is not a barrier to wildlife); vista pruning more than 50 feet from a resource area; planting of native species of trees, shrubs or groundcover (excluding turf lawns); conversion of lawn uses to decks, patios, etc. (if more than 50 feet from resource area); conversion of impervious surfaces to vegetated surfaces with erosion controls; and temporary activities with negligible impacts. **I recommend that the exemptions be made consistent with DEP regulations.**
14. Section 5.06 (a) states that the No Build Setback shall be 100 feet from any Resource Area. Since the By-Laws define the buffer zone as a Resource Area, this would require a No-Build setback 200’ from the Resource Area as defined by the WPA. Clarification of

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these terms as previously stated would alleviate this issue. – This has been clarified and is no longer applicable.

15. It should be noted that DEP regulations also exempt from regulations certain activities within the 50 to 100 foot buffer zone if certain conditions are met. The conditions include that the buffer zone does not contain slopes greater than 15%, there are no Estimated Habitat areas in the buffer zone, the buffer zone does not border on an Outstanding Resource Water (i.e. vernal pools, public water supplies, or Area of Critical Environmental Concern), impervious surface in the 50-100 foot portion of the buffer zone will not exceed 40% and no alteration of the 50-foot buffer zone will occur, stormwater management complies with DEP standards, and no Notice of Intent for work within the 50-foot buffer will be filed during the three years of the Order of Resource Delineation. Such exempt work may be authorized through an Abbreviated Notice of Resource Area Delineation. -- No further comment.
16. Section 6 Vernal Pools – The regulations state that a depression that possesses the physical characteristics of a vernal pool will be assumed to be one whether or not it is certified as such by DEP. The burden of proving it is not a vernal pool will be on the applicant, and this may require that observations of the depression during the appropriate seasons take place. – No further comment.
17. Section 7 Variance – The Rules and Regulations provide for the opportunity for the Commission to grant variances from the rules but only in “rare and unusual cases.” It is the responsibility of the applicant to provide “clear and convincing” evidence that the proposed work will not have any adverse effect upon the interests protected by the By-Law. It may also grant variances in cases where not doing so would result in an unconstitutional taking of the property, or where the work will have an overriding public benefit. – **As previously suggested, I recommend that the standard for variances be relaxed somewhat to less than “rare and unusual.”** As mentioned above, requiring an alternative analysis and mitigation for work (including buildings) within the 50’ to 100’ zone could provide strong resource protection while also allowing development to take place.
18. Section 8.02 specifies that plans shall include elevation contours and indicate the referenced datum used. **Since the Planning Board requires North American Vertical Datum of 1988, it is probably a good idea to specify this standard to avoid conflict with Planning Board standards since an applicant is likely to apply to Conservation Commission first.**
19. Section 8.03 specifies drainage information. – The drainage requirements have been made consistent with Planning Board requirements.

If there are any questions about these comments, please call or e-mail me.

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*Approved – October 27, 2009*

Sincerely,

A handwritten signature in black ink, appearing to read "Gino D. Carlucci, Jr.", written in a cursive style.

Gino D. Carlucci, Jr.



October 8, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

**Re: Medway Conservation Commission  
Draft Rules and Regulations  
Tetra Tech Rizzo Review Comments**

Dear Mr. Rodenhiser:

Tetra Tech Rizzo has completed its review of the revised draft Conservation Commission Rules and Regulations as distributed on October 6, 2009. This letter also attempts to incorporate comments generated from the September 28, 2009 meeting where these proposed regulations were discussed. The following list identifies where the proposed Rules and Regulations vary significantly with existing state and local laws, and where the regulations may impact future development.

**Primary Issues**

1. Section 1.04 defines the Buffer Zone as "Land within one hundred (100) feet horizontally landward from the perimeter or outer border of any Resource Area (other than a buffer zone)". This substantially extends jurisdiction beyond the WPA because it assigns a 100-foot buffer zone to all resource areas, while the WPA excludes particular areas. Specifically, the WPA states "The areas subject to jurisdiction identified in 310 CMR 10.02(1)(b) through (f) do not have a buffer zone." These areas which do not require buffers include Land Subject to Flooding and Riverfront Areas among others. We would recommend that the definition for buffer zones reference the WPA directly.
2. Section 2.3 states that an "entire project including full build out" must be included in any filing. A full build out scenario seems unnecessarily burdensome. We recognize the intent to eliminate segmentation of projects, however we suggest alternative wording that does not create a hardship for smaller applications.
3. Section 2.9 requires the completion of actions associated with the MEPA submittal prior to the close of a hearing by the Commission. This will make the permitting of the project more difficult for the applicant, because when filing the ENF the applicant does not always know whether an EIR is required. Therefore, the ENF response would need to be received prior to submitting the local Notice of Intent to ensure proper timing of approvals. None of the adjacent town regulates reviewed implemented this type of language.



4. Section 2.17(b) implies that the subsurface disposal system be prohibited within 100-feet of a Resource Area. This requirement is more restrictive than state regulations and may conflict with the local Board of Health requirements. Section 2.17(a) clearly identifies the state Title V and local Board of Health regulations as governing. To avoid future conflicts between jurisdictions of different local boards or commissions, we recommend that item (b) be eliminated. None of the adjacent town by-laws reviewed implemented this type of language.
5. Section 2.19 states that the “Commission reserves the right to limit the lawn area associated with development proposals”. This extends the Commissions jurisdiction well beyond resource areas or buffer zones and may conflict with the intentions and regulations of the Planning Board.
6. Section 3.04 (1) (b) defines “Isolated Land Subject to Flooding.” This definition does not include a minimum area. This conflicts with the By-Law, which states that in order to be afforded protection, Isolated Lands Subject to Flooding must encompass a minimum surface area of 5000 square feet. It should also be noted that DEP regulations define Isolated Land Subject to Flooding as encompassing at least a ¼ acre-feet of water with an average depth of at least 6 inches at least once per year. Without a minimum volume threshold, jurisdiction could be extended more than intended. We recommend that specific requirements be defined, or a reference to the WPA requirements be added.
7. Section 5.06 regulates a 100-foot “No Build Setback,” and a 25-, 50- and 75-feet “No Disturb Setback” for varying conditions. These requirements could substantially limit development by excluding varying types of work within the buffer zone. The By-Laws require a 25-foot No Disturb Setback, therefore the proposed Regulations extend the work restrictions in these areas. The Wetland Protection Act (WPA) does not provide specific setback requirements for work within the buffer, but rather evaluates the work based on potential perceived impacts. In our experience, these distances are in excess of typical “No Build” or “No Disturb” zones provided by adjacent communities (see Table 1). Additionally, “No Build” and “No Disturb” should be clearly defined.

**Table 1**

	Medway	Millis	Franklin	Holliston	Hopkinton
<b>No Build/ No Disturb</b>	No Build-100'  No Disturb- Varies from 25' to 75'.	No Build-50'  Disturbance Discouraged-50- 100'	No Disturb-25'  No Structures within 25-50' with exceptions.	No Disturb-50'  The commission granted latitude to define and limit work based on perceived impact	The commission granted latitude to define and limit work based on perceived impact



**Secondary Issues**

8. Several definitions in this section extend the coverage of the By-Laws beyond the WPA. For example, the definition of “Owner of Land Abutting the Activity” extends the coverage beyond the WPA by adding “lake, and pond” to the end of the definition. Additionally, the definition for “Pond” in the By-Laws requires an area of 5,000 square feet, while the WPA requires an area of 10,000 square feet.
9. Some of the items described in the definition of a “Small Project” such as the construction of decks, patios, pools, sheds, etc, are exempt from the WPA if they are beyond 50’ from the mean annual high-water line within the Riverfront Area or from the BVW. This extends the coverage of the By-Laws beyond the WPA but does not conflict with the WPA.
10. Section 2.17 (b) states that “prohibiting work in the buffer zone prevents the pollution....of Medway’s water resources”. Prohibiting is a strong term and we feel that a term such as limiting would be more appropriate.
11. Section 6 states that a depression that possesses the physical characteristics of a vernal pool will be assumed to be one whether or not it is certified as such by DEP. This extends the commissions jurisdiction.
12. Section 8.03 (2) states that storm drains and retention basins shall be designed for a 10-year frequency, while the Planning Board requires that the storm piping system be designed for the 25-year storm. We would recommend that the Conservation Commission implement the 25-year storm requirement utilized by the Planning Board.
13. There is no appeal authority designated. While this is common in the case of Towns that have established Wetland By-Laws, it has made the appeal process difficult for developers. The length of the appeal process through the court system is often long and cumbersome, and typically dissuades developers from taking action which at times limits or restrict development.
14. There is no discussion of the Riverfront areas. While this does not provide a direct impact to development, we would recommend a section dedicated to the Inner and Outer Riparian Zones consistent with the other Resource Areas discussed in the document.
15. There is no clear distinction of temporary versus permanent disturbances. Temporary disturbances are often required in the buffer zone to complete work proposed outside the buffer zones.



If you have any further questions or comments, please do not hesitate to call me at 508-903-2000.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David R. Pellegrini', written in a cursive style.

David R. Pellegrini, P.E.  
Project Manager

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<b>Issue/Town</b>	<b>Medway</b>	<b>Millis</b>	<b>Medfield</b>	<b>Franklin</b>	<b>Holliston</b>	<b>Hopkinton</b>	<b>WPA Regs</b>
<b>Jurisdiction</b>	Includes resource areas in addition to those in WPA and Bylaw.	Wetlands, water bodies and land within 100 feet of wetlands or 200 feet of streams.	Wetlands, water bodies and land within 100 feet of wetlands or 200 feet of streams.	Wetlands, water bodies and land within 100 feet of wetlands or 200 feet of streams.	Wetlands, water bodies and land within 100' of wetlands and 200' of streams. 100' and 200' buffers described as Adjacent Upland Resource Areas,	Wetlands, water bodies, and land within 100' and 200' of streams. No confusion about buffer zones. Minor extension of jurisdiction beyond WPA. (1).	Wetlands, water bodies and land within 100 feet of wetlands or 200 feet of streams.
<b>Definitions</b>							
<b>Best Available Means</b>	Similar to WPA definition of “Best Available Measures”	No definition	No definition	No definition	No definition	No definition	The most up-to-date technology or the best designs, measures or engineering practices that have been developed and that are commercially available.
<b>Buffer Zone</b>	Any land within 100' horizontally outward from the edge of any resource area as defined in this section.	No definition	No definition	No definition	Any land within 100' horizontally outward from the edge of any resource area as defined in this section. Confusing because of the Upland Resource Area Definition.	Any land within 100' horizontally outward from the edge of any resource area, 200' from rivers and streams, and 125' from vernal pools.	Any land within 100' horizontally outward from the edge of any resource area, 200' from rivers and streams
<b>Pond</b>	5,000 sq. ft.	5,000 sq. ft.	No definition	No definition	5,000 SF	No definition	10,000 sq. ft.

<b>Issue/Town</b>	<b>Medway</b>	<b>Millis</b>	<b>Medfield</b>	<b>Franklin</b>	<b>Holliston</b>	<b>Hopkinton</b>	<b>WPA Regs</b>
<b>MEPA Relation</b>	MEPA action required to be completed before hearing closed.	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed
<b>Permit extensions</b>	None for RDA, OOC at discretion of ConCom.	1-year extensions allowed		Not addressed	Valid for 3 years. Permit may be renewed for one year periods.	Valid for 3 years A one time one year extension (4)	Extensions allowed upon showing of good cause. Initial NOI expires in 2 years.
<b>Septic systems</b>	Excluded within 100 feet of resource.	Not specifically addressed		Emergency repair allowed, new systems not specifically addressed.	No Reference	Not specifically addressed	Excluded within 50 feet of resource
<b>No disturb/No build</b>  Generally: No Build = No buildings or structures allowed  No Disturb = No work to take place  Definitions vary among towns	100-foot no-build  No disturb varies from 25 to 75 feet.	50-ft “no Build.” Disturbance on 50-100 discouraged, structures allowed up to 30% of area with alternatives analysis and mitigation.	50-foot No Disturb. Burden is on applicant to demonstrate that any work within the 50-foot No Disturb area will not harm the interests protected by the Bylaw.  Commission also reserves right to prohibit activity anywhere within the 100-foot buffer.	25-ft No Disturb; No structures 25’-50’ with exceptions for previously-disturbed areas; Structures allowed in 50’-100’ zone up to 30% of area and mitigation required for more.	No disturb – 50’, however the Commission is granted latitude in assessing the impact to the Upland Resource Area (URA). The URA is broken into several categories including No Disturb, Temp. Disturb, Limited Disturb, and Permanent Disturb. (2)	The Commission is granted latitude in assessing the impact to the Upland Resource Area (URA). The URA is broken into several categories including No Disturb, Temp. Disturb, Limited Disturb, and Permanent Disturb. (3)	Not applicable, but provides incentives for reduced regulation under certain conditions including no disturbance within 50 feet.

Issue/Town	Medway	Millis	Medfield	Franklin	Holliston	Hopkinton	WPA Regs
<b>Exemptions</b>	Provides exemptions for minor activities, less than WPA	No specific exemptions	No specific exemptions	Minor disturbances on previously disturbed properties may be allowed by Negative Determination with conditions.	No specific exemptions.	Only those specifically noted in Section 206-4 of the By-Laws (2)(7)	Provides exemptions for certain minor activities
<b>Vernal Pools</b>	Includes 100 foot buffer	Has separate definition for buffer zone and excludes lawns, gardens and other developed areas.	Not addressed in regulations	Isolated wetland subject to flooding voted by ConCom to meet requirements of vernal pool as defined by DEP	Similar definition as WPA with a few additional requirements. Has a 100' associated buffer.	Similar definition as WPA with a few additional requirements. Has a 125' associated buffer. (5)	Not specifically regulated
<b>Variations</b>	Allowed in "rare and unusual cases."	Waivers allowed when in public interest and consistent with intent of bylaw	Not specifically addressed, but No Disturb provides latitude	Allowed if evidence shows interests are protected	No Reference	No reference but the guidelines provide the Commission with latitude.	Provides for variations under local bylaws or regulations

Issue/Town	Medway	Millis	Medfield	Franklin	Holliston	Hopkinton	WPA Regs
<b>Replication</b>	Allows replication with performance standards		Not addressed	Not addressed	Commission strongly discourages any plan that requires replication. In those instances where replication is approved by the commission, specific conditions must be applied as outlined in section 6.3.5	Commission strongly discourages any plan that requires replication. In those instances where replication is approved by the commission, specific conditions must be applied as outlined in section 6.3.5	Provides for replication equal to area lost with conditions

					including a replication area 2X as large as destroyed area.	including a replication area 1.5X as large as destroyed area.	
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Hopkinton (1) - Resource areas are not required to border water bodies, and vernal pools and their buffers are protected regardless of whether they have been certified under the state program or whether the pool/buffer is located within state protection. Vernal pool buffers are extended from the state 100' to the town 125'.

Hopkinton (2) - Applications and permits required by the Bylaws shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing or lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, sanitary sewers and storm sewers, provided 48 hours notice is provided and work conforms to performance standards and design specifications meet the regulations. Also, the permit is not required for emergency projects necessary for the protection of the health and safety of the public per the requirements in 206-4 (B). Lastly an exception may be made at the discretion of the Commission.

Hopkinton (3) – The commission shall consider proposals for work in the buffer zone in terms of four (4) broad forms of disturbance areas. These terms are determined on a case by case basis unless applicant provides evidence deemed credible and sufficient that the area or part of it may be disturbed without harm to the values protected by the law.

Hopkinton (4) – The commission may at its discretion issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work.

Hopkinton (5) – The commission discourages any plan that requires replication. In those instances where replication is required by state law and/or approved by the commission, certain conditions found in section 5.6.2 must be met. These candidates require a replication area 1.5 times as large as the area of resource area being destroyed. Actual ratio shall be determined on a case by case basis.

Hopkinton (6) – All storm water runoff systems shall at a minimum conform to best management practices as specified in the DEP Storm water Management guidelines, volumes I and II. The conservation commission may impose the state regulation criteria located in 5.12.1.

Hopkinton (7) – The commission will consider a negative determination of applicability under the bylaw for all projects that qualify under the following guidelines which are more stringent than but otherwise parallels the state regulation criteria located in 5.12.1

Hopkinton (8) – The Regulations provide specific distances for Limits of Work or Disturbance and Limit of Structure from Resource Areas for varying types of work including residential activities, utilities, stormwater management, roads, driveways parking lots and all other activities.

Holliston (1) – Resource areas include 100' from resource areas defined in WPA. Holliston has the same issue as Medway where the use of the words “Resource Area” and “Buffer Zone” gets confusing.

Holliston (2) – The commission may require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the 100-foot (200 feet for rivers and perennial streams) adjacent upland resource area that shall meet the specification provided in the regulations and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the commission that the area or part of it may be disturbed without harm to the values protected by the bylaw. The bylaw gives the commission broad description to permit, condition, and prohibit work within the adjacent upland resource areas as the specific situation warrants. Therefore the commission shall consider proposals for work in the adjacent upland resource area in terms of four (4) broad forms of disturbance areas. This approach is intended to allow maximum flexibility for property use while maintaining adequate levels of resource protection. Categories include: No Disturbance Area, Temporary Disturbance Area, Limited Disturbance Area, and Permanent Disturbance Area. In general, work and activity within 100 feet of wetlands should be avoided and discouraged and reasonable alternatives pursued.

