

Medway Planning Board Meeting November 18, 2008

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

ABSENT WITH NOTICE: Tom Gay

ALSO ATTENDING: Susy Affleck-Childs, Planning Board Assistant
Gino Carlucci, PGC Associates

Open the meeting – at 7:01 pm

CITIZEN COMMENTS

PRESENTATION – Adult Entertainment Zoning– Gino Carlucci, PGC Associates

The map shows there are two spots where something could occur, both in the new CI zone. There is no area within CIII, CIV and CVI that could accommodate any adult use so it probably makes sense to remove the text there

There is a residence in the CI district – the only factor that came into play is a standard that such a use has to be 500 feet from a residential district

Andy Rodenhiser – we are potentially talking about moving the district to our industrial park

Gino Carlucci – now that we have created the new Business Industrial District, it would be good to include this in industrial I

Mark Cerel, 6 Franklin street – I am a municipal attorney, we have been dealing with these issues in Franklin – Franklin had a reasonably good bylaw in place but we revisited it in light of what is happening in neighboring towns - constitutional issues involved – I would be happy to give you an overview of legal landscape if you would like to hear them

The starting point – under both federal and state constitutions, adult entertainment is recognized as protected expression – in Massachusetts, the supreme court held it is more protected under state constitution vs. federal constitution – when this issue started arising in federal courts, you get several lines of cases that have to be merged – one line of cases is that the expression is protected but you can keep it away from incompatible activities (schools, churches, residences) without dealing with what was left over

In another line of cases – you have to provide a certain area, if that area is not satisfactory, then it would be entitled to go to any retail area the community

Now there is a merger of these two . . .

Franklin set up an overlay district where adult entertainment was allowed (industrial parks) plus it had to be away from certain uses – when I arrived in Franklin 6-7 years ago I asked whether

anybody had plotted out what is left in the two industrial parks (particularly since a church had located in one of the industrial park) – we came up with reasonably good areas –

We were concerned that the remaining area was not sufficiently large (and that area was way larger than what you are looking at tonight)

We looked at how far our distances were and we had some catchall stuff – 1000 feet away from where young people regularly congregate

These uses don't want to be in an industrial park – you don't have any realistic space for us

Franklin – we went in and removed the vague protected uses, left in the specific ones, and we pulled distances back to what made sense. . 200 feet, the width of a lot, seemed to be ample

Applying that to Medway – you absolutely are not going to pick a location that is so attractive that somebody will want to open – major thoroughfare is very attractive – think of route 20 in central mass - pick a location that is available and accessible but is not attractive – then you get into an overlay with industrial

Andy Rodenhiser – how big an area

Mark Cerel – I have heard 5-6% of the land area that you have for commercial purposes should be “available” for adult uses

I would suggest you look at your industrial tracts that are not on route 109

Andy Rodenhiser – Do you have draft language for us Gino?

Gino Carlucci – No.

Mark Cerel – what is happening in Mendon – there have been establishments that were non – alcoholic but did offer entertainment – details on a certain SJC ruling – prohibit nude dancing in establishments with alcoholic – but that has been deemed to be unconstitutional.

Andy Rodenhiser – does the board want to ask Gino Carlucci to do something with this

Bob Tucker – it would be good to have him look at other areas that might be appropriate – we also need to go thru section h to address offsets –

Mark Cerel - Franklin – the way this was attacked was originally a legitimate zoning – to show that these places used to be in high crime areas and breed crime themselves – there is a canned set of findings of secondary negative effects on property values and crime (thereby making regulations valid) – my sense is if you designate it in an industrial area, that ought to be enough, you shouldn't need so many concerns about distances

Bob Tucker – define one or two areas so that we can minimize our risk- but look at it to replace the existing language and put in some new language – we want to try to limit and relocate away from main street

Karyl Spiller-Walsh – I envision that you start to provide more seclusion and that is done successfully

Andy Rodenhiser – Also, setbacks from other adult uses –

Bob Tucker – if you reduce the setbacks, you may need to enlarge the overlay size

