

**January 19, 2010
Planning and Economic Development Board
Medway Senior Center
76 Oakland Street**

BOARD MEMBERS PRESENT: Andy Rodenhiser, Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, Chan Rogers, and John Williams

ABSENT WITH NOTICE:

ABSENT WITHOUT NOTICE:

ALSO PRESENT: Susy Affleck-Childs, Planning and Economic Development Coordinator
Gino Carlucci, PGC Associates
Dave Pellegrini, Tetra Tech Rizzo
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:00 pm.

BOARD BUSINESS:

Establish Construction Account Fees- Applegate Farm Subdivision:

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the construction estimate of \$22,911, dated 1/19/2010 prepared by Tetra Tech Rizzo, for the Applegate Farm Subdivision.**

Susy Affleck-Childs is looking for guidance from the Board on whether to collect the money all at once or in installments. Member Rogers doesn't see why we should collect all the money at once. Chairman Rodenhiser and Vice Chairman Tucker feel we should collect all the money up front.

Williamsburg Condominium OSRD Definitive Plan Draft Decision:

The Board is in receipt of a revised draft of the CERTIFICATE OF ACTION for the Williamsburg Condominium Open Space Residential Development Definitive Plan; the revised draft is dated January 19, 2010 and is attached. After reviewing **Sections I through VIII**, the Board is in agreement with the verbiage with the exception of a few minor typographical errors. Within Section VII, Susy Affleck Childs would like to add the prior Williamsburg OSRD Special Permit Decision and Williamsburg OSRD Concept Plan as exhibits. The Board is in agreement.

Section IX - Project Evaluation Criteria

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to approve the Project Evaluation findings as specified in the 1-19-2010 draft decision as conditioned and approved by this Certificate of Action.**

Section X. Other Findings:

The Board next reviewed Section X. OTHER FINDINGS. Susy Affleck-Childs informed the Board that the only difference to note is the absence in the Definitive Plan of 4 additional on-street parking spaces for visitors that had been shown on the Concept Plan.

Section XI. Waivers

Subdivision Rules and Regs SECTION 5 – CONTENTS OF DEFINITIVE PLAN:

The Board is satisfied with the proposed text for Section 5 waiver explanations and findings.

Subdivision Rules and Regs SECTION 6 – ADMINISTRATION OF APPROVED DEVELOPMENTS:

The Board reviewed the proposed text for waiver explanations and findings for Sections 6.6.3 through Section 6.8.11. The Board was satisfied with these sections. Member Gay noted that the last sentence needs to be removed.

Subdivision Rules and Regs SECTION 7 – CONSTRUCTION STANDARDS:

The Board is satisfied with this the proposed text for Section 7 waiver explanations and findings.

ZONING BYLAW – SECTION V. USE REGULATIONS, Sub-Section T. OSRD:
The Board is satisfied with this section.

ACTION OF WAIVER FINDINGS:

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the noted Action of Waiver Findings as written.**

ACTION OF WAIVER REQUEST:

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the Action on the Waiver Request as modified.**

Section XI. Conditions:

Condition #2 Mitigation:

The Board had a discussion about the proposed mitigation text and it is their feeling to strike the whole paragraph #2.

Condition # 3 – Ownership/Maintenance of Common Areas

Mr. Yorkis would like the Trash Removal under page 14. B. 5) to be removed. He communicated that the residents will be covered under the Town of Medway trash removal system which is already in place. This encourages recycling. The Board is comfortable with this.

Condition #8 Plan Endorsement:

The words “Approval of” need to be removed from this section.

Condition #10 - Maintenance Responsibility During Construction:

Mr. Yorkis would like this section needs to be more specific about the Homeowner's Association. Susy Affleck-Childs will rework this language.

Condition # 11 – Fire Protection

The Board is not comfortable removing the requirement of the Provisions for Fire Prevention and Protection. The Board is in receipt of a memo dated 1/19/2010 in regards to the applicant agreeing to install additional water infrastructure.

Condition #12 – Building Permits

Mr. Yorkis referenced page 18. #7 Sidewalk Binder. He would like this requirement removed since the sidewalk binder could be damaged while the remainder of the work is completed. The Board is comfortable with waiving this.

Condition #13 – Sidewalks

The bituminous concrete sidewalk linear feet needs to be changed from 225 linear feet to 105 feet. Susy Affleck-Childs will add language about the sidewalk obligation within the introduction in paragraph #13. Mr. Yorkis indicated that the sidewalk will be completed by October 15, 2010. Vice Chairman Tucker would also like signage included in the decision regarding the crosswalk. The Board would like to get a recommendation from the Safety Officer as to what kind of signage he wants for the crosswalk

- **On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to remove the Sidewalk Binder requirements.**

Condition # 16 - Play Area in Parcel C:

The Board discussed that the play area needs to be established before the last occupancy permit is issued.

Condition # 19 - 40 B Comprehensive Permit:

The language of this was revised by Town Counsel. Susy Affleck-Childs would like Mr. Yorkis to supply the letter as noted in this section.