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**October 27, 2009**  
**Planning and Economic Development Board**  
**Sanford Hall, 155 Village Street**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay

**ABSENT WITH NOTICE:** Karyl Spiller-Walsh, Chan Rogers

**ABSENT WITHOUT NOTICE:** John Williams

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates  
Tony Biocchi, ConCom

The meeting was called to order at 7:03 p.m.

**CITIZEN COMMENTS**

Tony Biocchi brought in a drawing of a possible small subdivision up off Hill Street for Christine Price. A small portion of this parcel is in Holliston.

Tony Biocchi – The property has some vernal pools on the back of it. What if we were to give that land to the town as conservation land?

Bob Tucker – Does that tie into any other conservation land? If it tied to something else, that would make sense.

Tony Biocchi – It could tie in with future development of adjacent property by Henry Wicket

Susy Affleck-Childs – I will give you a cautionary note that flowage easements are not permitted as a means for stormwater management.

Tony Biocchi – Christine Price is the second owner after Mike Curatola built the house.

Bob Tucker – It may be a courtesy to Holliston to touch base with them.

Gino Carlucci – If it becomes a subdivision that is still technically part of a subdivision, the Holliston Planning Board may have some authority.

Bob Tucker – How are the ConCom's rules and regs coming along?

Tony Biocchi – We went through it. We are about half way through. It is going really well and everybody is getting input. It is a process.

Bob Tucker – Getting through it the first time is the hardest.

Andy Rodenhiser – We are doing the same thing now with our subdivision rules and regs.

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Tony Biocchi – It is a work in progress.

Andy Rodenhiser – One of the things that came up at the last meeting when ConCom attended is for us to find things we can work on to streamline permitting or better communication. When things can be concurrent or opportunities exist to make the process better, we talked about the opportunity to provide joint meetings between ConCom and the PB to identify areas of conflict, and find ways to smooth things out and fix it -- really try to work more efficiently.

Tony Biocchi – One example is detention areas in subdivisions and dealing with storm water issues and determining whether ConCom has met requirements. Also, the ability to bond

Bob Tucker – I would like to see us find out about not so much as the PB or the ConCom having a bond, but the Town holds a bond. As a Town I would think we would be able to have different groups of money for activities of different boards – whomever may require a bond so that it comes under one umbrella –

Andy Rodenhiser – We could have that kind of discussion –

Resolve to have a joint meeting with the ConCom to explore how we can work together –

Susy Affleck-Childs – I would wait until after the ConCom finishes up their rules and regs and also ask Barbara Saint Andre to sit in with us for that meeting.

Andy Rodenhiser – Identify a list of areas of common concerns.

Bob Tucker – especially storm water –

Susy Affleck-Childs – We would need to bring in DPW on the stormwater discussions.

Tony Biocchi – The Medway Mill project might be a good one to try this on.

### **INFORMAL PRESENTATION - Dick Steinhoff, 146 Main Street**

Dick Steinhoff - I live on Olsen Circle. Under Steinhoff Realty Trust, I am in the process of buying the property at 146 Main Street. As president of Value Track Corporation I need more office space – that is the key reason for looking at this property–the woman who owns the property died – We expect to close on November 6<sup>th</sup>. It is in the adaptive use overlay district and we wanted to change the property over to office space.

Three to four weeks ago I met with John Emidy and Susy Affleck-Childs about small wind generation bylaw and we discussed 146 Main Street and the question came up – what does the board require for “renovation” under the AUOD bylaw? Going back several months, the previous building inspector and I went around and around on this topic. Susy Affleck-Childs thought it was worthwhile to bring this to the board for some clarification.

Mr. Steinhoff provided a PowerPoint presentation. It is attached.

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We need to understand what renovation means. I want to figure out a way to maintain the 1880s look, but have the interior inside meet 2009 requirements. I also want to build green.

Gino Carlucci comment – Regarding that term renovation – if you check the bylaw, it actually says each AUOD project has to include “restoration, renovation or improvement of the primary existing building.”

Andy Rodenhiser – My interpretation would be that the character of the underlying building has maintained, so that the look and appearance is conducive to the intent of the bylaw which is to preserve.

Dick Steinhoff – What you are saying is a bit different from what my conversations had been with Bob Speroni.

Tom Gay – You propose to maintain the main block of the house, and get rid of the rest and start fresh off the back?

Dick Steinhoff – Correct - the new construction would reflect the existing street look. I would replace clapboards – use a plastic clapboard that could be recycled – the existing structure would be all office space – I would have to gut the interior and install all new electrical system – everything we did at 133 main street for interior rehab – I would also like to build space onto the back.

I also want to build green – interested in a wind turbine generator – not presently allowed within Medway zoning. There is a model state bylaw that we could consider – recommend you add something like this to the Medway zoning bylaw.

Bob Tucker – What is the span on the blades?

Dick Steinhoff – For maximum efficiency you want to be 30 feet above the highest obstacle - 26 feet and props on horizontal are 24 feet right now – noise that the prop version makes is 42 dbi - the sound of a whisper.

Need some guidance – I would like to move forward with this. Does my approach meet the adaptive use bylaw if I do a new interior, but renovate the exterior to maintain the street look? With clarification, I would move forward to do the site survey and site plan, and would come back for approval so I could break ground in spring of 2010.

Rob Pomponio – The Historical Commission reviewed the property for a demolition permit back in June, and we had a hearing in July. We found after deliberation that there was nothing particularly historically significant about the property. We talked about potential alternatives to demolition but we did authorize a demolition permit. I am encouraged to see from what was presented to us as a tear down is coming back as a rehab and adaptive use. For the Commission, we would prefer rescuing a building vs. demolishing any day.

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Andy Rodenhiser – What you are looking for from us is a definition –how liberal a definition are we willing to apply to this standard?

Dick Steinhoff – I have not developed engineering drawings. I would like to gut the building and put in new systems.

Andy Rodenhiser – How does the board feel?

Tom Gay – I don't have trouble being liberal with renovation. I would like to drive by and see a fresher version of what I saw all my life. As far as the adaptive use on the inside, do what you have to do. That can be done with a good looking skin.

Dick Steinhoff – What I would like to put on there is this new grained plastic clapboard which you can't tell isn't regular.

Bob Tucker – You would be getting rid of a lot of lead that is up there.

Susy Affleck-Childs – I wanted to have Dick Steinhoff come to you and really talk about the project. I wanted to make sure that we were all comfortable with scope of work – not drive by in 6 months and see the whole building demolished and a new building constructed.

Andy Rodenhiser – If you find that you have timber joists that may not meet today's standards –

Bob Tucker – That is part of the discovery phase that he is going to have to go through

Bob Tucker – I am biased toward the approach you are taking. I have worked on proposals for similar renovations in other towns. Based on what you read out of the bylaw, it falls within the scope.

Gino Carlucci – especially if he is leaving the shell

Bob Tucker – and continue the architecture in a consistent manner

Tom Gay – Flexibility comes in allowing for the bare minimum.

Gino Carlucci – I do have some comments and questions though – realizing there is no details, the section on the side that would be removed, that would be replaced with a 2 story section?

Dick Steinhoff – That section on the side was an add-on from the 50's. I would extend that 10 feet and go up 2 stories.

Gino Carlucci – If that 2 story addition is set back a couple of feet, it might keep the balance of the front door that you are proposing to change.

Dick Steinhoff – I haven't thought about that yet.

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Andy Rodenhiser – The DRC could provide a lot of input on the design of this. They will probably hone in on some of these issues.

Gino Carlucci – That may apply to the rear addition as well, if it is offset even a little bit from the main house.

Bob Tucker – Sometimes easier to have an offset, than to try to match up the walls.

Dick Steinhoff – I think I know what I have to do. I feel I can move forward now. I didn't have that feeling when I had discussed this with the previous building inspector.

Bob Tucker – Susy, please inform John Emidy of this discussion.

Gino Carlucci – Regarding the 30 car parking lot, you may want to consider moving most of those spaces to the rear of the site. One of the goals of the AUOD is to maintain the overall residential character of the district - the bulk of the parking should be in back.

Andy Rodenhiser – Thank you.

Susy Affleck-Childs – We need to figure out how you want to proceed with wind turbines.

**Update- Medway Mill Renovations - John Greene – owner of Medway Mill**

John Greene – My purpose here is to have an informal discussion regarding development of the Mill. There are about 70 existing parking spaces. Access to the site is from Main Street and Lincoln Street.

I purchased it 2.75 years ago – been working 2 years straight – I took the very back commercial building and it has been completely renovated – we resided it, put in new windows – it used to look like an airplane hanger – in the back were abandoned trucks, dumpsters, etc with a company that used the site as an exchange- it is totally cleaned up –they are gone - I have a 2000 square foot horse tack shop, light duty landscaper, do it yourself dog wash, a plumbing operator and several landscapers and carpenters, and furniture storage in the back.

The stucco buildings in the middle were very deteriorated – I have put in all new systems from electric, all new roofs and windows. I put in the architectural style windows with raised grids, maple floors were refinished – we have a healing arts business and 6 other clients – complete renovation – new bathrooms – spectacular space.

And now I have moved to the Mill Building itself. I have put in new hallways and taken out the old structure inside – new HVAC, electric, 2000 square foot massage school, therapist, medical imaging, cabinet design, antique store- only have about 600-800 square feet left – put a brand new roof on – new windows, etc...cleaned it all out – it has all new life safety – fire alarms, etc.

Now I am at appoint where I need to think about adding some parking. I know I met with you folks a while ago. The existing Main Street entrance (at east end of property) is not very

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attractive or functional. I would like to put in a new entrance/driveway immediately west of the mill, expand the bridge-way across to provide safe access to the back building.

We may need a special permit or variance to put in the road/driveway close to the (abutting) neighbor's yard.

I would then use the existing entrance as a right turn exit only.

If I can put in more parking then I can start to look at the second floor of the mill, and put in some more businesses.

If I was to build a third floor onto the mill building, it could fit 16 one bedroom apartments – I would look to shared parking – for the residents to use the daytime parking.

I am not looking at something for a new residential structure at this time.

Andy Rodenhiser – At the south end of the site where there are landscapers, would you want to keep those uses? We would want to see it more attractive like you are showing it designed.

John Greene – I could have the dumpsters enclosed. Some of the tenants with outside storage are going to be going away.

Susy Affleck-Childs – I want to see a little river walk (along Chicken Brook).

John Greene – That is a possibility, depending on ConCom

Andy Rodenhiser – The trail plan for Chicken Brook – how could something like this be integrated into that?

Jim Wieler – We always felt the area around the mill was almost impenetrable without a cooperative owner – the ideal would be to have a trail to connect to the railroad tracks to the south.

Landscape designer – walkway area/green space where there is presently paving.

Donald Neilson (Guerriere and Hahon) - Entrance only (NEW) – we would remove a portion of the existing mill building – we will need retaining wall – one way in with a 15 foot wide driveway.

Tony Bioecchi – The ConCom has asked them to give us more details on total disturbances that already exist today and what additional disturbances they propose and we can look at the math. The new proposed entrance with retaining walls is a big disturbance

Donald Nielson – there are places where we will pull back pavement from the river area –

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Andy Rodenhiser – This shows the importance of having the ConCom comment first in terms of what can be done – then we can start the discussion about how to do the rest of it -

Donald Nielson – we want to work with the two boards

Andy Rodenhiser – this is probably an excellent opportunity to try a joint meeting

Bob Tucker – have you done this presentation with concom yet?

Tony Biocchi – yes, they cam to our last meting – we asked him to calc the disturbance - it is the additional disturbance that we are concerned about – first 100 foot is the most critical for us – the second 100 feet is more workable

Tony Biocchi – tradeoffs – green belt that would be put along the existing parking lot – that is very good because right now everything is running directly into the river - maybe we can give some back on the other side

Andy Rodenhiser – we are willing to do a concurrent public hearing or meeting process to talk about this

Tony Biocchi – I was going to suggest that – this is such a critical place – I will propose that at the next ConCom mtg

Tom Gay – drastic improvement of the site

John Greene – should we go to ConCom one more time –

Tony Biocchi – Yes and then I will propose a joint –

Tom Gay - potential for showcase on this site – I know a couple of folks who have moved from their homes to this site . . .

John Greene - 41 tenants in place now –

Susy Affleck-Childs – the new entrance from Main Street is critically important

Andy Rodenhiser – the route 109 reconstruction plans would probably lower that hill

Bob Tucker – I see lots of opportunity here – this new access is a good thing from a big picture standpoint – I think the end result is much better

Andy Rodenhiser – how would you put signs at the entrance?

John Green – my druthers would be a stone wall with lanterns

Andy Rodenhiser – as it looks now, the current sign may be in the right of way

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John Green – I think the town owns right up to my front steps – I would like to have a bonfire with that sign – it would be nice to have something at the entry

Susy Affleck-Childs – a master sign plan will need to be part of a site plan application – John and I have talked about doing this

Tony Biocchi – width of that entrance being just one way may make this doable - the width is disturbance

John Green – I tried to do something with the abutter next door to buy that property but that didn't work out . . .

Jim Wieler – I commend turning the east entry to an exit only – that is a very slippery slope there

John Green – my dad Tom Green is here tonight – he researched chicken mill – he found out that – somebody came through and a bunch of chickens dropped in the brook

Andy Rodenhiser – thank you very much – thank you for investing in Medway as you have

**ANR Plan for 102 Summer Street**

Stephanie Seacord – I am one of 4 daughters – I grew up in this house – all of my sisters and my mom are really hoping that this plan will do something wonderful for Medway – I am here as the person with power of attorney on the family realty trust so I can address those questions – from our mom, I learned what it takes to serve the community.

Why we are doing this – we started talking to the Open Space Committee to try to keep the land open – at the time, we thought we had an open end to the process – however, the cost of care for my mom has doubled at Forge Hill – we want to keep her comfortable and safe – I apologize that we have pushed very hard to get this piece out to sell and help take care of her – and then deal with open space on a more reasoned basis after we split out this one parcel with the house

I tried to define what the 1.01 acre of the site is that we are not paying taxes on – the town doesn't want to deal with another old house

The auction process is not a foreclosure auction – I was not aware of the fact that there is a market for antique house auctions – Steve Bennett is a specialist in this are and he grew up in Medway – he has a mailing list of folks interested in antique homes – it is a gorgeous piece of architecture and property – we all hope that somebody buys it and restores it – with all of that said, thank you all for considering this on such a short timetable

Paul DeSimone – talk about the assessment – the deed that was filed at the registry did not specify what portion of the parcel is in 61A status – the assessor's office records show 14 acres – there are only 10 acres out there on the ground - The Assessor has concluded that the rest of the site is 61A status –

Andy Rodenhiser – I assume then the rest of the land will be available?

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Stephanie Seacord – there is no time schedule for that but we have talked with the Open Space Committee regarding that option –

Bob Tucker read a letter from John Schroeder re: ANR plan – attach and make a part of these minutes

Andy Rodenhiser – by selling the house, the 61A status is what?

Paul DeSimone – the 61A status goes with the rest of the property

Gino Carlucci – my review comments have all been addressed with the revised plan

Jim Wieler – I think this is a great thing – I commend them for splitting this off

A motion was made by Bob Tucker, seconded by Tom Gay to endorse the revised ANR plan for 102 Summer Street, dated October 27, 2009 as presented tonight. **ALL YES. APPROVED.**

The board signed the ANR plan.

**Establishment of a Mapping Fee**

Tom Gay – I am struggling with this to add a fee without cleaning up the whole mess of our fees – this cost should have been built into the others – we are just looking for a way to cover - the amount of time we spend down here talking about fees and what they should be used and where that money goes – one of the first things I walked into this place – is that I have a problem with fees and I struggle with adding another fee to the pile

Andy Rodenhiser – besides time, is there a barrier to having this discussion? whatever fees we charge don't necessarily have a relation to what we have expended and we know it is time oriented for what it takes and do it - in some cases we are not charging enough

Tom Gay – what this proposal says is more cogent – as a whole package I do want to see us getting to a task based schedule - so many meetings at x amount per meeting – we need to lay out the tasks in a different way – the numbers seem arbitrary – it puts us in a bind a lot of times –

Andy Rodenhiser – we have a cost to run the department – how are you going to correlate that to an up or down year – you also don't have the ability to factor into that when a DPW director comes in or somebody else gets involved in reviewing a project

Bob Tucker - We should be able to get that information from the town administrator

Tom Gay – I just did a department budget – I have base cost and added cost for activity and projects –

Tom Gay – I don't see the general fund and the plan review fund as being an insurmountable thing – if we have a good list of tasks and activities that take place around a specific set of fees –

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Susy Affleck-Childs – There is a huge difference between general fund fees and consultant funds (for plan review and construction)

Andy Rodenhiser – we could fix the fee problem so when there is a 4 year process, we aren't slammed with a project that sucks the lifeblood out of the department and creates hundreds of pounds of paper that needs to be stored

Tom Gay – I fear we may have charged too much on some projects - the ones that have cost more have sucked up any amount of overrun available from the others . . . we need to do a better job up front and understand why the fee is that fee – then I will be more comfortable

Andy Rodenhiser- Susy Affleck-Childs – what are your thoughts –

Susy Affleck-Childs – I don't see spending a lot of time to evaluate our fees as being a relative priority among all these other things that we need to do

Tom Gay – I can understand that – I just don't like how we do it.