Mark Cerel – they tend to concentrate in ownership

Andy Rodenhiser – do we want Gino Carlucci to look at this

Bob Tucker – look into a couple of different areas

Andy Rodenhiser – and provide a map of where it could go

Karyl Spiller-Walsh – it is small

Mark Cerel – there is a question on where do you take the measurements from - make clear how you are going to measure (from lot line or from building edge) - - you have to comply with the law –

NOTE - Gino Carlucci will work on this some more and return with a draft amendment

Karyl Spiller-Walsh – I had no idea that we had to comply with the civil rights elements

Andy Rodenhiser – this map shows us how at risk we are –

Bob Tucker – give us a large enough overlay so we are not at risk – it may be in the middle of an industrial park – I would make it follow lot lines –

Susy Affleck-Childs – the Industrial I area is where the town voted to designate properties for the 43D expedited permitting program

Andy Rodenhiser – on a related matter, I did speak with Ellen Rosenfeld – I talked with her about formulating an industrial park association – they all want a sign out at route 109 – and she indicated she would donate the land necessary for the signage and the business park association would have to participate in its construction and design and own the land as an association and pay the tax bill – that needs to get started somehow – I am talking with some businesses over there

Karyl Spiller-Walsh – good idea

Andy Rodenhiser – how did it work at the Trotter Drive? Didn't they have to form an association for the sewer project? Are there some samples?

Gino Carlucci – no, in the end, they didn't - Kevin O'Connor who lives in Medway – Bill Wright would have them

Andy Rodenhiser – could you secure them for us?

Gino Carlucci - yes

Karyl Spiller-Walsh – would they be interested in coming to the DRC

Andy Rodenhiser – sure, they would need some help

Commonwealth Capital application presentation – Gino Carlucci

Gino Carlucci – this is draft version of FY09 application – this is a document that is a scorecard on how a town is doing in terms of smart growth, housing and energy efficiency

NOTE - Chan Rogers arrives at 7:35 pm

Gino Carlucci - a key part of any grant application is your score on commonwealth capital - it can count for 30% of your grant score

We did this in the past, for fy2006 – it is only good for a year, you need an updated one anytime you want to apply for a grant

Gino Carlucci reviewed the draft application, item by item.

You can't claim more than one on master plan vs. a community development vs. open space plan - even if you have all

We also get points in terms of what we have implemented for master plan since 2006 – we do have things . . .

Andy Rodenhiser – what is definition of “commit” – is it enough to just want to do it?

Gino Carlucci – you can claim those wanted items, but the next year you can get a bonus point if you actually do something you committed to

Andy Rodenhiser – are there some things that you would suggest that we work on . . .

Gino Carlucci – as we go thru this I will tell you

Susy Affleck-Childs – OSC is looking at right to farm bylaw and agricultural commission - but we should push them

Andy Rodenhiser – I spoke with Laura Tangerini, Millis – she thought there might be interest in a multi-town agricultural commission

Gino Carlucci – if a regional agricultural commission were established, maybe next time we could claim points for an intergovernmental agreement

Andy Rodenhiser – is our commitment to doing something with Bellingham on route 126 in here?

Andy Rodenhiser – when does this need to be completed by?

Gino Carlucci – no deadline

Andy Rodenhiser – we have some info from MAPC regarding their district technical assistance program – can we try for this again with Bellingham

NOTE - Susy Affleck-Childs to call Stacy Wetstein in Bellingham and see about meeting on Thursday 11/20 at the SWAP meeting

#2 – water resources plan – I need to talk to Mark Flaherty –

#5 – zoning for mixed use – claimed points for adaptive use overlay district

Andy Rodenhiser – where do we rank

Gino Carlucci - Our draft score is 56 right now

Gino Carlucci – if we were to adopt a 40R – we get points in several places

Gino Carlucci – biggest change recently in the form was adding energy factors

John Williams – is there really something we want to seek for state grants – they usually come with strings attached

Andy Rodenhiser – the very first 43D grant we got was for \$150,000 and we will now have a conversation with Mike Mitchell from Mass Development on Oak Grove

Gino Carlucci –I have been working with the AH committee on an affordable housing production plan –

Gino Carlucci – once we adopt the draft rules and regs for expedited permitting, we can count that

Andy Rodenhiser – how are meetings going with the other boards . . .