Condition #20 – Project Completion

Under page 23 letter E., the Board will be adding the Fire and Police Departments and also the DPW.

Under page 23 letter G., the Board would like to include the addition by listing the various boards which need to sign off.

Under page 23. number 25, the Board feels that the Proof of Taxes Paid section is redundant.

Condition # 28 – Restrictions on Construction Activities

Under page 28, item A., Mr. Yorkis would like the construction time to state that it shall not commence any day before 7 am and shall not continue beyond 7:00 pm. The time allotment needs to remain as noted with an ending time of 6:00 pm as documented in the Special Permit.

Approval:

- **On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to approve the Williamsburg Condominium Open Space Residential Development Definitive Plan Certificate Action with the noted revisions.**

Daniels Wood II Subdivision Modification

The Board had a discussion about Daniels Woods II Subdivision Modification. Member Spiller-Walsh noted two issues of concern. Upon further review of the Zoning Bylaw, she wants to know how to evaluate a lot. It is of great concern that the existing trees and the topography of this lot will be affected. It is her belief that the so called “low impact” water design is actually invasive and that the stormwater management will not work. She would like to leave the natural areas. The Chairman noted that the developer is not required to do low impact design. Member Spiller-Walsh feels that this project is a risk if it is approved. Consultant Pellegrini communicated to the Board that he believes through review of all the plans that this project will work. Mr. Yorkis disagrees with member Spiller-Walsh and believes that this project will be good. Consultant Pellegrini wanted to know if member Spiller-Walsh had any improvements in regards to the landscaping. Next, Consultant Pellegrini suggested that the Board could add conditions for landscaping around the drainage areas. Member Gay communicated that from the beginning of the project submittal, there are significant improvements. The slopes are not as extreme. The condition of the area is done with grass swales, which adds gentle contours. Member Rogers reminds the Board that the only obligation of the Board is to meet the requirements and we cannot dictate excellence. The Chairman communicates the member Spiller-Walsh that he appreciates her passion and likes to hear her opinion. It was suggested to member Spiller-Walsh that she come with suggestions about the landscape.

FinCom:

Vice Chairman Bob Tucker and Susy Affleck-Childs will be going to FinCom on February 10, 2010 regarding an emergency transfer request to cover the cost of consulting services to review the Conservation Commission’s proposed *Rules and Regulations*. A memo will be provided to FinCom.

Minutes:

The minutes of the January 12, 2010 meeting will be held over to the next meeting on January 19th.

Other Business

Associate Member John Williams informed that Board that he intends to proceed with his obligation on the Board as its associate member (for special permits) but that he will need to resign from the Economic Development Committee. Chairman Rodenhiser wanted to know if member Williams could offer his expertise with the utility easements. Susy Affleck-Childs noted that his term had technically expired (May 2009) and that he had not ever been reappointed. It would make sense for him to stay involved thru May 2010.

Susy Affleck- Childs informed the Board that Paul Yorkis & David Faist would like to have an informal discussion about a possible OSRD development. This project is located between the ends of Neelon and Cherokee Lanes (site of the previously approved but expired Charles River Acres OSRD project).

- **On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting at 10:00 pm.**

Future Meetings:

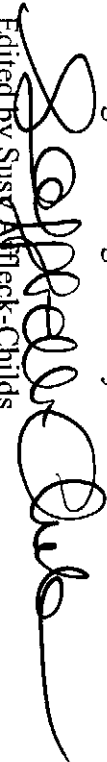
The next meetings scheduled are: **January 26, February 9 & 23, 2010.**

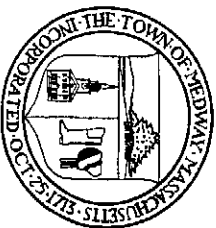
The meeting was adjourned at 10:00 pm.

Respectfully Submitted,


Amy Sutherland

Meeting Recording Secretary


Edited by Susy Affleck-Childs
Planning and Economic Development Coordinator



TOWN OF MEDWAY

Planning & Economic Development Board

155 Village Street
Medway, Massachusetts 02053

*Andy Rotenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Cranston (Chan) Rogers, P.E.
Karyl Spiller Walsh
John W. Williams, Associate Member*

REVISED DRAFT – January 19, 2010

CERTIFICATE OF ACTION WILLIAMSBURG CONDOMINIUM OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD) DEFINITIVE PLAN (_____ with Waivers and Conditions)

I. APPLICANT & PROPERTY OWNER:

Williamsburg Condominium Corporation
4 Daffodil Lane
Medway, MA 02053

II. SUBJECT PROPERTY - The subject property is a 13.86 acre site at 66A, 70, 70R and 72 West Street. The property is located on the north side of West Street, across from Holbrook Street and is in the ARII zoning district. The site is comprised of four parcels – Medway Assessors Map 2 – Parcels 7B, 6-1-B, 6-1-2 and 6-1-3. On site features include wetlands, a tributary to Hopping Brook, upland meadows, a vernal pool, wooded areas, pine grove, open fields and stone walls.