Susy Affleck-Childs – this proposal is just a cost recovery approach for the mapping

Andy Rodenhiser- would you prefer to table this until there are more people here to talk about this?

Tom Gay – I would have trouble seconding it and voting on it tonight

Susy Affleck-Childs – there is a warrant article for the fall town meeting to establish the fund into which the mapping fees would be placed. Should I pull that at this time?

Tom Gay – I think putting the mechanism in place is ok –

AGREED – to discuss this again when the full board can participate

### **OTHER BUSINESS**

Andy Rodenhiser – We have a letter from Ralph Costello on the Applegate Farm subdivision - he is saying he just put a driveway in so people can see the land in the back

Dave Pellegrini – the driveway runs in the same footprint as the roadway layout

Andy Rodenhiser – we are trying to close out another road in another one of his subdivisions (The Meadows) and he is not being very cooperative – we need to play hard ball with the guy – integrity of what the Town is going to receive has to be perfect – if we can't count on the integrity of a project occurring the way it does, we are not going to give him any leeway – my request is that Dave understand the intention to hold the line, no breaks, no nothing – are you OK with that

Bob Tucker – yes

Tom Gay – yes

**Minutes of October 27, 2009 Meeting**  
**Medway Planning & Economic Development Board**  
*Approved – January 12, 2010*

**Subdivision Rules and Regs discussion**

Andy Rodenhiser – thanks to Susy Affleck-Childs for the schedule – attach.

The board had a lengthy discussion on Sections 5.7 thru 5.22. See attached outline of discussion topics.

**OTHER Business**

Susy Affleck-Childs – We have plan review estimates from PGC Associates and Tetra Tech Rizzo to review the Williamsburg Condominium OSRD Definitive Plan – The total for the two is \$6,240 –

A motion was made Bob Tucker seconded by Tom Gay to approve the fees for outside consultants. all yes – APPROVED.

Bob Tucker – Dave, just make sure you take into consideration who the applicant is and who their engineer is as you prepare these fee estimates.

Susy Affleck-Childs – Also, we will start the public hearing on the Definitive Plan at the Nov. 10<sup>th</sup> meeting. I have info packets for you tonight so you can review materials well in advance.

**Blueberry Hill Subdivision Bond**

A motion was made by Bob Tucker, seconded by Tom Gay as follows: *I move the Planning and Economic Development Board release in full the remaining bond funds for the Blueberry Hill subdivision held in Account #6647 at Charles River Bank (formerly Medway Cooperative Bank), estimated to contain \$5,400, to John M. Boczanowski, the original developer of the Blueberry Hill subdivision. During the summer of 2008, the Town carried out construction improvements on Blueberry Hill Road. That construction was funded through a \$25,000 settlement payment to the Town in the case of CLAFCO Builders vs. Town of Medway Planning Board (pertaining to the Hartney Acres subdivision which abuts the Blueberry Hill subdivision). Town Meeting voted to accept Blueberry Hill Road on May 12, 2008. All YES. APPROVED.*

**2010 Meeting Schedule**

Susy Affleck-Childs – I have provided you with a draft meeting schedule for 2010. ATTACHED.

A motion was made by Bob Tucker, seconded by Tom Gay to approve the 2010 meeting schedule as presented. All yes. APPROVED.

**Meeting minutes – October 13, 2009**

A motion was made by Bob Tucker, seconded by Tom Gay to approve the meeting minutes of the October 13, 2009 meeting as presented. All YES. APPROVED.

## Minutes of October 27, 2009 Meeting

### Medway Planning & Economic Development Board

Approved – January 12, 2010

#### Task Force Reports

Bob Tucker – I am now on the Medway School Building Committee – there will be an article going before town meeting this fall – there have been some changes in the school funding system – they are going through an RFP – proposals are due 11/4 for repair work at the middle school – there is a lot of work that needs to be done to maintain the building – they will be selecting a project manager for that development –

Tom Gay – Susy, John Ernidy and I had a visit with the Zoning Board on customary home occupations – they gave us some input – 3-4 different areas –

#### 2-4 Main Street Site Plan

Susy Affleck-Childs – We have a request from Bob Potheau to extend the deadline for PB action on the application to modify the previously approved site plan to April 1, 2010.

A motion was made by Bob Tucker, seconded by Tom Gay to extend the action deadline on the site plan modification application for 2-4 Main Street to April 1, 2010. All YES. APPROVED.

#### Conflict of Interest/Ethics Training

Susy Affleck-Childs – You have information regarding the required training on the ethics/conflict of interest law as such applies to municipal boards and committees. Please review the document. The last page is a form for you to sign to acknowledge receipt of the information. Please sign that and give it to me tonight. You need to go on-line and complete the training exercise. At the end of that, there will be a certification form for you to print off and return to me.

#### OTHER INFO

Andy Rodenhiser – There is info in the packet on the state's Commonwealth Capital program.

Susy Affleck-Childs – This is a notification of an opportunity to update the Town's score. Gino helped us with this last year. We may want to look at that again soon.

Gino Carlucci – RE: the Seacord property (Summer and Adams Streets) – There may be matching funds from the state for land acquisition that could be pursued.

Andy Rodenhiser – I made a presentation at the Medway Business Council breakfast last week.

A motion was made by Bob Tucker, seconded by Tom Gay to adjourn the meeting. All yes. APPROVED.

The meeting was adjourned at 11:00 pm.  
Respectfully submitted,



Susan E. Affleck-Childs, Planning and Economic Development Coordinator

**Minutes of October 27, 2009 Meeting**  
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*Approved – January 12, 2010*

**Minutes of October 27, 2009 Meeting**  
**Medway Planning & Economic Development Board**  
*Approved – January 12, 2010*

DRAFT Revised Schedule -- October 21, 2009

**Schedule for Updating Medway Land Subdivision Rules & Regs**

October 27, 2009	Discuss Section 5.7 - 5.22 – Definitive Plans
November 10, 2009	Discuss Section 6.0 – Administration
November 24, 2009	Discuss Section 7.0 – Design and Construction Standards
December 8, 2009	Discuss Section 7.0 – Design and Construction Standards
January 12, 2010	Catch – all; finish up discussions
January 26, 2010	Review proposed draft
February 9, 2010	Review revised draft
February 23, 2010	Finalize draft
March 9, 2010	Public Briefing #1 – Invite developers
March 23, 2010	Public Briefing #2 – Invite developers
April 6, 2010 (Special Meeting)	Review further revised draft
April 13, 2010	Finalize proposed revised Rules and Regs
May 11, 2010	Public Hearing
May 25, 2010	Continued Public Hearing
June 8, 2010	Review revisions based on public hearing input
June 22, 2010	ADOPT new Subdivision Rules and Regs

## Medway Subdivision Rules and Regs

Discussion for October 27, 2009 meeting                      Pages 21 - 33

### 5.7        CONTENTS OF DEFINITIVE SUBDIVISION PLAN SET

We need to review all listed items; perhaps some can be consolidated/grouped and then the entire list should be reordered so it flows more logically.

5.7.31 Add requirement for the definitive subdivision plan to show connecting pedestrian pathways/trails with adjacent subdivisions.

5.7.33 Preliminary Stormwater Pollution Prevention Plan (SWPPP) – Is this a plan or a report? Is this part of the subdivision plan set?

5.7.37 Add provisions to show “no cut zones” on house lots

5.8        REVIEW BY BOARD OF HEALTH – OK as is.

### 5.9        REVIEW BY OTHER TOWN OFFICIALS

5.9.2 Include more details on meeting with Development Review Coordinating Council for an inter-departmental review. Required vs. Optional?!

5.9.3 Add requirement for a Site Walk/Visit by PB – Invite other boards as well. When to schedule - before or after the public hearing begins?

### 5.10      PUBLIC HEARING

5.10.1 Add text that when public hearing is continued, the PB will notify the Town Clerk

5.10.2 Add text that PH notice will be posted to town web site

5.10.5 Add text that after public hearing is closed, no additional public testimony may be received

5.11      SCENIC ROADS – OK as is

5.12      BOARD ACTION PROCEDURE – OK as is

5.13      PLAN REVISIONS - Revise text so that ANY additional submittals must be filed at least 2 weeks before the next public hearing to be considered – this includes modified plans, revised stormwater info, applicant’s engineer’s response letters, etc.

**Minutes of October 27, 2009 Meeting**  
**Medway Planning & Economic Development Board**  
*Approved – January 12, 2010*

**5.14 BOARD ACTION DEADLINES** – OK as is - totally prescribed by state law

**5.15 BOARD CONSIDERATIONS** - OK as is

**5.16 CRITERIA FOR ACTION BY THE BOARD**

5.16.5 – Add text relative to making a finding that unsafe conditions are being mitigated by the developer

5.16.7 Add text re: criteria for approval of waivers

**5.17 CERTIFICATE OF BOARD ACTION** – Combine 5.17, 5.18 and 5.19 into one section

5.17.3 Add text that a summary of the Board's certificate of action will be sent by first class mail to abutters (similar to special permit requirement)

5.17.4 Add text about including mitigation measures in the certificate of action

**5.20 PERFORMANCE GUARANTEE/BOND**

This should be revised to include info on the 4 types of security the applicant may select per state law.

Specify that an agreement is required for any form of performance guarantee.

Describe how the amount of the performance guarantee shall be determined. Who, how, what is included in the bond estimate. The cost of any off-site work shown on the plan and any mitigation measures will be included.

Indicate that performance guarantee is subject to approval of PB and Town Treasurer/Collector

State that performance is in the name only of the Town – **NO JOINT ACCOUNTS**

**5.21 PLAN ENDORSEMENT**

Plan to be endorsed shall include a sheet/s showing all pages of the certificate of action.

5.21.8 We can delete the requirement to establish a bond account and provide a signed withdrawal slip and passbook.

5.21.13 More on adequacy of deeds (lots, open space, roads, drainage and various utility easements) – drafts to be reviewed and approved by town counsel



**Minutes of October 27, 2009 Meeting**

**Medway Planning & Economic Development Board**

*Approved – January 12, 2010*

October 28, 2009

**PLANNING & ECONOMIC DEVELOPMENT BOARD  
2010 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 2010 are as follows:

January 12 and 26, 2010  
February 9 and 23, 2010  
March 9 and 23, 2010  
April 13 and 27, 2010  
May 11 and 25, 2010  
June 8 and 22, 2010  
July 13 and 27, 2010\*  
August 10 and 24, 2010\*  
September 14 and 28, 2010  
October 12 and 26, 2010  
November 9 and 23, 2010  
December 14 and 28, 2010\*

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.

**November 10, 2009**  
**Planning and Economic Development board**  
**Sanford Hall, 155 Village Street**

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

**ABSENT WITH NOTICE:** Tom Gay

**ABSENT WITHOUT NOTICE:**

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

The meeting was called to order at 7:00 pm

**BOARD BUSINESS:**

**Video Taping:**

The members discussed the video taping of the meetings and will do a better job of controlling the positioning of the cameras.

**Minutes:**

The minutes from October 27, 2009 will be held until all members are present.

**Conflict of Interest Packet:**

The members were given a packet of information regarding Conflict of Interest and Ethics training. All members are required to take the online training and submit the Certificate of Completion form to Susy.

**COMMITTEE/TASK FORCE REPORTS**

**School Building Committee (Bob Tucker)**

This committee has met and has received 15 RFP's and will be narrowing this down to five for the repairs at the middle school. Further update will follow.

**Water and Sewer Committee (Chan Rogers)**

There is nothing new to report.

**Conservation Commission (Andy Rodenhiser)**

There will be a meeting on Thursday, November 12, 2009 at 8:15 pm to discuss pending changes to the conservation rules and regulations. It was communicated that all are encouraged to attend.

**PUBLIC HEARING - Williamsburg Condominiums Definitive Subdivision Plan: Open Space Residential Development (OSRD) Definitive Plan**

The public hearing for Williamsburg Condominium Open Space Residential Development (OSRD) Definitive Plan was opened at 7:15 pm. The plan was prepared by Faist Engineering of Southbridge. The development is for 18 units as authorized by an OSRD special permit granted by the Planning Board back in March 2009 and was not appealed. The public hearing notice is attached (ATTACHMENT 1).

Chairman Rodenhiser reviewed the process and steps which the board will take to proceed.

1. Allow for presentation
2. Questions and Inquiry from the board
3. Public Inquiry
4. All must give name and address for the record

David Faist of Faist Engineering presented an overview. Mr. Faist noted he had met with Tetra Tech Rizzo at the request of Medway Planning Board to review the “Williamsburg Way” Definitive Subdivision Plans.

Correspondence from PGC Associates, Inc. dated November 2, 2009 and a memorandum from Tetra Tech Rizzo dated November 4, 2009 were provided. (See ATTACHMENTS 2 & 3).

The parcel mapping was reviewed and Ecotec did the consulting and reflagging of the unregulated isolated wetland areas. An ANRAD was submitted to the Conservation Commission. (Note – Mass DEP issued a Superseding ANRAD on October 25, 2009).

Mr. Faist noted that he met with the Wickis family late this afternoon about an access to the east side of their property via West Street. (See attached email communication – ATTACHMENT 4)

**Drainage:**

Faist Engineering explained that reflagging has been done and the DEP agrees with this. Parcel A has been defined as open space to be owned by the Condominium Association. The report from PGC Associates references that the OSRD Special Permit found that the proposed open space met the requirements for area and percentage of uplands. It was recommended that a table should be provided on the definitive plan. The engineer communicated that Parcel B had also been defined as open space and the wetlands have been rechecked and this area will be deeded to the town. Parcel C has been noted in the Special Permit as the Development Parcel.

A question was asked regarding if old West St. is represented on the map and the answer was yes. The board discussed that the forebays should be modeled in HydroCad to verify that they function as designed. The engineer explained that there will be three separate forebays to collect run-off. It was suggested that a pea stone gravel strip be added to prevent erosion. The peastone will require maintenance over time. This was recommended by DEP. The drainage calculations are conservative and the goal is to make sure that the infiltration works. A maintenance plan for the stormwater drainage facilities will be submitted at a later date. Faist Engineering communicated that there will be meeting with the DEP to do a site walk under the NOI filing (scheduled for 11/12/09).

Chairman Rodenhiser noted that the roads on this project will be private and maintained by condominium association.

Member Tucker wanted to know how this plan can now drop three feet below the vegetated wetland.

The engineer noted that the soil changes dramatically on the site and the cuts may be able to be minimized. This can be looked at closer during the site walk.

Member Tucker wanted to know where the line is with the clay and sandy soil. The engineer explained the results of the testing done. He wanted to know if the pit can be softened up. The engineer will look into this. The landscape engineer will explain this further.

Member Spiller-Walsh wanted to know what the difference is between a forebay and basin. She wanted to know what the swale will look like. The engineer noted page sheet 12. She also asked what method will be used to make sure that the grass takes. The engineer noted that it depends on the material that is used.

The engineers will put together a response letter which will address the noted issues.

**Letter from PGC Associates, Inc., Gino Carlucci, Jr.**

A detailed letter was provided to the board. Under Section 5.7.26 of the Rules and Regulations, the board was in agreement that they would like to see a table listing the total area, number of area of lots, areas of streets on the cover sheet. This has not been provided to date. Also under Section 5.7.28 regarding the requirements for streetlights, the board discussed adding streetlights near the intersections with West Street. Jim Leblanc from TO Design, Inc. provided and explained the lighting plan (dated 10/15/09) which is to be added to the plan set. There will be eight lights on one side of the road. The detail information was provided on page sheet 16 of 17.

It was suggested that there could be additional street lights at the entrance and exit on West Street but this was not specifically proposed. Faist Engineering does not think that it is necessary. The design for the lights was taken from the Dark Sky Initiative.

Abutter Corrie O'Callaghan, 65 West St. explained that there were adequate street lights on West Street.

Associate Member Williams noted that with the financial burden on the town to pay for the street lights, this may be a good opportunity for the developer to provide a light at the exit. The existing light on West Street may not always be there if the town cannot afford to keep it on.

The Chairman communicated that what has been proposed currently is fine.

**Play Ground/Play Area:**

The board discussed the difference between a playground and play area. The engineer informed the board that he has a person working at the company who specializes in play areas.

Open Space Committee Member – John Schroeder suggested a play area. The residents of the Homeowner’s Association could make that decision.

Member Spiller–Walsh communicated that the open space in the back is a recreational area in itself. It was not her thought to necessarily have a playground as a presence. This could be an open field area.

Chairman Rodenhiser suggested that he would rather see one designated area and let the Homeowner’s Association decide what to do with the play area. He was also wondering if there is any liability for the public being able to use the open space.

Mr. Yorkis explained that there is a public parking area to provide access to Open Space Parcel B and it is separated by privately owned land. There will need to be an easement shown to allow access across the private property to get to the public open space area. Moving the play area to a new location will work.

**Landscape Planting Plan: Jim Leblanc**

Mr. Leblanc explained that all material and plants used were taken from the town plant compliance list. The intent of the landscaping design is to create a boulevard effect and to allow for adequate shade. Trees such as maple, and oak work well in urban climate and conditions. The trees will be planted selectively. There will be evergreens for screening. The mowing will be part of the maintenance.

Mr. Yorkis noted that this is not the final landscaping plan and he will put into language the maintenance of the pathway.

Member Spiller-Walsh would like to see more plantings or screening on the basin to the west.