Gino Carlucci – I talked with ConCom, I spoke with ZBA and have not heard back from them. .

Gino Carlucci – we should be able to do something re: LID - there is some draft language from the smart growth grant work from a couple of years ago

Gino Carlucci – Re: energy efficiency – I got an email back from Dave D – I think we will be able to claim more points on that category

Gino Carlucci – the last item is a sort of catch all thing to reflect any other activities – I claimed 4 points –

Susy Affleck-Childs – updating this will be helpful to all the other town boards and departments - we should make sure they know we are doing this

Ishmael Coffee Estates - Request for Bond Reduction

Susy Affleck-Childs – we have an email note from Paul Yorkis requesting bond reduction to \$20,000 - Attached is a draft new bond agreement that town counsel prepared – this would retain \$20,000 to hold to see how the vernal pool reconstruction on Parcel D holds up over the winter.

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to accept this as presented and written (to reduce the bond to \$20,000 and to sign the agreement).

Bob Tucker - we had a fairly lengthy discussion on the Saturday before town meeting

The Motion was unanimously approved.

NOTE – The Board signed the new bond agreement

Discussion - 40R workshop

Andy Rodenhiser – Susy Affleck-Childs and Gino Carlucci and I met with Angus Jennings today to talk about a 40R workshop – had a brief slide show and outlined some of the people who would participate – it was our thoughts – FinCom, Design Review Committee, Planning Board, Board of Selectmen, Master Plan, and Oak Grove Task Force

Karyl Spiller-Walsh – if we had another individual or two, could we bring them along?

Andy Rodenhiser – we are trying to educate boards/commissions/town staff about all this – good discussion – examples and work product that came out of these things – Susy Affleck-Childs will get work products from him – electronic versions – the whole mechanics of how it works – we wanted to come out of this with a series of questions – so we can get those answers – applicability for both town center overlay and oak grove – give us education necessary to proceed – he had examples he showed and it was pretty obvious – we will pay for part of this – and the rest will be covered by their grant from the state (Commonwealth Housing Task Force)

Karyl Spiller-Walsh – I would like to do my own research – this gives us time –

Andy Rodenhiser – it is our idea to bleed info out to you beforehand – gradual dispersal of info –

Andy Rodenhiser – they asked if we had any photos of things that you like so they could incorporate into their presentation

Andy Rodenhiser – they are going to have you rate/score some of the visuals they will show you – to help get a sense of what this group likes -

Karyl Spiller-Walsh – it is a queue-up of elements of design that the community wants to see

Andy Rodenhiser – when you go to town meeting and are trying to get design standards approved, you want to be able to say that people scored preferences –

Karyl Spiller-Walsh – assures that the various boards are doing this

Andy Rodenhiser – the developer is attracted to a very defined process and standards -

Chan Rogers – what will it cost us?

Susy Affleck-Childs – \$1,000 – from our contracted services budget and some from the Priority Development Fund grant for work on route 109

The Little Gym – site plan endorsement

Susy Affleck-Childs – we received a letter from the Goulds indicating that they will remove the stone wall next to the Little Gym

Bob Tucker -- Add note that wall is to be removed . . . per Gould's letter

NOTE – The board endorsed the site plan.

FY 09 Budget Reductions – 2%

Susy Affleck-Childs – the Town Administrator has asked all departments to indicate how they would cut 2% from their budget

Motion to – Bob Tucker – reduce budget – spread out among the 10 line items – seconded by Karyl Spiller-Walsh – prorate – all yes

Meeting Minutes

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to approve the minutes of October 28 and November 8 meetings. APPROVED.