III. PROJECT DESCRIPTION - The *Williamsburg Way Definitive Plan* depicts an 18 unit townhouse condominium community comprised nine (9) duplex buildings with two (2) dwelling units in each building. The proposed development includes three (3) affordable dwelling units for low to moderate income families which shall comply with the requirements for inclusion on the Massachusetts Department of Housing and Community Development Subsidized Housing Inventory pursuant to M.G.L chapter 40B, section 20-23. Planned site improvements include construction of a 16' wide, one-way, 1,153 linear foot long permanent private roadway off of West Street to be known as Williamsburg Way. Other planned improvements include the construction of a stormwater drainage system to comply with Massachusetts DEP stormwater management

requirements, extension of Town water and sewer, construction of approximately 1200 linear feet of interior sidewalks/pathways, and the preservation of 8.65 acres of open space (Parcels A and B) with three designated visitor parking spaces. Each dwelling unit has room for four (4) off-street parking spaces.

The land is to be divided into three parcels as follows:

Open Space Parcel A – 1.00.97 acres including a vernal pool to be owned by the Williamsburg Condominium Trust.

Open Space Parcel B – 7.63 acres to be conveyed to the Town of Medway through its Conservation Commission but maintained by the Williamsburg Condominium Trust.

Parcel C – *Development Parcel* – 5.25 acres including all 18 dwelling units, private roadway, sidewalks, stormwater facilities (all to be owned by the Williamsburg Condominium Trust)

IV. PROCEDURAL SUMMARY: With respect to *Williamsburg Way Definitive Plan*, the Planning and Economic Development Board verifies that:

1. On October 15, 2009, it received an application for approval of the *Williamsburg Condominium Open Space Definitive Plan*, dated August 31, 2009, revised October 15, 2009, prepared by FAIST Engineering of Southbridge, MA and O'Driscoll Land Surveying Co of Medway, MA. This application was NOT preceded by a preliminary subdivision plan.
2. On October 26, 2009, it circulated the *Williamsburg Condominium Open Space Definitive Plan* to various Town boards and departments, including the Board of Health, soliciting review comments and noting that a public hearing was scheduled to begin on November 10, 2009. The Board of Health did not provide any written comments.
3. On November 10, 2009, it commenced a public hearing on the plan. The public hearing was duly noticed on October 27 and November 2, 2009 in the *Milford Daily News*. Abutter notice was sent by certified mail to abutters, parties of interest and to the Planning Boards of adjacent communities on October 19, 2009. The public hearing was continued to December 15, 2009 and to January 12, 2010 at which time it was closed. At the public hearing, comments were received from the general public, municipal boards/ departments, PGC Associates (the Town's Consulting Planner), Tetra Tech Rizzo (the Town's Consulting Engineer), the applicant and members of the applicant's development team. All persons in attendance were provided the opportunity to comment and present evidence. All members voting on this definitive plan were present at all sessions.

V. BACKGROUND - This application was filed pursuant to an Open Space Residential Development (OSRD) Special Permit and Affordable Housing Special Permit

approved by the Medway Planning and Economic Development Board on March 10, 2009 and the Williamsburg Condominium Concept Plan dated August 20, 2008, last revised _____ and endorsed by the Planning and Economic Development Board on _____. The applicant at that time was then property owner Broad Acres Management Trust. The OSRD Special Permit was recorded at the Norfolk County Registry of Deeds on October 2, 2009 in Book 27111, page 95. The associated OSRD Concept Plan was recorded on October 2, 2009 in Plan Book 595, Page 51.

On October 2, 2009, Broad Acres Management Trust conveyed the subject property to the Williamsburg Condominium Corporation. That deed was recorded with the Norfolk County Registry of Deeds on October 2, 2009 in Book 27111, page 118.

VI. VOTE OF THE BOARD – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, after having carefully reviewed the application and all plans, materials and documentation presented by the applicant, the Board’s consultants, abutters and the general public, comments from Town officials and board, a motion was made by _____

_____ and seconded by _____ to _____ prepared by FAIST Engineering and O’Driscoll Land Surveying, Inc., dated _____, last revised _____ subject to the *Specific and General Conditions* as specified herein and with *Waivers* from the of the *Subdivision Rules and Regulations* dated April 26, 2005 as also specified herein. The motion was _____ by a vote of ____ in favor () and ____ against.

VII. EXHIBITS – Plans and Documents

Specified below is a list of application materials, public comments, consultant and town review documents, and supplemental information filed by the Applicant. All information is on file with the Planning and Economic Development Board and is available for public review.

Williamsburg Way OSRD Definitive Plan

Prepared by FAIST Engineering & O’Driscoll Land Surveying

August 31, 2009, revised October 15, 2009

Revised – November 30, 2009

Deed conveying subject property to Williamsburg Condominium Corporation

October 2, 2009

Lighting Plan – Prepared by Faist Engineering & TO Design Inc.