Mr. Schroeder communicated that he has recently learned about plants that are not indigenous species. He was wondering if more native and/or mature trees on site could be transplanted and used. Mr. Schroeder suggested that he go back to the Open Space Committee and a letter could be created to update the list of the native and indigenous trees in Medway. The Chairman noted that this would be helpful. Susy noted that a waiver to that list of acceptable trees could be submitted.

**Stone Walls:**

The report from Gino Carlucci recommended that the board know which stone walls are intended to be retained and which are to be moved elsewhere on site. The engineer explained that this is still in the evaluation process. Chairman Rodenhiser would like to see a plan showing what stones will be taken and what ones will be being replaced.

**Affordable Housing Plan:**

Mr. Yorkis informed the board that the Affordable Housing Regulatory Agreement is in the working phase.

**Condominium Master Deed:**

The board was reminded that the condominium master deed, a declaration of trust a conservation restriction be recorded. This will need to be done prior to an occupancy permit being issued.

**Waivers:**

The board discussed the waiver from Section 6.6.3 regarding the Partial Bond Release. Chairman Rodenhiser communicated that he would like to see insurance bonds being used.

**Color Palette**

The memo from PGC Associates, Inc. noted that based of the OSRD Special Permit Condition, it is required that the general color palette and mix be specified. A draft letter was received from Gwen Hendry, Chairman of the Design Review Committee. The letter informed the board that a meeting was held on November 2, 2009 with Paul Yorkis to review and discuss the color palette for the Williamsburg Condominiums. It was recommended that the premium colors: Briarwood, Pewter, Wedgewood, Sagebrook, and Cobblestone be used. The board was comfortable and feels that the palette as recommended is appropriate for this project. (See ATTACHMENT 5).

There will be a site walk held on site **Saturday November 14, 2009 at 9:00 am**. This meeting will need to be posted.

The public hearing for Williamsburg Condominium Open Space Residential Development will be continued to **Tuesday December 15, 2009 at 7:15 pm**

Resident Paul DeSimone and Dr. Michael Robinson were present at the hearing. Dr. Robinson owns Medway Animal Hospital at 66 West Street (adjacent to the site). Mr. DeSimone has a concern about the development's impact on the sewage treatment plant. Susy will talk with the Town Administrator about this.

The board discussed having a meeting with various boards to determine what type of scale requirements will be used with plan submissions. The requirement seems to vary amongst boards. Susy will arrange a meeting with various boards.

**PROPOSED NUISANCE/BLIGHT BYLAW - Building Commissioner, John Emidy**

The Board received a copy of the proposed Nuisance/Blight Bylaw which was recently revised on October 29, 2009.

The Building Commissioner explained his procedure and enforcement. If enforcement is needed, he would rather issue a civil compliant and not criminal. Member Tucker noted that storage containers should be addressed. Mr. Emidy feels that this could be more of a zoning issue and not an issue for this particular bylaw.

The board then began discussing how farms are affected by the proposed bylaw. The building Commissioner notes that working farms must be given latitude. Farms and equipment are exempt if they are using the equipment.

Under Section (6) nuisance, member Spiller-Walsh noted that this could refer to agricultural buildings.

Susy noted that it is proper to disclose that member Spiller-Walsh has agricultural animals on her property on Holliston Street.

A question was raised about if functioning farms would be exempt from the nuisance/blight bylaw. Susy will check into this with town counsel.

Member Tucker communicated that this is a good first step since town counsel has already reviewed this.

Recommendations from Mr. Carlucci for the Proposed Nuisance/Blight Bylaw:

- There is no definition that is specific to the violation.
- Section 12.25 (B) 5 needs to be changed. There is a typo in the section.
- Section 6 (f) should change to Zoning Bylaw not sub-section R of Regulations.

**On a motion made by Chan Rogers and seconded by Bob Tucker, the board voted unanimously to favor the adoption of the Proposed Nuisance and Blight General Bylaw.**

## **REVIEW OF SUBDIVISION RULES AND REGULATIONS**

See ATTACHMENT 6 for list of discussion questions.

### **6.1 TIME FOR PLAN COMPLETION:**

The board discussed the pros and cons of changing the three year period to complete a subdivision. At the conclusion of the discussion, it was agreed to keep it to three years. The board was in agreement with the noted language with the exception of the sign offs from various utility companies. The board would like to keep it specified that the extensions shall only be granted for a 1 year period. It was also felt that the construction phasing should be handled on a case by case basis.

Chairman Rodenhiser noted that if he were an abutter he would want to know what the circumstances are which caused the applicant to seek an extension and to be notified. Also, that having developers have to check in with the Planning Board provides some oversight.

### **6.2 PLAN MODIFICATION:**

The point of discussion focused around what level of change constitutes a modification. It was agreed upon that this is very hard to define. When the board began discussing plan modifications, it was advised by the Chairman to ask member Spiller-Walsh to recuse herself from speaking as a member as she is presently developing a subdivision herself on her Holliston Street property. She stepped down from the member table and sat in the audience location.

Member Spiller-Walsh noted that she did speak with ethics. She believes that it is difficult for the applicant to have to come to the board when something minor does change with the plan. It is on the applicant to handle this change through a full public hearing. This is costly for the applicant.

Chairman Rodenhiser felt that board could review the application for the extension and address if they have met the standards.

Member Spiller-Walsh wanted to know the board would do if the standards have changed over the time of the initial approval.

Chairman Rodenhiser did not want to address any specific subdivisions, but suggested to set up a time and date if member Spiller-Walsh wanted to discuss her particular situation.

Member Tucker left at 10:11 pm.

The board would like to get more guidance from Mr. Carlucci and Mr. Pellegri and Town counsel to help differentiate between a modified plan element/condition and the board's approval decision/certificate of action.

Member Spiller-Walsh rejoined the meeting as a member.

### 6.3 PLAN RECISSION:

If was suggested to add specify the provisions re: plan recission and how it applies to definitive subdivision plans and not to ANR plans. This can be found in case law.

Member Rogers indicated he wanted to talk about the upcoming Conservation Commission public hearing about rules and regs.

- **On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the board voted unanimously to temporarily suspend their discussion on the Subdivision Rules and Regulations.**

## CONSERVATION COMMISSION RULES AND REGULATIONS

An 11/4/09 letter from Seyfarth Shaw regarding the Conservation Commission Wetlands Regulations was distributed. Member Rogers communicated that he believes the new regulations proposed by the Conservation Commission would be a detriment to the town. Chairman Rodenhiser explained to member Rogers that the Conservation Commission has not met to discuss the letter as presented. Member Rogers did not know that. It was recommended that the board not take a public stand on the proposed ConCom Rules and Regulations.

- **On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the board voted unanimously to go back into discussing the Subdivision Rules and Regulations.**

## SUBDIVISION RULES AND REGULATIONS

6.5.2 The language should include that pre-construction meeting should take place prior to the breaking of soil.

- 6.5.3 The approval of each inspection should be in conformance with the DPW. Susy will ask what sort of checklist the DPW uses. Chairman Rodenhiser wants to remain diligent about the expectations.
- 6.6 Adjustment of Performance Guarantee. This section will be looked at more closely by Dave Pelligri.

### **PLAN REVIEW FEE FOR DANIELS WOOD II SUBDIVISION MODIFICATION**

The board reviewed the estimate which was provided by Tetra Tech Rizzo for the review fee for the Daniels Wood II Subdivision Plan. The estimate includes reviewing the application submittal, engineering, site visit, design review and the attendance at two meetings.

- **On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the board voted unanimously to approve the estimate from Tetra Tech Rizzo for review of the Daniels Wood II Subdivision in the amount of \$2,950.00.**

John Williams left the meeting at 11:05 pm.

### **CASSIDY CORNER – SIGNS**

A memo (ATTACHMENT 7) was provided to the members from Susy Affleck-Childs regarding the temporary signs which are placed on Cassidy Corner. There are a number of non-profit groups who regularly use this spot to post event signs. The board agrees that this area needs to be cleaned up. The current provision notes that temporary special event signs are exempt from sign regulation. This fence is located on private property, and owned by the Cassidy family. The discussion will continue.

- **On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the board voted unanimously to adjourn the meeting.**

The meeting was adjourned at 11:15 pm.

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Reviewed/edited: Susy Affleck-Childs

## ATTACHMENT 1



**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*

October 16, 2009

**TOWN OF MEDWAY PLANNING BOARD**  
**NOTICE OF PUBLIC HEARING**

***Williamsburg Condominiums - Open Space Residential Development (OSRD)***

***Application for Approval of OSRD Definitive Plan***

In accordance with the Medway Zoning By-Law, Section V. Use Regulations, Sub-Section T. Open Space Residential Development (OSRD), notice is hereby given that the Medway Planning & Economic Development Board will conduct a Public Hearing on ***Tuesday, November 10, 2009 at 7:15 p.m. in Sanford Hall at Town Hall, 155 Village Street, Medway, MA***, to consider the application of Williamsburg Condominium Corporation of Medway, MA for approval of an Open Space Residential Development Definitive Plan entitled *Williamsburg Way 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.

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 in the ARII zoning district. Owned by the applicant, the site is comprised of four (4) 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.

The proposed Williamsburg Condominium development has already been approved and received an Open Space Residential Development Special Permit from the Planning and

Minutes of November 10, 2009 Meeting  
Medway Planning & Economic Development Board  
*APPROVED – November 24, 2009*

Economic Development Board. Issued on March 10, 2009, the special permit permits the construction of a condominium community comprised of nine duplex buildings (18 townhouse residential dwellings) including three affordable dwelling units and requires the preservation of 8.65 acres of open space (Parcels A and B) to be accessible to the general public. Site access from West Street will be provided by a sixteen foot wide, one way 1153 foot long private roadway and approximately 1200 linear feet of interior sidewalks/pathways.

The proposed Williamsburg Way Definitive Plan that is the subject of the 11/10/09 public hearing represents the second stage of the 2 stage approval process and provides the detailed engineering for the roadway, utilities, stormwater drainage facilities and other infrastructure. The plans will be reviewed by the Town's Consulting Planner and Engineer and various town boards and departments.

The Williamsburg Way OSRD Definitive Plan and application are on file with the Medway Town Clerk at the 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.

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 date, time and place so designated for the public hearing. 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*: Tuesday, October 27, 2009  
Monday, November 2, 2009

cc: *Planning Boards* - Bellingham, Franklin, Holliston, Milford, Millis and Norfolk

*Medway Town Officials/Departments* – Board of Selectmen, Board of Assessors, Board of Health, Building Commissioner/Zoning Enforcement Officer, Community Preservation Committee, Conservation Commission, Design Review Committee, Fire Department, Open Space Committee, Police Department, Department of Public Works, Town Administrator, Zoning Board of Appeals.

## **ATTACHMENT 2**

**To:** Susan Affleck-Childs – Medway Planning Board Assistant  
**From:** Brian Marchetti, P.E.–Tetra Tech Rizzo  
Steven Bouley–Tetra Tech Rizzo  
**Re:** **Williamsburg Way Subdivision Plan Review**  
**Medway, MA**  
**Date:** 11/4/2009

At the request of the Medway Planning Board, Tetra Tech Rizzo reviewed the “Williamsburg Way” Definitive Subdivision Plans against the Town of Medway Planning Board Rules and Regulations for the review and approval of Land Subdivisions.

### **Definitive Subdivision Plans**

The subdivision plans were reviewed against the Town of Medway Planning Board Rules and Regulations for the review and approval of Land Subdivisions, the Town of Medway OSRD Zoning By-Law and good engineering practice.

### **Conformance with Town of Medway, Massachusetts Zoning By-Law for OSRD**

The figures and equation used to determine the maximum number of dwelling units is not provided. (ZBL §T.7.a) (The requirement for the maximum number of dwelling units was previously approved in the special permit and concept decision dated March 10, 2009)

2. The figures used for the determination of the open space requirements are not provided. (ZBL §T.9.a) (The open space requirements were previously approved in the special permit and concept decision dated March 10, 2009)

3. Verify that the Definitive Plan is in compliance with ZBL §T.12.

### **Conformance with Rules and Regulations for the Review and Approval of Land Subdivisions – Section 5 Procedures for Submission and Review of Definitive Subdivision Plans (Chapter 100)**

4. Form D has not been submitted (Ch. 100 §5.5.3)

2

5. Form E – A Certified List of Abutters has not been submitted (Ch. 100 §5.5.4)

6. The plans are not at the required scale of one inch (1”) equals forty feet (40’). (Ch. 100 §5.6.3)

7. The plans provide elevations in reference to the National Geodetic Vertical Datum of 1929 (NGVD 1929) not the required North American Vertical Datum of 1988 (NAVD88). (Ch. 100 §5.6.3)

8. The plans do not provide identification of permanent monuments. (Ch. 100 §5.7.11)

9. The plans do not provide the lot shape factor line. (Ch. 100 §5.7.14)

10. The plan and profile sheets provide one (1) benchmark per sheet not the required two (2).(Ch. 100 §5.7.20)
11. The long term operation and maintenance plan was submitted as an attachment to the definitive plan, not shown on the definitive plan itself. The applicant shall verify that this is acceptable to the Planning Board. (Ch. 100 §5.7.23(e))
12. The plans do not include a table providing area information for the parcels of land. (Ch. 100 §5.7.26)

**Conformance with Rules and Regulations for the Review and Approval of Land Subdivisions – Section 7 Design and Construction Standards (Chapter 100)**

13. Spare communication conduit shall be installed in the same trench as elec/tel/cable for future use by the Town of Medway. Utility conduit detail on sheet 11 of 17 shows three (3) conduit. Verify that this detail accommodates the required spare. (Ch. 100 §7.6.2 (h))
14. Runoff volumes have been mitigated for the 2, 10, 25, 100 year storm events. The rate for 100-year storm has been exceeded. (Ch. 100 §7.7.2 (d))
15. Sediment forebays should be modeled in HydroCAD to verify that hydraulically they function as designed and do not cause flooding impacts during the larger storm events. (Ch. 100 §7.7.2 (g))
16. Permanent maintenance easements and provision for vehicular access shall be provided along the eastern length of drainage swales and detention basins. (Ch. 100 §7.7.2 (k))
- 3
17. Limits of detention/retention basins and related structures shall not be closer than 30' from a lot line or right of way. (Ch. 100 §7.7.2(p))
18. An independent drainage system shall be provided to collect and discharge subsurface runoff from the foundation perimeter drains for the houses along the proposed roadway. (Ch. 100 §7.7.4 (d))
19. Applicant shall verify that the proposed one-way subdivision road is adequate to provide emergency, fire and police access. (Ch. 100 §7.8.1)
20. Use of Local Street construction standards is required for subdivision of 6 or more lots/dwelling units. (Ch. 100 §7.9.1(d)) (See Waiver Worksheet)
21. Applicant shall verify that the proposed roadway meets the Alignment requirements within this regulation. (Ch. 100 §7.9.2)
22. Proposed ROW width does not match the requirement of the town. The new dimension should be shown on the Definitive Subdivision Plan. (Ch. 100 §7.9.4) (See Waiver Worksheet)
23. The minimum centerline grade for any street shall not be less than 2%.

(Ch. 100 §7.9.5(a))(See Waiver Worksheet)

24. The proposed roadway width does not meet the minimum requirements per this section. (Ch. 100 §7.9.7(g)) (See Waiver Worksheet)

25. Vertical granite curb should be provided at intersecting roadways. Detail should be added to the OSRD Layout plan. (Ch. 100 §7.10.1(a))

26. Curbing should be provided for the full length of all streets along each side.(Ch. 100 §7.10.2) (See Waiver Worksheet)

27. Driveway dimension should be labeled on the plan to verify that they are compliant with the Town of Medway standards. (Ch. 100 §7.11.1)

28. Driveway detail is not consistent with the town standard. (Ch. 100 §7.11.3)

4

29. Sidewalks shall be 6' wide. (Ch. 100 §7.13.2)

30. Sidewalks shall also be provided along the entire frontage of the subdivision parcel and along existing town ways. (Ch. 100 §7.13.3)(See Waiver Worksheet)

31. Fire hydrants shall be placed 7'6" behind the back of curb/berm. (Ch. 100 §7.17.2)

32. 6" minimum of compacted loam shall be provided on all roadway side slopes, grass strips and housing unit lawn areas. Note on plans. (Ch. 100 §7.18)

33. At least 3 trees are to be located on each lot. (Ch. 100 §7.19.2) (See Waiver Worksheet)

34. Verify with the Town of Medway Tree Warden that proposed trees are acceptable. (Ch. 100 §7.19.4)

35. Verify that proposed signs are acceptable to the Town of Medway. (Ch. 100 §7.20)

36. Developer shall install street lighting at the entrance to the subdivision or other areas where the Traffic Safety Officer deems necessary. (Ch. 100 §7.21.1)

### **Stormwater Management Design**

37. Within Subcatchment 1A of the Proposed HydroCAD model, verify that the bituminous driveway to #68 West Street is included in the model.

38. Subcatchment 2A of the Proposed HydroCAD model is labeled as including building units 13-18. The area breakdown of subcatchment 2A states that building units 11-18 are included. Verify the correct area to be included within Subcatchment 2A and update the model as required.

39. The Existing HydroCAD model was analyzed over a time period of 1-48 hours. The Proposed HydroCAD model was analyzed over a time period of 0-48 hours. This variation in the

model should not have an effect on the output however the Existing model should be revised to be consistent with the Proposed model.

