

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 Pellegri.

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 1st public hearing – but my basic position is that the board ought to request the hearing be delayed - I think Oct 1st 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 son 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 28th – 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 –

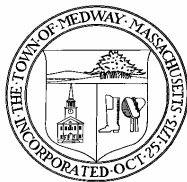
AGREED - Let's meet Monday, September 28th at 6:30 pm – and address some other issues

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. 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.

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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:

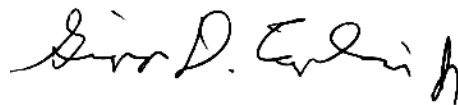
1. Section 203-1 strongly encourages a pre-application meeting. No pre-application meeting was held. Since this is a modification to an existing approved site plan, this step is less important than for a new project.
2. Section 204-5 D requires certain information on the proposed site plan. There is 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' lighting 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 Mail
107 Oakland St.

RECEIVED
SEP 22 2009
TOWN OF MEDWAY
PLANNING BOARD

PGC ASSOCIATES, INC.

1 Toni Lane
Franklin, MA 02038-2648
508.533.8106
508.533.0617 (Fax)
pgca@comcast.net

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.

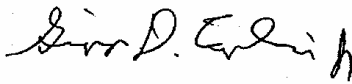
19. Section 8.03 specifies drainage information. It requires drainage calculations for the 1, 10, 25 and 100-year storms, while Planning Board requires calculations for the 2,10, 25 and 100 year storms. These should be consistent.

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.

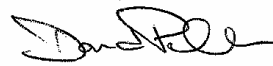
If there are any questions about these comments, please call or e-mail me.

Sincerely,



Gino D. Carlucci, Jr.

Sincerely,



David R. Pellegrini