October 15, 2009

Wetlands Information

Superseding Order of Resource Area Delineation – Mass DEP, 10/29/09; DEP

file # 216-765

Superseding Order of Conditions – Mass DEP, 12/29/09, DEP file # 216-771

Stormwater Management Report (including soil survey, percolation and high groundwater testing)

Prepared by Faist Engineering - October 2009

Revised –November 2009

Long Term Operation and Maintenance Plan for Proposed Site Drainage and

Stormwater Management System

Prepared by Faist Engineering - October 2009

Revised – November, 2009

Waiver Request Worksheet

October 15, 2009 – Paul Yorkis, Patriot Real Estate

Revised November 30, 2009 - Paul Yorkis, Patriot Real Estate

Town Engineering Consultant Review Letters

David Pellegri, P.E., Terra Tech Rizzo, Inc.

November 4, 2009 review letter responding to initial application

December 9, 2009 review letter responding to revised plans dated November 30, 2009 and additional information submitted on December 2, 2009.

December 16, 2009 review letter responding to additional information provided on December 15, 2009.

Town Planning and Economic Development Consultant Review Letters

Gino Carlucci, AICP, PGC Associates

November 3, 2009 review letter responding to initial application

December 14, 2009 review letter in response to revised plans dated November 30, 2009.

Medway Departmental/Board Review Comments

Memo dated November 22, 2009 from Medway Fire Chief Paul Trufant

Memo dated November 8, 2009 from the Medway Design Review Committee

Memo dated November 25, 2009 from Medway DPW Deputy Director

Memos dated December 7, 2009 and January 6, 2010 from the Open Space Committee

Supplemental Information Provided By Applicant

NPDES Stormwater Pollution Prevention Plan (SWPPP) for Williamsburg Way – Prepared by Faist Engineering - December 2, 2009.

December 15, 2009 letter from Paul Yorkis, regarding specific measures that will be taken to try to achieve daily per capita water usage below 65 gallons/day.

Revised Planting Schedule – Prepared by Jim LeBlanc, RLA, TO Design, Inc. dated December 15, 2009

November 30, 2009 letter from David Faist, Faist Engineering responding to the November 3, 2009 review letter from Gino Carlucci, PGC Associates. Letter includes Williamsburg OSRD Area Calculations.

November 30, 2009 letter from David Faist, Faist Engineering responding to the November 4, 2009 review letter from David Pellegrini, Tetra Tech Rizzo. Letter included Williamsburg OSRD Area Calculations and Revised Stormwater Management Report Tables 1, 2 & 3.

Ground Water Mounding Analysis Book – 12/15/09 - prepared by Faist Engineering, submitted 12-15-09.

Georgia Pacific – Forest Edge Vinyl Siding information.

Citizen/Resident Communications

Email dated November 10, 2009 from Jim and Betty Wickis, 74 West Street.

VIII. PUBLIC HEARING SUMMARY: The public hearing and review of the *Williamsburg Condominium Open Space Definitive Plan* was conducted over the course of three (3) Planning and Economic Development Board meetings (11-10-09, 12-15-09 and 1-12-10) during which substantive information was presented, evaluated and discussed. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005.

Citizen/Resident Testimony

Jim Wickis, 74 West Street
Rhea Berry, 68 West Street
Corrie O’Callaghan, 65 West Street
Jeffrey Swenson, 68 West Street

Professional Review/Testimony

Gino Carlucci, AICP, PGC Associates, Inc.
David Faist, PE, FAIST Engineering
Paul Yorkis, Patriot Real Estate
Jim LeBlanc, RLA, TO Design, Inc.
David Pellegrini, PE, Tetra Tech Rizzo, Inc.
Paul J. Desimone, RLS on behalf of Dr. Michael Robinson, Medway Animal Hospital, 66 West St

Other Testimony

John Schroeder, Chairman, Medway Open Space Committee

IX. PROJECT EVALUATION CRITERIA – *Before taking action on a Definitive Plan, the Board shall evaluate the proposed development according to the criteria as specified in Section 5.16 of the Subdivision Rules and Regulations. At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, a motion was made by _____ and*

seconded by _____ to _____ the Project Evaluation
Findings noted below as conditioned and approved by this Certificate of Action.

5.16.1 Completeness and technical accuracy of all submissions.

Findings – The staff and consultants have reviewed the submitted information and the applicant and its development team have provided additional submissions, information and revisions as requested. Therefore, the Planning and Economic Development Board finds that this criterion is met.

5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.

Findings – The proposed new roadway has been designed as a one-way private way forming a loop off of West Street. Sight distances and street lighting on West Street have been determined to be adequate. The roadway is of adequate width for the property served. It also has a sidewalk on one side providing for safe pedestrian movement. Therefore, the Planning and Economic Development Board finds this criterion is met.

5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.

Findings – As an OSRD, the project is limiting disturbance of the natural area and development is kept outside the wetlands and flood plain areas of the site. As mentioned above, the roadway design does not pose a traffic hazard. Therefore, the Planning and Economic Development Board finds that this criterion is met.