40. The 12” RCP outlet from the proposed stormwater basin is not modeled in HydroCAD. This outlet should be modeled as the primary outlet, and the 2-4” diameter orifices, 4”x24” orifice and the 2’x2’ overflow grate should be modeled as devices to the 12” primary outlet.

41. The water quality volume calculation worksheet states that a volume of 4,438 cf is provided between elevations 212-213, below the 4” orifices. There is no way to verify that this is the volume provided below the 4” orifices. The Stage-Area-Storage printout from HydroCAD should be provided to verify that this volume is provided below elevation 212.50.

**Stormwater Checklist – All required calculations per Volume 3 of the Massachusetts Stormwater Handbook shall be provided.**

Standard 1 – This item has been addressed to our satisfaction.

Standard 2 – This item has been addressed to our satisfaction.

Standard 3

- Because the recharge BMP is located within a soil with a rapid infiltration rate, 44% TSS removal must be achieved before reaching the infiltration basin. All TSS removal calculations must be submitted.
- Drawdown calculations must be submitted to verify the basin will empty within 72 hours.
- Groundwater mounding calculations must be submitted because the bottom of the basin is located within four feet (4’) of the seasonal high groundwater table.

Standard 4

- All TSS removal calculations must be submitted. Weighted average calculations should be provided because all impervious areas (driveways) are not directed to BMP’s. Proprietary BMP documentation must be submitted for the water quality unit to be utilized.

Standard 5-7 – Not Applicable

Standard 8 – Stormwater Pollution Prevention Plan (SWPPP) to be submitted before construction begins as stated within the checklist.

Standard 9 – The inspection frequency for sediment forebays within the table should reflect the description following the table which is consistent with the maintenance requirement outlined by the DEP.

Standard 10 – This item has been addressed to our satisfaction.

6

**Good Engineering Practice**

Sheet 3 of 17

- Ground cover should be shown and labeled.

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*APPROVED – November 24, 2009*

- Why aren't the unregulated isolated wetlands flagged?
- Is mitigation proposed for any impacts due to the forebay construction and culvert installation?

Sheet 4 of 17

- Drainage easements are not shown around stormwater basin and drainage swales. Are they provided?
- Vertical granite curbing limits are not shown.

Sheet 5 of 17

- Rip-rap erosion control should be shown at every flared end section outlet and where the sediment forebays discharge to the vegetated swales.
- What is the roadway edge treatment where the country drainage is proposed?
- Will there be scouring at the forebays where the roadway runoff will be concentrated?
- Maintenance berm at basin 1 should be labeled. Is a maintenance/access berm provided at the forebays?
- The grass swales should be modeled in HydroCAD to verify they have the capacity to handle the anticipated flows.
- Foundation drains and discharge locations are not shown on the plan.

Sheet 6 of 17

- Sewer manhole information at the east end of West Street is cut off of the plan.

Sheet 7 of 17

- Several drain pipe type, length and slopes are not labeled.

Sheet 10 of 17

- Driveway detail does not match the Town of Medway standard.
- Why is there a bituminous curbing detail? Where is this used on the plan?
- Provide a vertical granite curb to Cape Cod berm transition detail.

These comments are offered as guides for use during the town's review. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.

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## ATTACHMENT 3

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### PGC ASSOCIATES, INC.

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
508.533.0617 (Fax)  
[pgca@comcast.net](mailto:pgca@comcast.net)

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November 3, 2009

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

#### Re: **Williamsburg Condominiums Definitive Subdivision Plan**

Dear Mr. Rodenhiser:

I have reviewed the definitive subdivision plan submitted by owner/applicant Williamsburg Condominium Corporation of Medway for a parcel on West Street. The plan was prepared by Faist Engineering of Southbridge, and is dated August 31, 2009 with a revision date of October 15, 2009. The plan establishes a condominium development of 18 units as authorized by an OSRD special permit granted by the Planning Board.

I have comments as follows:

#### **Subdivision Rules and Regulations**

1. Section 5.5.11 requires a Development Impact Report. This was not provided.
2. Section 5.7.26 requires that a table listing the total area, number of area of lots, areas of streets, etc. on the cover sheet. No such table was provided.
3. Section 5.7.28 requires that streetlights be shown on the plans. This information was provided. However, consideration should be given to adding streetlights near the intersections with West Street if there are not already lights in that vicinity.

#### **OSRD Special Permit Finding**

4. Finding #9 (a) of the OSRD special permit found that the proposed open space met the requirements for area and percentage of uplands. Though this was documented on the OSRD special permit plan, a table should be provided on the definitive to document that this is the still the case.

**OSRD Special Permit Conditions**

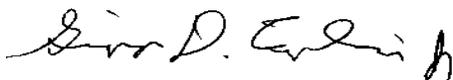
5. Condition #3 (d) requires certain information to be provided in the definitive plan set. Among the items that do not appear to be in the plan set are the following:
  - a. General color palette and mix;
  - b. Street name
  - c. Location and specifications for a playground;
  - d. Location and specifications for construction of a pathway from the visitor parking lot running approximately 200 feet into Parcel B.
6. Condition #6 (c) requires that an Affordable Housing Regulatory Agreement to be prepared and executed as apart of the definitive plan process. This was not provided.
7. Condition #6 (d) requires that a marketing plan for the affordable units be prepared as part of the definitive plan process. This was not provided.
8. Condition #7 requires that specific water conservation measures to ensure that water use remains below 65 gallons per day within the development be specified. This was not provided.
9. Condition #8 requires pertains to stone walls on the site. It is unclear which stone walls are intended to be retained and which are to be moved elsewhere on the site.
10. Condition #12 requires that a condominium master deed, a declaration of trust and a conservation restriction be recorded. However, this condition is to be completed prior to any occupancy permit being issued so it is not yet due.

**Waiver Requests**

11. Most of the waiver requests have been provided guidance in the OSRD special permit that they were likely to receive favorable consideration. However, the waiver from Section 6.6.3 regarding a Partial Bond Release was given guidance that it was not likely to be considered favorably.
12. Similarly, the OSRD special permit provided guidance that a waiver from Section 7.13.3 regarding construction of a sidewalk along the entire frontage of the property was not necessary since providing funds for off-site mitigation to construct a sidewalk elsewhere, as provided for in the special permit, complies with the regulation.

If there are any questions about these comments, please call or e-mail me.

Sincerely,



Gino D. Carlucci, Jr.

## ATTACHMENT 4

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**From:** Jim & Betty Wickis [mailto:jbwickis@verizon.net]  
**Sent:** Tuesday, November 10, 2009 10:38 AM  
**To:** Planning Board  
**Cc:** Susan Affleck-Childs; 'Jim & Betty Wickis'  
**Subject:** Williamsburg Condominium Definitive Plan/Abutter

Dear Susy:

We have just had a chance to review the definitive plans for the Williamsburg Condominium OSRD located on West Street. As abutters, most of the plans seem fine to us, with one exception: access to the east side of our property via the former West Street.

History: Around 1920, West Street was straightened into its present course, leaving a portion of the old roadway intact, but unused. The old roadway was never officially abandoned, according to a review of Town Meeting records performed by Harry Johnson more than a decade ago. This created a triangle of land, owned by us, bordered on three sides by our building lot, the current West Street, and the old roadway. When Mr. Greg Whelan bought the several parcels of land that comprise the Williamsburg Condominium OSRD, he found that his development plans were reduced because his road frontage on the current West Street was limited by the existence of this never-abandoned portion of the old West Street. Therefore, he approached us on three separate occasions, asking to buy this triangle of land so that he would have more road frontage. We initially explained that we were not interested in selling because we wanted to maintain access to our property through the old roadway. We had been using the old roadway since 1979, keeping it free of brush so that it remained passable. On Mr. Whelan's third approach, he stated that he would allow us to continue use of the roadway if we agreed to sell him the triangle of land. We agreed with this plan, and his lawyer, Tucker Reynolds, Esq., wrote a mortgage, with this statement:

“The premises are conveyed subject to the Grantors’ right to use the premises for access so long as the Grantors own the land abutting the premises to the west shown as Parcel 1 on the deed to Grantors recorded with said Registry of Deeds in Book 5587 at Page 721.”

The mortgage was signed in May of 2003, and consisted of an initial payment and a final payment due June 1, 2008. In 2008, Mr. Whelan said he did not have enough money to make the final payment and asked for more time. We agreed to his request and that final payment is still pending, although with a new owner of the property. We do not know if the new owner and developer of the property is aware of this agreement, as we have not spoken with him.

In looking at the current plans for the Williamsburg Condominium OSRD, there is a driveway leaving that property which crosses the old West Street roadway and enters the current West Street. The problem for us is that the plans seem to indicate the placement of a stone wall and shrubs in the old roadway that would deny us motor vehicle access to our property from the old roadway.

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Our request is that the new owner and developer honor the agreement for us to have access to our property, via the old roadway. Perhaps this could be accomplished by not putting in the stone wall and shrubs, and allowing us to drive into the Williamsburg driveway for a short distance and onto the old roadway. We are also open to other possible ways of allowing us access.

We thank the members of the Planning Board for looking at this problem.

Sincerely,

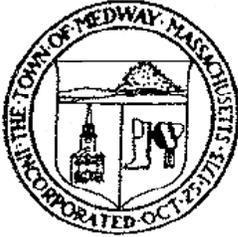
Elizabeth Wickis

James Wickis

74 West Street

Medway, MA

## ATTACHMENT 5



Town of Medway  
**DESIGN REVIEW COMMITTEE**  
155 Village Street  
Medway MA 02053  
508-533-3291  
[drc@townofmedway.org](mailto:drc@townofmedway.org)

November 8, 2009 - DRAFT

TO: Medway Planning and Economic Development board  
FROM: Gwen Hendry, Chairman  
RE: DRC Recommendation – Williamsburg Condominium Color Palette for HOUSE SIDING

On Monday, November 2<sup>nd</sup>, 2009, the DRC met with Paul Yorkis to review and discuss the proposed color palette for Williamsburg Condominiums. At the meeting, we reviewed vinyl siding color choices to be used for the condominiums. The color samples reviewed were from the *Georgia Pacific Forest Ridge Vinyl Siding* line. With the exception of the colors *Pearl* and *Cream*, which will not be used in this development due to their tendency to fade, the applicant wishes to use the remaining colors of this manufacturer's palette as potential choices for units at Williamsburg Condominiums. Included in the color palette are the premium colors: *Briarwood*, *Pewter*, *Wedgewood*, *Sagebrook*, and *Cobblestone*. These colors along with the non-premium palette which offers some lighter shades shall be mixed within the development in order to prevent a repetitive, cookie-cutter appearance.

The DRC offers the following comments about the proposed color palette

- The DRC feels that the color palette is appropriate for the application, that the color scheme is attractive and will provide a variation of looks within the development if attention to each unit's surroundings is kept.
- The use of contrasting elements such as shutters and trim will add to the overall aesthetic of this site.

We offer the following comments/recommendations:

- The DRC suggests that by taking note of other color combinations in historic areas of Medway, the development will achieve an indigenous effect.

cc: Paul Yorkis, Patriot Real Estate

## **ATTACHMENT 6**

### **MEDWAY SUBDIVISION RULES AND REGS**

**Discussion for November 10, 2009**

**Pages 33 – 43**

#### **SECTION 6 – ADMINISTRATION OF APPROVED SUBDIVISIONS**

##### **6.1 TIME FOR PLAN COMPLETION**

This entire section is based on a 3 year period to complete any subdivision. That simply may not be realistic. Do you want to have a standard completion period for all subdivisions (perhaps 5 years??) or establish an individual completion period on a project by project basis depending on the size, etc. and include that time frame in the decision?

I think we should add language to define what constitutes “project completion”

- Construction work finished and determined to be acceptable or repairs made and inspected.
- Establish a warranty period for improvements. How long a period is reasonable? Some communities have 1 year.
- As-built plans submitted and approved
- All necessary deeds, easements, etc. submitted and approved by Town Counsel
- Street layout plans filed and layout approved by BOS (when roads are to be accepted as public ways)
- All taxes paid up to date on any land parcels (drainage, open space, roads) to be conveyed to the Town or any house lots still owned by the developer
- Any conditions/mitigation measures (specified in the decision) have been completed
- Certification signed by the developer and signed and stamped by the engineer that construction of the subdivision infrastructure has been completed in accordance with the approved/endorsed Definitive Subdivision Plan and any modifications or revisions thereto.
- Sign offs from various boards/departments that work is completed to their satisfaction – DPW, BOH, FIRE, POLICE, Disability Commission (??), ConCom or MASS DEP Certificate of Compliance if there is an Order of Conditions that pertains to the subdivision infrastructure/road/stormwater, etc.
- PB Certificate of Completion
- Sign offs from various utility companies????
- All catch basins and detention facilities are properly cleaned out.
- Entire subdivision area is cleaned up to leave a neat and orderly appearance free from debris and other objectionable materials.

6.1.2 Remove this responsibility for the PB to notify developer that as-built plan has not been submitted within 45 days prior to expiration of construction period.

6.1.3 Under what circumstances do you want to grant extensions to project completion deadline? What constitutes mitigating circumstances?

I would recommend that approving an extension of a completion deadline should NOT constitute a Plan Modification. A deadline extension should be handled by the PB at a meeting but without a requirement for a full public hearing.

Do you want the regs to specify that extensions shall only be granted for a 1 year period?

6.1.4 Construction phasing – It is not realistic for a developer to NOT phase the completion of a larger subdivision.

## **6.2 PLAN MODIFICATION**

This section repeats what is in the Subdivision Control Law. Town Counsel feels it is not necessary to include, but I recommend keeping it in so the regs are complete and developers do not have to look in two places for info re: sub

However . . . there is nothing that really defines what level of change constitutes a modification. This is important because a plan modification needs to be handled thru a full public hearing process with a decision, appeal period, plan endorsement and then it has to be recorded. If something changes (drainage design) but there is no change in the roadway layout or lot arrangement, is that a modification or just a minor revision? When does a minor change in the field made during construction evolve into enough of a change to warrant a formal plan modification? We may need some guidance from Gino, Dave Pellegrini and Town Counsel.

I think it would also be good to differentiate between modifying the PLAN and modifying some element/condition of the Board's APPROVAL DECISION/ CERTIFICATE OF ACTION.

## **6.3 PLAN RECISSION**

Town Counsel notes that it should be clearer that the list of reasons for rescinding a plan is illustrative and not limiting.

Should add info on process for rescission. Same as process for formal plan modification.

Specify that the provisions re: rescission apply only to definitive subdivision plans and not to ANR plans.

## **6.4 BUILDING PERMIT**

6.4.1 Clarify that a structure cannot be built on a lot in an approved subdivision unless the PB has authorized a release of covenant for the particular lot in question.

## **6.5 CONSTRUCTION OBSERVATION/INSPECTION**

I have asked for input from Dave D’Amico and Dave Pellegrini on this section, specifically on the list of essential inspection points and how the Town’s Consulting Engineer and Medway DPW will coordinate inspections.

- 6.5.1 Specify that the Town’s Consulting Engineer is acting as the PB’s Agent; delete reference to the Inspector
- 6.5.2 More specificity on when the Pre-Construction Meeting shall take place. The regs say “prior to construction.” What does that mean? Before any clearing?
- 6.5.4 How should the Medway DPW document its approval of each inspection step?

## **6.6 ADJUSTMENT OF PERFORMANCE GUARANTEE**

Town Counsel recommends that all references to “bond” should be revised to say “surety or performance guarantee” instead.

- 6.6.1 The regs provide for a maximum of 3 performance guarantee reductions. Do you want to revise that number or delete all references to how many reductions you will allow?

Revise the text so that a minimum amount of performance guarantee is retained “until the project is determined to be complete (which includes a warranty period). Town Counsel has advised that we cannot retain a minimum bond until street acceptance occurs.

- 6.6.2 We should add that the amount of the performance guarantee will include anything shown on the plan that hasn’t been completed including but not limited to landscaping work, street lights, and any off-site mitigation requirements. Amount can also include maintenance expenses, preparation of as-built/street acceptance plans and legal services needed for project completion.

Can/should the performance guarantee also address installation of water, sewer and all other utilities and anything shown on the subdivision plan?

What about incomplete items specified a ConCom Order of Conditions pertaining to the road, infrastructure, utilities, and drainage (not matters on individual house lots)?

Is the 25% contingency OK?

- 6.6.3 What infrastructure construction should be in completed before the PB will authorize a lot release for house construction? Is there more you want to have in place? I have asked Dave D’Amico and Dave Pellegrini to look at this section as well.

6.6.4 Explain how reductions in performance security are processed – approved by PB, notify treasurer, processed thru town’s bi-weekly warrant system.

6.6.5 Add some language that performance guarantee accounts are not intended to serve as construction financing.

## **6.7 AS-BUILT PLANS**

Add language that the subdivision as-built plans for those streets to be accepted by the Town and the official street acceptance/roadway layout plans can be combined into one plan set.

Add language that the as-built plans shall be prepared in conformance with the specifications for as built plans that are included in the Subdivision Rules and Regs that are in effect at the time the as-builts are actually prepared.

## **6.8 PROCEDURE FOR STREET/INFRASTRUCTURE ACCEPTANCE**

Add a note that this section does NOT pertain to streets that are intended to be permanent private ways.

6.8.1 Town Counsel suggests that we not require formal legal descriptions (running courses and measurements) but make reference to a plan that shows locations and dimensions.