It was agreed to hold over the minutes of the September 9th meeting. NOTE – email to Chan Rogers and Karyl Spiller-Walsh

INVOICES

PGC Associates – general consulting services/meetings/ Daniels Village lawsuit and prep/\$1,240 – motion by Bob Tucker, seconded by Karyl Spiller-Walsh to approve \$1240 to PGC Associates. APPROVED.

VHB – Construction inspection for Birch Hill, Speroni Acres, Ishmael Coffee Estates and Evergreen Meadows - \$751.74 – motion by Bob Tucker, seconded by Karyl Spiller-Walsh to approve \$751.74 for VHB. APPROVED.

Susy Affleck-Childs – please note this is to be paid from developer funds

PGC Associates - \$320 – 43D grant – Motion by Bob Tucker, seconded by Karyl Spiller-Walsh to approve \$320 to PGC Associates – APPROVED

PGC Associates – \$280 – CDAG reports – motion by Bob Tucker, seconded by Chan Rogers – APPROVED. IDC budget

PGC Associates – plan review services – The Little Gym site plan, Rosenberg ANR, Williamsburg condo – \$1040 – Bob Tucker, Karyl Spiller-Walsh – APPROVED. – Susy Affleck-Childs – please note this is to be paid from developer funds

REPORTS

Karyl Spiller-Walsh – at the DRC meeting we met with Williamsburg OSRD – some discussion about a drive around the mailbox unit for an arc/bow around it – specimen tree – good team –

Andy Rodenhiser – I think he wants to get it permitted and sell it . . .

Karyl Spiller-Walsh – we had another 30 minute discussion on buffer zones – some ideas on transitional zoning – we are trying to be creative -

Andy Rodenhiser – After our Saturday meeting (11-8-08) I called Greg Whelan about broad acres farm road – I don't think he had actually adopted the position his attorney represented in that email to us – Greg has not walked away from this and does not intend to walk away – he wants to resolve as many of these issues as fast as he can – he knows that he has to have it complete for town meeting in the spring –

Chan Rogers - Route 109 reconstruction – we interviewed the first consultant tonight – the first of a total of 4 firms – we need some info to go on the two forms that are already submitted to Mass Highway – traffic and accident info that has to be formatted properly – to get on the TIP (Transportation Improvement Program) – for route 109 redo - there is a good chance to get both state and federal earmarks

Andy Rodenhiser – are those meetings posted?

Susy Affleck-Childs – we are still looking for candidates to serve on a new economic development commission - we need more folks to come forth – we have some interest.

NOTE – send info on interested candidates to Bob Tucker

Upcoming meetings

ConCom meeting this Thursday

SWAP meeting on Thursday in Bellingham

2009 Annual Town Meeting - Zoning Ideas

Andy Rodenhiser – let's have a general discussion on goals at the next PB meeting – revisit – email to everyone – and be prepared to discuss and personally rank them –

Let's look at a draft calendar of minimum deadlines – knowing what we have available in time – general dates for public hearings, etc.

Andy Rodenhiser – we also need to look at various rules and regs - let's look at our goals and assign tasks to various people

Susy Affleck-Childs – I am looking for a sense of priorities – everything is important

Karyl Spiller-Walsh – priorities come from new concepts that emerge – provokes new concepts – they are always changing – we are trailing behind the concepts – to verify – we could be 2-3 steps ahead - lot of housekeeping stuff - even once you get it on paper, it is almost time to revisit things

Susy Affleck-Childs - town meeting has come to almost expect zoning proposals from us

Karyl Spiller-Walsh – I think people have come to trust us pretty well

John Williams – or there is apathy by the community

Bob Tucker – we have been learning as we go along –

Andy Rodenhiser – we prepare very well . . . continuously communicate with all the boards and respect the process as much as possible – to get feedback and input

A motion was made by Chan Rogers, seconded by Karyl Spiller-Walsh to adjourn the meeting.
APPROVED.

The meeting was adjourned at approximately 9:15 p.m.

Respectfully submitted,

Susan E. Affleck-Childs
Planning Board Assistant