5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environmental, which damage could be avoided or ameliorated through an alternative development plan.

Findings – As an OSRD, the proposed development does represent an alternative development style that limits damage to the environment and preserves open space. The development is also designed to limit water consumption on site. Therefore, the Planning and Economic Development Board finds that this criterion is met.

5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous

traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

Findings – The proposed new roadway has adequate width and adequate sight distance. It has been reviewed by the Medway Police and Fire Departments and has been determined to be adequate for the provision of emergency services. Therefore, the Planning and Economic Development Board finds that this criterion is met.

5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.

Findings – The 13.88 acre site exceeds the minimum of 8 acres required by the Zoning Bylaw for an OSRD. The project provides 8.63 acres of open space (exceeding the minimum of 50% of the site or 6.94 acres). The area of uplands within the open space is 5.32 acres, exceeding the required minimum of 5.25 acres. Since this is a condominium development and no lots are being created, there are no area and frontage standards for the individual dwelling units. Therefore, the Planning and Economic Development Board finds that this criterion is met.

5.16.7 Consistency with the purposes of the Subdivision Control Law.

Findings – The proposed development will result in a new road that meets applicable safety and construction standards. The stormwater drainage system also complies with applicable regulations and minimizes impacts. Therefore, the Planning and Economic Development Board finds that this criterion is met.

X. OTHER FINDINGS – In accordance with the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section T. Open Space Residential Development (OSRD), paragraph 12. 3), the Planning and Economic Development Board makes the following findings regarding this application:

- A. The proposed Williamsburg Way OSRD Definitive Plan substantially complies with the previously approved OSRD Concept Plan dated March 10, 2009. **The only difference of note is the absence in the Definitive Plan of 4 additional on-street parking spaces for visitors that had been shown on the Concept Plan.**
- B. All Conditions of Approval specified in item 3 of the March 10, 2009 OSRD Special Permit Decision have been incorporated into the Williamsburg Way OSRD Definitive Plan and this Certificate of Action

XI. WAIVERS – The Applicant has requested waivers from the following sections of the *Medway Subdivision Rules and Regulations*, dated April 26, 2005.

SECTION V - CONTENTS OF DEFINITIVE PLAN

SECTION 5.6.3 *All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88).*

EXPLANATION - The applicant requests a waiver from using the North American Vertical Datum of 1998 (NAVD88) and authorization to use the NVD 2929 datum instead. This waiver will minimize conflicts between various elements of the project which rely on the NVD 1929 datum (FEMA 100-year flood elevation and the recent Town of Medway West Street Sewer Project).

FINDINGS – The Planning and Economic Development Board finds that the waiver is justified since it is in the best interests of the town to use topographical data that is consistent with both the sewer project on West Street and the FEMA flood elevations since there is a flood plain on the property.

SECTION 5.7.19 *The proposed layout of street construction, storm drainage and storm drainage and stormwater management facilities, water supply, and sewage disposal system, including grades, and the proposed electric, tele-communications, natural gas, cable TV, and spare communications conduit shall be shown on the definitive plan.*

EXPLANATION - The applicant requests a waiver from showing the underground utility services on the definitive plan. NSTAR serves as the lead utility in Medway. It prepares the initial design for underground utilities including electric, phone and cable service. Verizon and COMCAST follow the NSTAR design. NSTAR does not begin their design process until the definitive plan is endorsed. Therefore, it is not possible to show these locations on the definitive plan. They can be shown on the as-built plan.

FINDINGS - The Planning and Economic Development Board finds that sufficient information has been provided for the Board to generally understand how the underground utilities will be provided. The applicant will provide the Planning and Economic Development Board with a copy of the NSTAR utility plan once it is completed.

SECTION 5.20.2 a) *A Restrictive Covenant shall be executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be completed to serve any lot before such lot may be built upon or conveyed other than by mortgage deed.*

EXPLANATION – The applicant desires a waiver from one aspect of this regulation in that they would like to begin construction on one duplex structure (2 dwelling units) to serve as a model while the way, infrastructure and services are under construction. The applicant agrees to not seek an occupancy permit for either of the dwelling units until all work is completed or acceptable replacement security is provided.

FINDINGS - The Planning and Economic Development Board finds that this variation is acceptable because public safety will not be jeopardized as no occupancy will be involved. The standard Covenant will need to be revised to allow for construction to begin on one building before the way and services are fully completed. No release from the Covenant will be required before a building permit can be issued for one structure.

SECTION 6 - ADMINISTRATION OF APPROVED DEVELOPMENTS

SECTION 6.6.3 – *The Board shall not grant a partial release for such for partial completion of improvements until the following items, at a minimum, have been installed, inspected and approved by the Board or its agent*

EXPLANATION - The applicant would like to begin construction on one duplex structure (2 dwelling units) to serve as a model while the way, infrastructure and services are under construction. The applicant agrees to not seek an occupancy permit for either of the dwelling units until all roadway, infrastructure and utility work is completed or acceptable replacement security is provided.