Town Counsel advises that we no longer require developers to convey full title in the streets to the Town, but to convey an easement.

Add requirement that all taxes must be current on any parcel being conveyed to the town.

6.8.2 Street Acceptance Fee – Change language so funds are paid to a 53G account/ revolving fund for outside consultants (engineering and legal).

6.8.4 Review by other Town Boards/Depts – The regs cannot **require** other boards/departments to act. Add review by Police Department

6.8.8 Roadway Layout – Add text that PB provides the BOS with a roadway layout recommendation. Change text so that it says the BOS will vote on roadway layout. The regs cannot commit BOS to approve roadway layout.

6.8.10 Change text so that it says Town Meeting will vote on street acceptance. The regs cannot commit Town Meeting to accept streets.

6.8.11 Recording Fees – Clarify that the developer pays for this thru the funds paid to the 53G account.

## **6.9 FINAL RELEASE OF PERFORMANCE GUARANTEE**

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Eliminate requirement for “street acceptance” prior to release of performance guarantee. Release of performance guarantee tied to project completion in accord with all regulations and full compliance with requirements for as-built plan, street acceptance plans, legal documentation, etc.

## **ATTACHMENT 7**

November 9, 2009

TO: Planning and Economic Development Board Members  
FROM: Susy Affleck-Childs  
RE: Temporary signs on fence at Cassidy Corner – northeast corner of Main & Holliston Streets

**BACKGROUND** - I am growing increasingly troubled about the mish-mash of business and special events signs on the fence on Cassidy property at northeast corner of Main and Holliston Street. Various non-profit groups regularly use the corner to post special event signs. A number of business trades also use the site to regularly post contractor type lawn signs. This is the major intersection in Medway and it is getting a junky cluttered look to it. I would encourage you to look carefully the next time you are at the intersection.

### **CURRENT PROVISIONS**

Temporary special event signs (up to 24 sq. ft in size – 8 x 3) are EXEMPT from sign regulation.

Anything larger than that is not permitted. Special event signs may be displayed for not more than 15 days.

Off premises business signs are not permitted.

The fence is located on private property, owned by the Cassidy family

**RECOMMENDATIONS** - I suggest we seek a meeting with representatives of the Cassidy family to have a chat and seek some ways to enlist their help to improve the aesthetic quality of that corner.

Only allow signs for community events, sales or services sponsored by a non-business organization would be permitted. No business signs for off premises establishments should be allowed.

Standardize the size of all temporary special event signs to a 3' by 8' banner.

Require that the signs have some finished quality to them.

Require that they are affixed to the fence in some sturdy fashion, not just laid up against the fence.

Require that they are installed on the fence no more than 2 weeks before the event and should be taken down immediately thereafter.

**November 24, 2009  
Planning and Economic Development Board  
Sanford Hall, 155 Village Street**

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

**ABSENT WITH NOTICE:** Tom Gray, John Williams

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

Chairman Rodenhiser called to order at 6:30 pm the joint meeting with the Medway Open Space Committee and the Planning and Economic Development Board.

**The members of the Open Space Committee (OSC):**

John Schroeder  
Jim Wickis  
Glenn Murphy  
Patrick McHallam  
Bruce Hamblin (not in attendance)  
Dawn Rice Norton (not in attendance)  
Tina Wright  
Jim Sullivan

Chairman Schroeder reviewed the OSC's 2008 --2009 accomplishments.

**Open Space Committee 2008-2009 Accomplishments:**

- The communication and cooperation has improved with other departments and committees.
- Worked with Affordable Housing Committee. Cooperative effort went into negotiations for a property and it continues to be in negotiations.
- Community Preservation Committee and OSC are working together to identify parcels which are important for protecting.
- The CPC funds were explained.
- Successful work of two committees.
- Members sat on a committee to create an organic farm.
- Worked on Master Plan Update Committee.
- The Trust for Public Land is now working with Medway. The groups in town are following the same path.

- The OSC made recommendations for the first time and was asked to look at OSRD and give opinion for project over on West St. The Committee is looking forward to working with Capital Planning on other projects.
- The OSC appreciates input from the public.
- One area of improvement is the town website email. The email function is not working throughout the town website. The IT person is working on this.
- The OSC held their first Natural Treasures Hunt at Choate Park. This event will take place next spring/summer.
- Some Open Space members attended the Massachusetts Land conference. The conference was educational and offered a good opportunity to make contacts.
- There is published a bi-annual newsletter. One goal is to have this published quarterly. Copies of the newsletter are left at key locations around town.
- Chairman Rodenhiser suggested that a flier about the OSC go out with the town clerk's annual census form (January). He offered a folding machine if needed.

The Five Year Action Plan Summary was also discussed. One goal focused on identifying and protecting undeveloped land that directly affects aquifers and groundwater, wildlife habitats, ponds and waterways. More specifically, the committee is identifying key parcels, which are most important for protecting natural resources and wildlife corridors. The implementation mechanism is to develop a ranking system and also develop evaluation guidelines.

A discussion was held about the right of way in regards to power lines.

One of the short-term goals is to focus on creating an appointed Trail Committee. The appointment could be from Planning and Economic Development. It is the vision to have this committee work parallel with the OSC.

Another goal is to establish and expand greenbelts along the Charles River and other water bodies as well as other corridors. The intent of the OSC is to identify and protect undeveloped land. The OSC has been approved with the Community Preservation Funds and is seeking appraisals of three parcels.

Coordinating among town boards has already taken place. This occurs with the Board of Selectmen, Conservation, Affordable Housing, Master Plan Committee, and the School Committee.

Chairman Schroeder wanted to recognize Open Space member, Pat McHallam who has done a great job with the town website by loading graphics, newsletter, and open space maps.

Discussion took place about the rural character in town and how it has come back with active farming. There was talk about pursuing the establishment of an Agricultural Committee.

Chairman Rodenhiser noted that there are many interested residents, which were at the town meeting that may be interested in serving on this committee.

Susy Affleck-Childs indicated that the language of the Agricultural Committee could be created and placed on a warrant article for the spring 2010 town meeting. It was also suggested setting

up a joint brainstorming session where a specialist from the state could be brought in to attend the meeting to discuss how local agricultural committees function.

The Open Space Committee informed all that the town is being invaded by invasive species. The committee would like to get education out to the schools and children.

**BOARD BUSINESS:**

**Minutes:**

The minutes from October 27, 2009 will be held until December 15, 2009

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the board voted unanimously to accept the minutes from November 10, 2009. (Chan Rogers abstained)**

**Committee/Task Force Reports:**

**School Building Committee: (Bob Tucker)**

The Committee will be interviewing 5 firms. Two firms will be invited back. The Committee will be making a final recommendation for endorsement. Chan noted that more office space is needed along with a future new town hall.

**Water and Sewer Committee: (Chan Rogers)**

No Update

**Conservation Commission: (John Williams)**

No Update

**PUBLIC HEARING - Daniels Woods II Subdivision Modification**

- **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.**

The public hearing was opened and the board will be considering an application from Frederic Sibley to modify the Daniels Wood II Definitive Subdivision Plan and Certificate of Action.

**Present:**

Fred Sibley, property owner  
Paul Yorkis, applicant's representative  
David Faist, engineer  
Glenn Murphy, attorney

The property is a 6.15 acre site located at 12 Oak St. The owner is looking to modify the driveway and site grading and storm water management design. A revised design was shown. The plan was dated October 29, 2009. The proposed revisions will not increase the number of house lots.

Mr. Faist began his presentation by explaining that the plan modification is for the driveway and grading layout. The applicant is also seeking to waive the requirement of the drainage system. They would also like to add a 15-foot grading easement on Lot 2-B. The plan needs to be modified since additional onsite soil testing establishes that the septic system for the house has to be larger and take up more area than shown on original subdivision plan. The new driveway and house design will provide for the use of natural drainage pathways to control additional storm water runoff from the project instead of the original catch basin and drywell system.

It was further explained that low impact drainage design will include the use of natural drainage pathways along with the creation of an 18 “ grass basin and grass swale to allow for natural infiltration. There will be a gravel emergency vehicle turnaround area to reduce runoff. The house size will be decreased to 1,800 s.f. instead of the 3,200 s.f. originally proposed. There will also be a one (1) roof runoff-leaching field (drywell). The calculations were attached as part of the packet, which was supplied to the board.

Attorney Murphy noted that the deed does reference maintenance responsibilities for the road and drainage. The Attorney will need to draft the language regarding the driveway easement. Member Spiller-Walsh would like to see a copy of the deed. The Attorney provided this to member Spiller-Walsh.

There was discussion and concern that the low impact drainage design with the creation of an 18” grass basin and grass swale will not infiltrate as designed. Tetra Tech Rizzo noted that the majority of the stormwater calculations were not submitted as this is a single lot subdivision which is exempt from state stormwater standards.

It was recommended that additional grading detail be shown where the runoff will flow. There is a concern about potential erosion issues if this is not addressed. Lot 2B-2 needs to reflect any grading that is to be completed. No work is noted on the Grading Plan. The engineer for the applicant and the towns engineer will meet to address the issues noted.

Karyl Spiller-Walsh communicated that she is concerned that the lot size may not sufficiently and adequately accommodate the septic and storm water run-off. She would like this addressed by the engineers.

The new test pits are what caused the modification change.

The calculation standards with the numbers were provided to the board. The applicant will still need approvals from the Board of Health and Order of Conditions from the Conservation Commission.

**Concerns Noted From the Board:**

- North property line in regards to the run-off that will come off this property. The slope and run off will go through the stonewall and the run off will not flow to the east end of the lot.
- Show the side profile.
- Clarification on the parcels and the grass swales. (naturalizing the basin form).

- The letter from the Medway Fire Chief should have date and note the date of the plan.
- Determine who is responsible for Parcel B.
- No Cut Zone (site flag trees)

Susy Affleck-Childs wants to make all aware and ensure that the drainage will continue to function and that all drainage easements are called out specifically in regards to the function in all places.

The review letter from Tetra Tech Rizzo dated November 20, 2009 provided a list of comments. (See attached.)

The public hearing for the Daniel Wood II Subdivision Modification will be continued to **January 12, 2009 at 7:15 pm.**

**Country View Estates/Drainage Easement:** 37 Broad Acres Farm Road.

The Board was in receipt of a memo from Town Counsel Barbara Saint Andre dated Wednesday November 4, 2009 regarding the proposed Streifer Drainage Easement.

The memo also had attached a copy of the latest version of the proposed drainage easement, which was received from Attorney Ted Cannon. It was recommended by Susy Affleck-Childs that Ms. Saint Andre be asked to meet with the board to discuss this further at which time finality and recommendations will be made in this issue. It will also be suggested that an estimate be provided for legal services if an eminent domain approach is deemed to be an appropriate next step.

#### **OTHER BUSINESS**

OSC Chairman John Schroeder came to the board to ask for an executive session to discuss a personnel issue. (See Executive Session Minutes)

Chairman Rodenhiser suggested that the board go into Executive Session.

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Planning and Economic Board voted by roll call to go into executive session to discuss a personnel issue and to come back into open session to continue the discussion about Country View Estates.**

#### **Roll Call:**

Karyl Spiller-Walsh	aye
Bob Tucker	aye
Chan Rogers	aye
Andy Rodenhiser	aye

The Board went into executive session at 9:16 pm and returned from executive session at 9:21 pm.

**Country View Estates/Drainage Easement:**

The Board continued the discussion about the proposed drainage easement. Member Tucker stated he would never be in favor of recommending the streets and drainage easement for this entire package. He would not want the Town to have these streets with the problems with the conditions of the roadways.

Chan is in agreement with the feelings of member Tucker. However, he feels there is an obligation to work this out. He feels that eminent domain is not a big deal and could be the lesser of two evils for the Town. It is not necessarily a big expense and is used frequently without a lot of expense to Towns. Mr. Rogers believes this is a possibility.

Chairman Rodenhiser communicated that this could be a liability to the Town if the Town accepts these streets.

Susy will get a cost on how much money is left (in the construction observation account). This money will not be enough to cover the title searches. The Board of Selectmen did not want to pay for eminent domain.

Member Rogers expressed his frustration that the Chairman does not recognize when he has something to say. The Chairman responded that he will make sure that Rogers has all the opportunity he wants to speak his opinion.

**Applegate Farm Subdivision**

Dave Pellegrini from Tetra Tech Rizzo provided a copy of the field report dated November 5, 2009. Mr. Costello prompted the site inspection by informing the town that their intent was to import new material. The owner is to notify the town when they intend to do any other work. It appears that there is work being done without having the pre-construction meeting. The board was in agreement that a memo should be sent asking to have a pre-construction meeting.

- **On a motion made by Chan Rogers and seconded by Bob Tucker, the board voted unanimously to issue a cease and desist until the pre-construction meeting is held.**

**Estimate for Daniels Wood II Subdivision:**

- **On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the board voted unanimously to approve the estimate for review of the Daniels Wood II Subdivision in the amount of \$2,950.00.**

**Revisions to Medway Land Subdivision Rules and Regulations:**

This will be tabled until the next meeting.

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

This will be tabled until the next meeting.

**Discussion re: Article 8 from 11-16-09 Town Meeting and Planning Board Fees:**

This will be tabled until the next meeting.

**Country View:**

- On a motion made by Karyl Spiller-Walsh and seconded by Bob Tucker, the board voted unanimously to pay the voucher in the amount of \$8,754.66 to Petriini Construction toward the installation of a new culvert under Summer Street north of Broad Acres Farm Road, funds to be paid from the bond default account.
- On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the board voted unanimously to recommend that the Town Accountant pursue the balance of the money.

**Future Meetings:**

The next meeting scheduled will be **December 8, 2009 and December 15, 2009.**

There will be no meeting on December 22, 2009.

- On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the board voted unanimously to adjourn the meeting.

The meeting was adjourned at 10:00 pm.

Respectfully Submitted,

  
Amy Sutherland

Meeting Recording Secretary

  
Edited by Susy Atteck-Chilts

Planning and Economic Development Coordinator

**December 8, 2009  
Planning and Economic Development Board  
Sanford Hall, 155 Village Street**

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

**ABSENT WITH NOTICE:** Tom Gay

**ABSENT WITHOUT NOTICE:** John Williams

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

**BOARD BUSINESS**

**Charles River Pollution Control District – Sewage Treatment Plant Capacity:**

Paul DeSimone asked to be on the Planning and Economic Development Board agenda to discuss the capacity issues at the sewage treatment plant. Mr. DeSimone is concerned about the plant's ability to treat the wastewater products resulting from future development activity in Medway.

The Chairman noted that a draft National Pollutant Discharge Elimination System (NPDES) re-issuance permit is dated 2008. The Towns of Franklin, Millis, Bellingham and Medway are referenced in the report. Each Town must submit an Inflow and Infiltration (I & I) report. A copy of the Charles River Pollution Control District 2010 and 15 year Capital Improvement Plan was provided. This was dated January 2009. The report showed the contributing flow. The purpose of the 15-year Capital Improvement Plan is to make the improvements which are necessary to keep the plant operating at current capacity. There is also a requirement to maintain compliance with Federal and State permits.

The Chairman suggested that Mr. DeSimone specify and put in writing exactly what is needed from the Planning and Economic Development Board. Gino Carlucci indicated that the MAPC did a full build out for Medway and it is still relevant and accurate. It was felt that the Sewer Department could provide the accurate numbers. Member Rogers wanted to know the status of the remaining areas of Medway that are on individual septic. Another question he wanted addressed was what is the driving force to make the unsewered portions of Town change to sewer? Member Rogers would like to see this mechanism put in place.

The Board further discussed the I/I study, which was done in 2001 and again in 2005. The most recent I/I study for 2008 has not been done. Mr. DeSimone informed the Board that the manholes and cracks were addressed in the most recent 2005 I/I study. Mr. DeSimone will be sending a letter to Water and Sewer.

Chairman Rodenhiser communicated that if sewer is available, then an applicant can hook on to it. He encourages Mr. DeSimone to go to the Water and Sewer Board to discuss this. The Chairman wants to make sure that Medway reserves our capacity and is concerned that Franklin's sewage is unmetered and this should be fixed. The Medway Town residents are paying for this unmetered sewage. In 2008 there was a refund assessment. The Board is concerned with the sewer capacity for east Medway.

Member Rogers wanted to know what Mr. Desimone is looking for in the near future.

Mr. DeSimone noted that there is another meeting this Thursday. He feels that there will be a need for future expansion. This would ideally be done in the next 15 years.

The Board was also in receipt of a document from Camp Dresser & McKee Inc. dated November 13, 1998. This letter referenced the present value and plant modified capacity for Medway (.895 mgd). Table two shows the allocation of increase in capacity based on plant ownership ratio of, 80 percent Franklin and 20 percent Medway.

Consultant Pellegri suggested that the various boards which issue permits would be able to track and keep accurate numbers of who is connecting to Town sewer. Mr. Pellegri was wondering if the Town has an I/I permit fee? When a project gets approved you are authorized to take out exactly what you are putting it.

Member Tucker expressed that he felt that the numbers initially provided to Water and Sewer were conservative.

The Board discussed providing recent numbers of houses in subdivisions that are in the process or have been approved for construction so that the Town can project the future capacity. The number should be noted on the build out plan.

The Chairman thanked Mr. DeSimone for coming to the Board meeting.

