

**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