FINDINGS – The Planning and Economic Development Board finds that this variation is acceptable because public safety will not be jeopardized as no occupancy is involved. However, the minimum improvements specified in 6.6.3 shall be completed before a building permit is authorized for any additional structures.

SECTION 6.4.1 – *No building permit shall be issued within a development without written permission from the Board by release of covenant, bond or securities resulting from the fulfillment of developer obligations.*

EXPLANATION – The applicant seeks this waiver in order to obtain a building permit to begin construction of one (1) duplex building to serve as a model home.

The applicant agrees to not request an occupancy permit for the duplex units until such time as the base/binder coat of the roadway paving has been completed.

FINDINGS – The Planning and Economic Development Board finds that this waiver is acceptable because public safety is not jeopardized as no occupancy is involved. However, the minimum improvements specified in Section 6.6.3 shall be completed before a building permit is authorized for any additional structures. [Note: This may set a precedent for other projects that wish to receive a single building permit prior to the binder course of roadway being installed.]

SECTION 6.8.1 – 6.8.4 and 6.8.6 – 6.8.11 Street Acceptance

EXPLANATION - The Applicant requests waivers from these regulations as they are not applicable to Williamsburg Way as it will be a permanent private way.

FINDINGS - The Planning and Economic Development Board finds that because Williamsburg Way is going to be a permanent private way, there is no need to require compliance with the various regulations regarding street acceptance. 6.9.1 – release of construction guarantee

SECTION VII. CONSTRUCTION STANDARDS

SECTION 7.9.1 e – Use of Local Street construction standards is required for subdivisions of up to five (5) lots/dwelling units.

EXPLANATION – The applicant seeks a waiver from using the Local Street construction standards as Williamsburg Way will be a permanent private way. The Local Street construction standards are to be used for roads intended to become public ways.

FINDINGS - Since this a private way to be owned and maintained by the condominium association in perpetuity, the Planning and Economic Development Board finds that this waiver is acceptable. The roadway standards specified on Detail Sheet #1, that is, a 12" gravel base, 2 ½" binder course and 1 ½" finish course, with a width of 14 feet and 16 feet, are acceptable.

SECTION 7.9.4 a) – The minimum width of any permanent private way, neighborhood, minor or secondary street right-of-way, including dead-end streets, will be fifty feet (50').

EXPLANATION – The applicant seeks a waiver from this regulation because Williamsburg Way will be a permanent private way to be owned by the

Williamsburg Condominium Association. The roadway is planned to be one way and 16 feet wide. The roadway and all land surrounding the roadway and the residential units (Parcel C) will be held in common ownership. There is no separate road parcel per se. Therefore a defined right of way is not needed.

FINDINGS – The Planning and Economic Development Board finds that since the private way will be owned and maintained by the condominium association in perpetuity, no separate right-of-way is needed and this waiver is acceptable.

SECTION 7.9.5 Grade a) The minimum centerline grade for any street shall not be less than two percent (2%)

EXPLANATION - The applicant requests a waiver from this regulation because the centerline grade at both the entrance and exit will be at or approximately 1%. This is necessary to accommodate minimal grade changes at the site's entrance and storm water runoff conditions at the site due to similar centerline grades along West Street and because of the relatively flat site topography.

FINDINGS –The Planning and Economic Development Board finds that, due to the topography of the site and the adjacent West Street, this waiver is acceptable. However, the centerline grade shall be a minimum of 1% to ensure proper drainage.

SECTION 7.9.7 g) Roadway shall be constructed for the full length of all streets within the subdivision. The minimum widths of the roadway pavement shall be twenty-six feet for a local street and eighteen feet for a permanent private way.

EXPLANATION - The applicant requests a waiver from this regulation in order to construct a permanent, one-way private roadway with a paved width of 14' at the entrance increasing to 16'.

FINDINGS - The Planning and Economic Development Board finds that the 14 foot entranceway and 16 foot private roadway width is adequate for Williamsburg Way since it is a one way roadway with separate access and egress and it serves only this development. It does not provide any thru connection to another road.

SECTION 7.10.2 Curb and Berms – *Curbing shall be provided the full length of all streets along each side of the roadway. The following curb types are required for the various street categories: Permanent Private Way – Hot Mix Asphalt Cape Cod Berm, Local Street – Sloped Granite Curb (Type S-B).*

EXPLANATION – Williamsburg Way is proposed to use a ‘country drainage’ low impact design using roadside grass swales to guide stormwater flow. Curbing is not planned along the edges of the private roadway.

FINDINGS –The Planning and Economic Development Board finds that, since this will be a private way to be owned and maintained by the condominium association in perpetuity and that the absence of a curb is an integral component of the low impact stormwater design, that this waiver is acceptable.

SECTION 7.13.2 - Sidewalks shall extend the full length of the street and around the entire perimeter of the cul-de-sac, with pedestrian ramps at both ends of the cul-de-sac entry. Permanent private way – no sidewalks required. Local street – six feet on one side – Hot mix asphalt with a 6’ grass strip.