**Country View Estates/Drainage Easement:**

37 Broad Acres Farm Road.

Attorney Saint Andre was present to provide an update of Country View Estates. The main issue with accepting the streets has to do with the easements. The Town cannot get clear titles on all the properties. The Board feels that the title searches should be done by the property owners.

Member Spiller-Walsh thought that when Attorney Cannon gave the presentation, all the other easements (with the exception of three) were gathered.

Attorney Andre agreed that this was true, but there were no sign offs from the mortgages companies.

Member Rogers would like to have the homeowners be informed about the process and the problems. Two of the members do not want this accepted. The alternative is to take by eminent domain. He feels houses are more valuable with accepted streets.

Attorney Saint Andre explained that the big banks have different sets of requirements, and it can be a very complicated process with these national companies. The cost to the Town for appraisals, title work, and legal costs would be at least \$12,000.

Chairman Rodenhiser communicated that it is not the Board's desire to pursue. The Board of Selectmen made clear they do not want to pay and take by eminent domain.

Member Rogers felt they are wasting the Town's money on this subject. The builder has not completed the work as it was noted in the original plan. It is to the homeowner's disadvantage to not have their street accepted.

Chairman Rodenhiser wanted to know if member Rogers is suggesting that the Board hold an educational session with the residents of this development.

Affleck-Childs reminds the Board that the Board of Selectmen did ask the Board for specific recommendations on each subdivision. This situation has not improved at all. The Board of selectmen is not comfortable with eminent domain.

Member Spiller-Walsh was wondering if it is possible for a neighborhood to form their own Homeowners' Association and care for their own roads.

Chairman Rodenhiser suggested having a meeting with the residents to inform them of what their options are and then make a recommendation to the Board of Selectmen.

Attorney Saint Andre noted that this is a package deal. If the Town accepts the roads, then they need to accept the easements as a whole. If they do not want to accept the streets, then the Town should not accept the drainage easements. Attorney Saint Andre also noted that another big problem is the operation and maintenance plan that was not accepted by the Town.

Affleck-Childs reminded the Board that they also need to discuss the cost recovery on the culvert installation under Summer Street.

Mr. Pelligri intervened and explained that the State had a schedule to pave this road and did not want the runoff to continue to flood the road. The report by VHB noted that the original design had been changed and the inspections and drainage pipe size needed to be increased. The bigger pipe was never installed.

Chairman Rodenhiser communicated that the change on the plan was not noted and the builder got refunded although the work on the culvert was never done.

Member Spiller-Walsh agrees with Rogers and believes that the Town needs to decide what to do for the residents. They are the victims in this. The people will need some help and guidance.

Chairman Rodenhiser is hearing from members Rogers and Spiller-Walsh that a meeting with the residents should be held. The purpose is to inform them about what is going on with the easements. The steps could be scripted by the Board to assist the residents.

Affleck–Childs suggests that she could set up the meeting with neighbors. The Board would help to facilitate the meeting by giving the residents an explanation and the possible steps to take with their individual mortgage companies and provide them with the options. One point that Affleck-Childs wanted to bring up to the Board is that if it is not really the intent of the Board to recommend street acceptance, then should the Board be even holding a meeting with the neighborhood? If the Board jumps through all these hoops in helping the residents and then Board does not want to finally go to Town meeting to accept the streets, many people have done a lot of extra work.

Chairman Rodenhiser asked the Board members who would be comfortable accepting the streets as currently constructed.

Member Spiller-Walsh is ready to accept the streets in their present conditions.

Member Rogers is also ready to accept the streets as they are.

Member Tucker is not ready at this point to make any recommendation about road acceptance. He wants more clarification.

Chairman Rodenhiser is not comfortable with the extra expenses, which may be incurred by the Town.

Affleck –Childs informed that until the issues with the easements are resolved, the Board cannot move on. A recommendation must be made to the Board of Selectmen. There is currently \$5,400 dollars left in the construction budget for outside consultants (legal support). Mr. Pelligri noted that there is a punch list with about \$5,000 worth of work that still needs to be done. Affleck–Childs reminded the Board that the easements were never officially recorded.

Member Tucker feels that if the Board is going to put forth the energies and efforts to assist the homeowners in this subdivision, they must be ready to do so in future instances for other subdivisions.

Chairman Rodenhiser agrees and communicates that the Board has taken action with respect to other streets such as Cardinal and Goldenrod in a less direct way. The Chairman is agreeable to the meeting but is not prepared to spend a lot of money on legal to accept these streets. He wants to follow the recommendation from Attorney Saint Andre.

Member Spiller-Walsh wants to see the original plan of the Streifer property to see if the house was constructed closer to the detention pond than on the original plan.

Attorney Saint Andre lets the Board know that if the easement is challenged, this could go to court.

Affleck-Childs suggests responding formally to the Streifers attorney and present the revised easement with the language from our attorney to the DPW.

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh during the regular meeting, the Planning and Economic Board had voted by roll call vote to go into Executive Session to discuss strategy in respect to litigation and to return to open session afterwards**

**Roll Call:**

Karyl Spiller-Walsh aye  
Bob Tucker aye  
Chan Rogers aye  
Andy Rodenhiser aye

The Board went into executive session at 8:45 pm and returned from executive session at 8:58 pm.

**John Emidy – Building Commissioner**

**Abandoned Residential Properties:**

The Building Commissioner and the Board had a discussion about the wording of a possible bylaw in relation to abandoned residential properties. The Board was supplied with sample wording from Marlborough, MA, which references Chapter 66 entitled “Registration and Maintenance of abandoned and/or foreclosing residential properties.” Chapter 66 allows the Building Commissioner to enforce pursuant to MGL c. 143. Section 3. The Board felt that the registration portion of the foreclosed property is helpful since it provided valuable information about the owner. The order also references that the registration (which must be certified) and the property in question of abandonment has to be inspected. Any resident who fails to register with the Commissioner shall be enforced by non-criminal disposition pursuant to MGL c. 40 Section 21 D, resulting in a fine of \$300.00.

The Board members think this is a good idea. Chairman Rodenhiser felt that it would be helpful to view the tape from Town meeting and to invite in community residents in to discuss the various issues they may have. Member Tucker agreed that there is good contact information about the property. Another suggestion was made to notify the local institutions such as banks, mortgage companies and businesses to get their comments about abandoned properties. The draft document will be provided to the Board when ready.

Affleck-Childs suggested that the Board host the public meeting for the community along with the Building Commissioner.

**Home Based Businesses:**

While the Building Commissioner was still available, the discussion shifted into looking at possible amendments to the Zoning Bylaw. Mr. Emidy suggests adding and revising some definitions. The Board is also looking to work with Mr. Carlucci to create a document, which defines a “home based business”. Establishing criteria for by right and special permits in ARI and ARII will need to be completed. This is currently only allowed by special permit. The current building code does not address this. Chairman Rodenhiser would like to see some outside parameters in regards to limits on home based businesses under which they would NOT be permitted at all.

Affleck-Childs recommends that the Board members review the hand out entitled Ideas for Zoning Bylaw Amendment and other possible Town meeting warrant articles and prioritize the list for the next meeting.

Member Spiller-Walsh would like further discussion about the other zoning amendment ideas specifically the agricultural use.

Affleck-Childs noted that there were no definitions for rear lot line, side lot line, setback and others. It was suggested that if there are any priorities, let her know. Another idea is to revisit the OSRD formula. The building commissioner will propose draft definitions.

The Board discussed electrical generation and Massachusetts Green Communities. There is currently nothing in the zoning bylaw for the industrial I and III zones.

Member Tucker is currently working on the lighting bylaw.

**Minutes: (October 27, 2009 & November 24, 2009)**

The minutes from October 27, 2009 will be held over to the next meeting.

The minutes of November 24, 2009 were discussed. Member Rogers noted some revisions to page four. He also noted that he doesn't feel that the internal disputes between Board members should be noted in the minutes.

The Chairman wants all dialogue and disagreements among any Board members to be noted in the minutes.

Member Spiller-Walsh stated that she wanted more in depth discussion added to a portion of the minutes regarding Daniel Woods. This was addressed and included in the revised November 24, 2009 minutes.

Affleck-Childs will provide an edited copy of the minutes' revisions to the Board for review and acceptance.

**Massachusetts Green Communities Program:**

Mr. Carlucci explained that the Town had applied for technical assistance to help Medway become a designated Green Community. This would enable the Town to apply for energy grants. The Planning and Economic Board is responsible for two of the five criteria. Horsley and Whitten have been assigned as the consultant by the State to assist Medway. This does not cost the Town anything. The consultant is helping with the action plan. The Town must have the zoning for this. There are higher points for a grant if there is allocated zoning. There was a lengthy list of guidelines and criteria to help with the permitting process. The Board discussed expanding the 43D district beyond the Cybex and selected bottle cap lots area in the Industrial III zoning district. The third step is to create an energy use baseline for all municipal buildings and equipment. The schools will be invited to participate on a Town wide Energy committee. Mr. Carlucci will be drafting and making recommendations on the zoning matters.

Ms. Affleck-Childs communicated that the Town is at the inventory level. The goal is to have the proposal go to the Selectmen who will be accepting this program.

The Board further discussed the stretch code, which was adopted by the State in May 2009. The goal is to improve building energy efficiency. The stretch code needs to be adopted by the Board of Selectmen. Member Tucker would like the Stretch Code information sent to him electronically.

### **Construction Observation**

#### **Applegate Farm Subdivision**

The developer has agreed to have a pre-construction meeting. Both Ms. Affleck-Childs and Mr. Pellegrini will work together to set up a procedure for the pre-construction meeting. It was the consensus of the Board that all gravel needs to be removed from the site since he has not followed the rules. Member Spiller-Walsh was wondering if a few core samples could be taken instead of removing it all. Member Rogers communicated that contractors need to know that they must do it our way or not at all. Some of the members did see the site and found that the contractor had roughed out the road. Gravel is continually being brought into the site. The Board was also concerned that the construction sign is bigger than allowed and recommends that a complaint be filed with the Building Commissioner. Affleck-Childs will send a formal complaint on behalf of the board. Mr. Pelligri was directed by the Board to order the contractor to take the gravel out.

### **Committee/Task Force Reports:**

#### **Medway School Building Committee (Bob Tucker)**

Member Tucker informed that the Medway School Building Committee has selected an Owners Project Manager (OPM) and a presentation will need to be made to the Massachusetts School Building Authority. This is a long and arduous process. The candidate will need to be ratified by the full Medway School Building Committee.

#### **Water and Sewer Committee (Chan Rogers)**

No Update

Chairman Rodenhiser shared a newspaper, which showed how a community in Canada provided information about their community. Affleck-Childs noted that Franklin does a nice job of sending out information about the Town on a quarterly basis.

### **OTHER BUSINESS:**

### **Revisions to Medway Land Subdivision Rules and Regulations:**

#### **Section 6 – Administration of Approved Subdivision**

Member Spiller-Walsh informed the Board that based on the opinion of Town Counsel Barbara Saint Andrew of Petrini & Associates, she has decided to recuse herself from any further discussions regarding revisions to the Subdivision Rules and Regulations. This is because of Member Spiller-Walsh's status as an applicant before the Board for a small subdivision (Wingate Farm). Member Spiller-Walsh left the meeting at 10:36 pm.

Member Rogers feels the letter is quite far reaching.

**6.6 Adjustment of Performance Guarantee:**

As noted in the paperwork provided, Town Counsel recommends that a reference to “bond” should be revised to say “surety or performance guarantee”. The Board is in agreement with this. The language currently includes three performance guarantee reductions. The Chairman would like to see the three changed to none. He wants to use surety (insurance bonds) instead of cash. If the bond is released, the Town is subject to problems.

Affleck-Childs will check the state subdivision control laws website about the language if it “allows or requires” a municipality to provide for bond reductions. Town Counsel has advised that we cannot retain a minimum bond until street acceptance occurs. Instead, we can establish a minimum until the project is complete. The difficulty is figuring out how to manage the money collection. The Board needs to create a checklist for the applicant to work from.

6.6.2 – The Board discussed adding the amount of the performance guarantee by including anything shown on the plan that hasn’t been completed. The amount can include maintenance expenses, preparation of as-built/street acceptance plans and legal services needed for project completion. The Board was in agreement with this and felt that the installation of water, sewer and all other utilities should be completed prior to any lot releases. The Board is comfortable with the 25% contingency. The Chairman recommends setting up a meeting with the Attorney to add joint language to include Conservation Commission concerns, which may include Certificate of Compliance. Specific criteria for project completion will need to be created and developed. The Board wants to be in unison with the other boards. The bond estimates are to be adjusted based on the current per unit construction pricing.

6.6.3 – The Board would like to see that the infrastructure construction language changed from “should” to “shall”. Dave D’Amico and Dave Pellegrini will look at this section further.

6.6.4 – Affleck-Childs suggests adding a section re: how bond reductions are processed. It is her feeling that there needs to be an explanation about how reductions are processed. For example; first approved by the Board, then notify treasurer, and lastly processed through the Town’s bi-weekly warrant system.

6.6.5 – It is the thought that some language needs to be added addressing that performance guarantee accounts are not intended to serve as construction financing.

Member Rogers spoke up informing the Board that he was going to leave the meeting. Affleck-Childs explained that if Roger leaves, the meeting would have to be adjourned, since a quorum would not be present.

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to adjourn**

The meeting was adjourned at 11:20 pm.

The Board will continue working on the Subdivision Rules and Regs at the next meeting on December 15, 2009. There will be no meeting on December 22, 2009. January meetings are **January 12 & 26, 2010.**

*Minutes of December 8, 2009 Meeting  
Medway Planning & Economic Development Board  
Approved – December 15, 2009*

Respectfully Submitted,

Amy Sutherland  
Meeting Recording Secretary

Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator

*Minutes of December 12, 2009 Special Meeting  
Medway Planning and Economic Development Board  
Medway Conservation Commission  
Approved – January 12, 2010*

**Medway Planning and Economic Development board  
Medway Mill Site Visit  
Saturday, December 12, 2009**

**PRESENT**

**Planning and Economic Development Board**

Andy Rodenhiser  
Chan Rogers  
Bob Tucker  
Tom Gay

**Conservation Commission**

David Travalini  
Brian Snow  
Ken McKay  
Tony Biocchi

**Open Space Committee**

Jim Wickis

**Affordable Housing Committee**

Teresa O'Brien

**Also Present:**

John Greene, Medway Mill  
Don Nielson, Guerriere & Hahon  
Susy Affleck-Childs  
Larry Childs

The group convened at 9 am at the Medway Mill for a site walk of the premises followed by an indoors discussion at the conclusion of the site walk.

Property owner John Greene and his engineer, Don Nielson of Guerriere and Hahon were present to explain their ideas. Two variations of a conceptual site plan were provided. To accommodate additional tenants for the site, more parking needs to be constructed on the site – as many as 85 parking spaces. As the premises includes Chicken Brook which runs under the mill building, much of the site is within the 200 riparian zone and is under the jurisdiction of the Conservation Commission. The Planning and Economic Development Board will also conduct site plan review for site design and stormwater management purposes.

The purpose of the site walk and discussion was to identify issues and begin a dialogue between the Conservation Commission and the Planning and Economic Development board about options for resolving them. The site walk was for information gathering only. Member attendance at the site walk does not affect required attendance if and when this comes before either the Commission or the Board for future action.

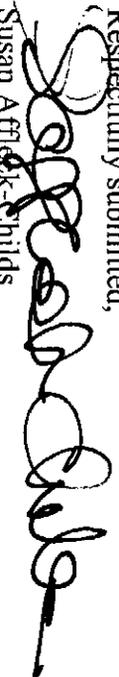
A significant issue is the amount and location of wetlands replication areas that will need to be “created” as a result of the loss of land in the riparian zone due to parking lot construction. ConCom members were very specific that such replication areas must be located adjacent to Chicken Brook to maximize their effectiveness and not up close to the mill buildings.

Another topic was the need to widen the roadway crossing over Chicken Brook. This seems to be do-able.

Next Steps – The general consensus is that the applicant and his engineer will refine the plan and share it with the Conservation Commission and Planning and Economic Development Boards.

The discussion concluded around 11:00 am.

Respectfully submitted,

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

Susan Affleck-Childs  
Planning and Economic Development Coordinator

**December 15, 2009  
Planning and Economic Development Board  
Sanford Hall, 155 Village Street**

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

**ABSENT WITH NOTICE:** Tom Gay

**ABSENT WITHOUT NOTICE:** John Williams

**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 7:10 pm.

**BOARD BUSINESS:**

**ANR Plan – 36 Broad Acres Farm Road/34 Stable Way:**

The ANR plan was submitted to the Board on December 10, 2009. Colonial Engineering of Medway prepared the plans dated September 10, 2009 for applicant and property owner Dorothy Bullard. The location is 36 Broad Acres Farm Road (Country View Estates subdivision). The Assessor's Map # 5 Parcel # 22-31. The total acreage of land to be divided is 44,091 s.f. The Zoning District Classification is ARI. The frontage requirement is 180' and the area requirement is 44,000 sq. ft. This way was shown on a Definitive Subdivision Plan entitled Country View Estates that was previously endorsed as an approved plan by the Planning Board on 11-30-99. The applicant's plan combines Lot 31 A and Parcel A as shown on said plan to create a buildable lot. The property straddles the town line with Holliston.

PGA Associates prepared a memo dated December 11, 2009 for the Board to review. The memo had been forwarded to the applicant's attorney, Paul Kenney. There were four areas, which needed to be addressed.

1. Section 3.2.3 requires that a signature block must be on the upper right side of the plan.
2. Section 3.2.3 requires that the zoning district be shown along with the dimensional requirements.
3. Section 3.2.6 requires that the abutters across the street from property be shown on plan.

The applicant's engineer had revised the plan. Mr. Carlucci reviewed the revised plan and communicated to the Board that this plan also needs endorsement from the Holliston Planning Board. The plans will need to have two signature blocks indicating the Town of Holliston and the Town of Medway.

Chairman Rodenhiser mentions that the applicant should get the approvals from Holliston first. The Chairman checks to make sure that member Rogers is all set with the plan.

Member Rogers notes a discrepancy in the Lot number.

**On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to endorse the revised ANR plan.**

The Planning and Economic Board expresses their condolences to the Gay family for their recent loss in the death of AnnLouise Gay, Tom Gay's mother.

**Williamsburg Condominium OSRD Definitive Plan – Public Hearing Continuation**  
The Chairman reopened the Public Hearing for Williamsburg Condominium.

Member Tucker clarified that the correct number of members present to vote on this application is four. Those members are Karyl Spiller-Walsh, Andy Rodenhiser, Chan Rogers and Bob Tucker.

PGC Associates provided a memo dated December 14, 2009. The memo indicated that the revised Definitive Subdivision Plan with the date of November 30, 2009 was received. The Chairman noted that based on Mr. Carlucci's comments, things have been done and reviewed. The Board is comfortable with everything with the exception of the waivers.

Mr. Yorkis provided a letter dated December 15, 2009 informing the Board that specific measures will be taken to ensure that per capita water use remains below 65 gallons per day. The letter addresses the intent of the water conservation requirement in the OSRD special permit.

Mr. Carlucci suggests using Native Plants that do not need a lot of water.

The Landscape Engineer was not present, but the use of Native Plants has been recommended by the Open Space Committee. A revised list has been created and was presented to the board.

The Chairman read condition number eight (from the special permit decision) about the stone walls. The plan now indicated which stone walls are to remain, and which are to be removed and which will be relocated.

Mr. Carlucci noted that the plan was recently revised and now shows the labeled stonewalls.

The Engineer noted that the play area would be moved to another location.

**Abutter - Jeffrey Swenson, 68 West St.**

Mr. Swenson wanted to know what was going to be done with the stonewall entrance. The Engineer communicated that the stone wall will remain as is. The Landscape Engineer will be planting evergreens, which will be 8 to 10 ft. Those will need to be maintained by the Homeowner's Association.

The Board discussed the waiver request for Partial Bond Release. The Applicant wants the ability to get a bond reduction once the work is completed.

Affleck-Childs informs the Board that based on how the State Subdivision Regulations are written that the town is obligated to reduce the bond commensurate with the amount of work remaining to be completed.

The Second Waiver Request includes the applicant being able to use NGVD 1929 to avoid conflicts with the FEMA 100-year flood elevations. The Board is comfortable with this.

The Third Waiver Request is to allow one building permit for 1 duplex building with an agreement not to request an occupancy permit until such time as the base coat of the road is installed. The engineer wants to also put in some infrastructure. They also want to remove the topsoil and place on the basecoat of gravel, and make sure that the conduits are in place. He will then apply for the building permit. They would like to build the first model unit. This would be built as the first unit on left or right from the entrance. They would also like to install the street signs as soon as possible. The Engineer is looking to start clearing the site and roadway as quickly as can. This would be before the decision is issued.

Affleck-Childs is concerned about this work taking place prior to the definitive plan decision being rendered. The plan probably will not be endorsed before the work he is describing begins. What does the Board want to consider in regards to pre-construction work/meeting?

Mr. Yorkis addressed that most of the work done will be in the soil. He indicates that currently, the lot can be cleared without any permits from the Board. They have no interest in doing any work that needs inspection. There will be no infrastructure work done at this point. The timing of this would include closing the public hearing in January, with a decision issued shortly thereafter. The goal is to comply with the intent of the Board and the Rules and Regulations. He would like to be able to work as quickly as possible. The weather needs to cooperate. The stock piling of soil, and moving of stone walls can begin at any time. A month is an important period of time. Mr. Yorkis would like to be allowed to do this. All permits in regards to stormwater will be ready in a week or two. Mr. Yorkis is comfortable with having a Pre-Construction Meeting with the Board on site.

Member Tucker explained that another situation and subdivision has not gotten the necessary inspections and has not completed the required work. He does not want this to happen again.

Chairman Rodenhiser is concerned about protecting the public roads when soils are being brought into and out of this project. The process needs to be followed. He would like to set up a pre-construction meeting.

Mr. Pellegri reminds Mr. Yorkis that the erosion control measures need to be set up and inspected.

The Chairman asks Mr. Rogers if he has anything to add.

Member Rogers reminds all that the applicant will not be seeking "Street Acceptance"; this will be a "Private Street."

The Chairman gave a synopsis of the discussion, noting that the applicant is comfortable and ready to do work prior to getting the approval. The applicant has agreed to put himself at risk by starting prior to acceptance by the Board, thus putting the responsibility on him. Mr. Yorkis is reminded that if there are any changes to the plan prior to Board's decision and endorsement, it would be the applicant's responsibility to fix this.

Member Spiller-Walsh reminds the applicant that they do not want to hear Cease and Desist if things start to go wrong.

Member Tucker feels that the small amount of work that needs to be done is very little risk as long as the abutting property and West St is protected. The infrastructure will not be going in now.

Mr. Yorkis informed the Board that he is working with the lead designer from NSTAR. He has been in communication with her and she is waiting to have the approved Definitive Plan. No pipes can be put in until the plans are approved. In Medway, NSTAR is the lead utility.

**4-Foot Sidewalk:**

Mr. Yorkis wanted to discuss constructing 4 foot sidewalks within the development instead of 6' feet to minimize impervious surface. Mr. Pellegri noted that the Town would not be plowing this street or clearing any sidewalk. The Board is comfortable with 4 feet sidewalks. Mr. Pellegri has a question about connecting sidewalk with the connecting street, which is 6 ft. Mr. Yorkis did speak with the DPW representative and the curbing has been approved. The survey work was just done to check the measurements. Mr. Pellegri will follow-up on this.

**Open Space Committee Letter:**

The applicant is agreeing with the Committee's recommendations for the plant selection. The highlighted areas in green are native plants. Hopefully, the Open Space Committee can check to make sure this is ok. A letter from Open Space Committee will be provided to inform them of the change to the plant selection.

Affleck-Childs informed that there was a good meeting of the Street Naming Committee. It was voted unanimously to name the Subdivision in Williamsburg Way.

Mr. Yorkis requests that any of the consultants' comments be available by January 5, 2010 so that he can respond appropriately before the next public hearing.

Affleck-Childs reviewed the timeline for this project. The intent is to hopefully close the hearing on January 12, 2009. The Board would then need to vote its decision at either the January 19<sup>th</sup> or 26<sup>th</sup>, 2010 meeting.

The Ground Water Mounding Analysis Book was submitted by engineer Faist to Mr. Pellegri.

The public hearing on the Williamsburg Condominium definitive plan will be continued to January 12, 2010 at 8:15 pm.

**Development Status Reports: (Country View: Applegate: Birch Hill)**

**Birch Hill:**

Affleck-Childs drafted a letter dated December 11, 2009. The letter is in response to the inquiry made by Ellen Rosenfeld about the Birch Hill Subdivision Bond. The letter references four areas.

1. A Letter/Certificate of Completion Compliance must be signed by the developer and signed and stamped by the engineer noting that the subdivision infrastructure has been completed in accordance with the approved/endorsed Definitive Subdivision Plan.
2. The deed and/or proof of recording the conveyance of Parcel 15 B to the owner of Parcel 14 B must be provided to Petrini & Associates.
3. Street name signage at the intersection of Ivy and Hunter Lane need to be installed. Tetra Tech Rizzo will not sign off on the project until this is complete.
4. The Medway Department of Public Services/Water Sewer identified two areas, which needed to be addressed. The first is that not all of the hydrant gates on Hunter Lane are exposed. These need to have proper risers installed and visible at road grade. The second issue is the street sign for Ivy Lane.

The Planning and Economic Development Board concurred that it will not release the bond funds until these issues are resolved.

**Country View:**

Consultant Pellegrini went out to the site and needs to provide a revised estimate for pavement, berm and current damage. He is suggesting that the cracks may need to be sealed. The cracking was observed but is noted in the estimate. The other issue is the settling of the sidewalk. The new estimate will be provided at the end of the week. Mr. Pellegrini will check with DPW to check if they have any issues.

**AppleGate:**

There will be a Preconstruction meeting with the AppleGate representatives on Thursday, December 17, 2009 at 11:00 am. Chairman Rodenhiser will be attending that meeting.

Affleck-Childs wants a procedure put in place for the Preconstruction Meetings. She will research if there are any current guidelines being used in other towns.

Mr. Pellegrini met with the new DPW Director Tom Holder and it is the thought that hopefully the Departments can work together to make the process work better for the Preconstruction meeting.

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

Affleck-Childs created an updated list of the ideas for Zoning Bylaw Amendments & Other possible Town Meeting Articles.

The Chairman noted that where it references model, the documents would be drafted as a starting point. He commends Affleck-Childs for putting together such a good working document.

The Chairman comments the work of both consultants. He wants to make sure enough money is allocated for next year's budget. He asks Affleck-Childs if she could put together an itemize list of current expenditures for the planning and engineering consultants (who did much work in reviewing the Conservation Commission's proposed rules and regulations). The Finance Committee also needs to be informed about this. The work that both Consultants have done with multiboards needs to be communicated to the Board of Selectmen. Affleck-Childs will check about what needs to be done in regards to the contracts for the Consultants.

The Board felt it would be beneficial to set up a meeting with the various Boards; more specifically with the DPW, to see where Rules and Regulations could be bridged or matched. It was noted that there needs to be clear language about the jurisdictional limits. Affleck-Childs wants to also get clarity if the DPW wants Tetra Tech to do inspections on their behalf. It is important that Developers know that Tetra Tech is working as a consultant on behalf of the Town and not just for the Planning and Economic Development Board.

### **Green Community Initiative**

Mr. Carlucci informed the Board again that there are five areas in which the town needs to take action in order to become designated as a "Massachusetts Green Community". Such designation puts the town in a position to apply for grant funding for alternative energy projects. Planning and Economic Development has been assigned the lead role for two of the areas. The two areas are:

- 1) Adopting "as-of-right" siting for energy-related facilities
- 2) An expedited permitting program for such facilities.

It is the opinion of Mr. Carlucci that the Town has already met these two criteria. Currently, Industrial I and III Districts allow as-of-right permitting for manufacturing facilities. The second criterion is met since the approved Priority Development Sites (PDS) under the 43 D expedited permitting program include parcels within the Industrial I and III Districts. Mr. Carlucci feels that the Town can increase and get a higher priority in the energy grant program by making changes to the zoning PDP's. Cybex is currently the only site along with a portion of the bottle cap lots in Industrial III District. The Board could improve their position by including the remainder of the Industrial III District parcels as Priority Development Sites. Another step taken could be adopting a change in the uses allowed in the Industrial III and I Districts to name research and development facilities for energy or other types of research and development as allowed uses. The third step could be to specifically name "Solar Electrical Generation" as an allowed use. The Industrial II District at West and Summer Streets already allow "Electric Generation" as a by-right use. The last step could be to adopt a zoning provision allowing solar and/or geothermal facilities in residential zoning districts with specific conditions.

Affleck-Childs presented the Board with a packet about wind power. She suggested that the Board keep an open mind when looking at this. Along with this was a Model Amendment to a Zoning Ordinance or Bylaw: for Small Wind Energy Systems. The Massachusetts Division of Energy Resources prepared this document. The Board felt that the Special Permit with specific conditions would govern this.

Member Spiller-Walsh does not like the thought of wind power for the Town of Medway.

Member Rogers wants to know why a person cannot put up Wind Power now.

Affleck-Childs explained that there is a good possibility that someone could do this now. It could only be in an Industrial Use area. The Board was informed that a property owner (Dick Steinhoff) has shown an interest in wind power for a likely AUOD project at 146 Main Street. There needs to be steps taken for the permitting process.

Mr. Carlucci will present a model draft document for these items including definitions.

Chairman Rodenhiser asked member Rogers if he had anything else to add.

Member Rogers noted that the school has already taken steps to be a “Green Community” with solar panels.

The Board then changed their discussion to the priority items for zoning bylaw amendments for the 2010 town meeting. Member Tucker would rather spend time on immediate issues such as “Homebased Businesses”. The Board has already started this and we can finish it quite easily. His opinion is that the Board should set priorities and accomplish those first before starting something new.

Member Rogers feels that “Wind Power” has as much importance as the “Homebased Business”. He feels that both can be accomplished simultaneously.

The result of the discussion was to have Affleck-Childs and Mr. Carlucci create model language of noted Bylaws. These will be sent to members for review and comments. The Board will be responsible for creating their own individualized “Top Ten” pet projects. This will be given to Affleck-Childs to compile.

**Agricultural Commission Exploratory Meeting:**

The Board would like to set up a meeting with members of the Agricultural Community. Affleck-Childs shared that she has a contact name of someone from the State who gives presentations to communities who want to consider establishing a local agricultural commission... The Board will be the leader on the movement of this. The Chairman spoke with some members of the farming community and they are very interested. This meeting could tentatively be set up for the last meeting in February.

**Minutes: (December 8, 2009)**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Planning and Economic Board had voted unanimously to accept the minutes from December 8, 2009.**

**Revisions to Medway Land Subdivision Rules and Regulations – Section VI. Administration – sub-Sections 6.7 – 6.9 (pp.38-43):**

Member Spiller-Walsh recused herself from the meeting at 10:15 pm before the discussion concerning the revisions to the Rules and Regulations.

**6.7 As-Built Plans:**

It was recommended that language be change to indicate that those streets to be accepted by the Town and the official street acceptance/roadway layout plans can be combined into one plan set. Affleck-Childs explained that the language should also include that the as-built plans shall be prepared in conformance with the specifications for as-built plans that are included in the Subdivision Rules and Regulations which are in effect at the time of submittal. The Board was in agreement.

**6.8 Procedures for Street/Infrastructure Acceptance:**

Affleck-Childs recommends that a note be added to this section explaining that this does not pertain to streets that are intended to be permanent private ways. The Board was in agreement.

**6.8.1 Legal Description, Deeds & Easements:**

Town Counsel recommends that the Board not require formal legal descriptions, but make reference to a plan that showing locations and dimensions. It was also advised that the Board no longer require developers to convey full title in the streets to the Town, but to convey an easement. Language should also be included making it a requirement that all taxes must be current on any parcel being conveyed to the town. The Board was in agreement.

**6.8.2 Street Acceptance Fee:**

The language of this should include that funds paid to a 53 G account/revolving fund may include but not be limited to just engineers but could include other outside consultants such as attorneys. The Board was in agreement.

**6.8.4 Review by other Town Boards/Deps for Street Acceptance**

Affleck-Childs explains that the regulations cannot require other boards/departments to act on an application or provide comments. The Board may ask them to review, but they are not required to. It may be the Town's best interest to establish a Street Acceptance procedures/policy. The Board was in agreement.

**6.8.8 Roadway Layout:**

Affleck-Childs recommends that language be added that the Planning and Economic Development Board provide the Board of Selectmen with a roadway layout recommendation. The current language needs to be changed indicating that the Board of Selectmen will vote on roadway layout. The regulations cannot commit the Board of Selectmen to approve roadway layout. The Board was in agreement.

**6.8.10 Town Meeting Acceptance:**

The regulations cannot commit Town Meeting to accept streets. The language needs to state that Town Meeting will vote on street acceptance. The Board was in agreement.

**6.8.11 Recording Fees:**

Language should be added to this section to clarify that the developer pays for the recording fees through the funds paid to the 53 G account. The Board was in agreement.

**6.9 Final Release of Performance Guarantee:**

It was recommended that the Board eliminate requirement for “street acceptance” prior to release of performance guarantee. The Board was in agreement.

Member Rogers wanted to know if it was time to leave. The Chairman asked if Rogers needs to take a break from this Board. Rogers responded that his opinion is not taken into consideration. He communicates that he has written everything that the Board is discussing for the Town of Hingham, but the Board doesn’t want to listen. The Chairman states that this is Medway and we may do things different than Hingham. Rodenhiser continues stating that it is getting harder to work in this environment. Affleck-Childs asks if Rogers can stay until the next section is finished. The Board continues to move on to discussing Construction Standards.

**Section 7 Construction Standards:**

The Board reviewed the construction standards. Discussion revolved around looking into what waivers have been granted in the past.

The Board felt it would be beneficial if the Town Attorney comes in to explain the benefits of having a developer just convey an easement to the town. Mr. Carlucci added that some of the definitions need revising.

The Board was also in agreement that once the Board votes to accept any changes to the Rules and Regulations, it would be beneficial to invite the Developers and Town Departments/Boards in to inform them of the changes.

**On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting at 11:00 pm.**

**Future Meetings:**

The next meetings scheduled are: **January 12, 19 & 26, 2010.**

The meeting was adjourned at 11:00 pm.

Respectfully Submitted,

  
Amy Sutherland

Meeting Recording Secretary

  
Edited by Susy Affleck-Childs  
Planning and Economic Development Coordinator