EXPLANATION - The applicant requests a waiver from the Local Street sidewalk width and composition requirements. The proposed sidewalks are 4’ wide in an effort to reduce impervious surfaces.

FINDINGS - The Planning and Economic Development Board finds this waiver is acceptable. Simply by having any sidewalks, they exceed the private way standards. The sidewalks meander and are off the street and safer, therefore a reduced width is OK.

SECTION 7.19.2 - Deciduous street trees of nursery stock . . . shall be planted on each side of each street in a subdivision At least 3 trees are to be located on each lot at approximately forty foot intervals. . . . Trees shall be at least twelve feet in height and two and one-half inches in caliper.

EXPLANATION – The applicant seeks a waiver from these specific requirements. Because this is a condominium community, there are no individual house lots.

FINDINGS - The Planning and Economic Development Board finds that this waiver is acceptable. There is a landscape plan for the entire project that approximates the requirements of this section.

SECTION 7.19.4 - Trees approved for planting are: Shademaster, Honey and Skyline Locust; Sugar Maple, White, Scarlet, Pin and Northern Red Oak; Bradford and Aristocrat Pears; London Planetree.

EXPLANATION - The applicant seeks a waiver from these requirements in order to implement a landscape plan prepared by its Registered Landscape Architect.

FINDINGS – The Planning and Economic Development Board finds that the waiver and the proposed landscape plan are acceptable. The applicant complied with the request of the Open Space Committee to use native species and the Open Space Committee supports the plan.

ZONING BYLAW – SECTION V. USE REGULATIONS, Sub-Section T. OSRD.

8. Reduction of Dimensional Requirements f) – *Garage doors facing the street shall be set back a minimum of five feet (5') more than the front wall of the principle building. No more than fifty percent (50%) of the garage doors within an entire OSRD shall face the street from which it is accessed. These requirements may be waived by the Planning Board for corner lots where the garage doors face a different street than the front of the house or for other extraordinary circumstances that the Planning Board deems to be in the Town's best interests.*

EXPLANATION – The Williamsburg Condominium development offers 6 floor plans. The “F” style building unit is designed for a household that needs all first floor living. The applicant has asked to be able to have the two “F” style buildings to each have one (1) front load garage. By doing so, this will allow the adjacent building to include garages if desired by future buyers. However, this might then exceed the maximum 50% front loading garage requirement.

FINDINGS – The Planning and Economic Development Board finds that providing the widest variety of housing types is in the community’s best interest. Providing some units that are single story helps advance this goal. The constraints of the site do not allow the “F” style buildings to comply with this section. Therefore, a maximum of two “F” style buildings are acceptable.

Action on Waiver FINDINGS - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, a motion was made by _____ and seconded by _____ to approve the above noted Waiver Findings. The motion was _____ by a vote of ___ in favor and ___ opposed.

Action on Mitigation Plan - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 20201, a motion was made by _____ and seconded by _____ to _____ the

above noted Mitigation Plan. The motion was _____ by a vote of ___ in favor and ___ opposed.

Action on Waiver Request – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 19, 2010, a motion was made by _____ and seconded by _____ to grant the above noted Waivers from the *Subdivision Rules and Regulations*. The motion was _____ by a vote of ___ in favor and ___ opposed.

XI. CONDITIONS – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

Specific Conditions

1. It is expressly understood that this condominium development is authorized for Parcels A, B and C as shown on the OSRD Definitive Plan and shall have no more than eighteen (18) dwelling units including three (3) affordable dwelling units. As a permanent condition of this plan, no further subdivision of Parcels B and C will be allowed. Williamsburg Way is a permanent private way.

2. ~~Mitigation – As part of this project and as mitigation for the requested waivers noted in XI herein, the applicant shall install sidewalk curbing and a handicap ramp on north side of West Street for approximately 120 feet running in front of a portion of 68 West Street. The purpose of this additional sidewalk is to provide a pedestrian connection between Holbrook Street and Williamsburg Way and allow neighborhood residents to safely access Open Space Parcel B.~~

3. **Ownership/Maintenance of Common Area**

A. Williamsburg Way, the stormwater drainage facilities and Open Space Parcel A shall be owned and maintained for the Williamsburg Condominium Trust. It is the intent of the Planning and Economic Development Board that these facilities not be accepted by the Town of Medway.

B. The Board requires that the following aspects of the development shall be and shall remain forever private, and that the Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of same:

- 1) Roadway and parking areas
- 2) Stormwater Management Facilities
- 3) Snowplowing/sanding
- 4) Landscaping
- 5) Trash Removal
- 6) Street lights
- 7) Maintenance of Open Space Parcels A and B.

- 3. **Timetable for Completion** – Notwithstanding the provisions of the Williamsburg OSRD Special Permit, the Applicant shall complete construction of the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the OSRD Definitive Plan, to the satisfaction of the Planning and Economic Development Board, within three (3) years of the date of endorsement of the plan. A request to extend the completion time limits must be made in writing to the Board at least thirty (30) days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to make any appropriate changes to this decision, and to require any appropriate modifications of the OSRD Definitive Plan.

- 4. **OSRD Definitive Plan Revisions** - Prior to endorsement:

- A. Sheet 1 of the plan set shall be revised to include the following:
 - 1. The final plan revision date
 - 2. The list of Approved Waivers
 - 3. Reference to the OSRD and Affordable Housing Special Permit dated March 10, 2009 with recording information specified.
 - 4. Approval date of Mass DEP Superseding Order of Conditions
- B. The plan set shall be revised as follows to include:
 - 1. Sheet 14 shall be updated to include the revised planting schedule dated December 15, 2009
 - 2. Sheet 17 – Information regarding the approved siding and color palette shall be added. Georgia Pacific Forest Edge vinyl siding (or equivalent). Colors – All standard and premium colors noted except Pearl and Cream. Varied color combinations to be used for siding, shutters and trim.
 - C. The plan shall be revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town’s Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town’s Consulting Engineer and the Planning and Economic Development Board before the Planning and Economic Development Board will endorse the definitive subdivision plan.

- 5. **Unit Deeds** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with copies of a sample deed to be used to convey or convey each dwelling unit for review, comment, amendment and approval by Town Counsel. The deed shall clearly state that the Williamsburg Condominium Trust shall own and be responsible for the maintenance and upkeep of Williamsburg Way, a permanent private way, the stormwater management system, and all property located on Parcels A, B and C.

6. **Easements** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed easement to allow public use and passage on Williamsburg Way in order to access Open Space Parcel B.

7. **Open Space Parcels**

- A. **Parcel A** – Open Space Parcel A shall remain as open space to be owned by the Williamsburg Condominium Trust for primary use by the residents of the development. Parcel A shall be protected to the satisfaction of the Planning and Economic Development Board through a Conservation Restriction granted to the Town of Medway, acting through its Conservation Commission, in perpetuity and exclusively for conservation purposes pursuant to Sections 31, 32 and 33 of Chapter 184 of Massachusetts General Laws.

Prior to the issuance of an occupancy permit for the first dwelling unit, the applicant or its successor or assigns shall execute a Conservation Restriction for Parcel A, to be approved by the Planning and Economic Development Board and Town Counsel and submitted to the Secretary of the Executive Office of Environmental Affairs.

- B. **Parcel B** – Open Space Parcel B shall remain as permanent open space accessible to the general public. The Conservation Commission, at its 2-12-09 meeting, agreed in principle to receive on behalf of the Town of Medway the conveyance of Open Space Parcel B for open space/conservation purposes. ~~When shall this property be conveyed to the Town???~~ [Gino suggests either prior to first occupancy permit or prior to the occupancy permit that gives a majority of the homeowners association to the residents.] [[Paul Yorkis requests "no later than 30 days after the sale of the last market rate unit.]]

Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed deed to convey Parcel B to the Town of Medway through its Conservation Commission.

Prior to the conveyance of Parcel B to the Town, the Williamsburg Condominium Trust or its assigns shall provide a pathway/trail on Parcel B connecting the designated open space parking area to the center of the northwest meadow where a bench shall be provided for viewing/resting.

If Open Space Parcel B is not conveyed to the Town of Medway through its Conservation Commission, another entity acceptable to the Planning and Economic Development Board must agree to the land ownership. If conveyed to another entity or if retained by the condominium association, a conservation restriction in compliance with the Open Space Residential Development (OSRD) provisions of the Medway Zoning Bylaw and acceptable to the Planning and Economic Development Board is required.

It is understood that the construction of trails on Open Space Parcel B may occur in the future by other parties subject to appropriate approvals. This condition does not require nor specifically allow the Williamsburg Condominium Association to construct additional trails on Parcel B.

The Williamsburg Condominium Association will be responsible for the on-going upkeep and maintenance of Parcel B. This shall include the mowing of the upland meadow at least twice a year and the annual mowing/packing/preparation of a pathway on Parcel B. All maintenance work performed on Parcel B after Parcel B has been conveyed to the Town shall be performed in accordance with all requirements of the Town of Medway, through the Director of the Department of Public Works . The Association will notify the Director of the Department of Public Works prior to performing any maintenance on Parcel B after it has been conveyed to the Town, and shall provide the Town with adequate evidence of insurance prior to performing maintenance work, and shall execute an agreement saving the Town harmless and indemnifying the Town for such maintenance work, and comply with any other directives and requirements of the Town in performing the maintenance work on Parcel B.

8. **Plan Endorsement**

A. Approval of the final OSRD Definitive Plan shall be endorsed on the Original drawings of all sheets by the signatures of a majority of the Planning and Economic Development Board within ninety (90) days after the statutory twenty (20) day appeal period has elapsed following the filing of the Board's Certificate of Action with the Town Clerk and the Clerk has notified the Board that no appeal has been filed. If not submitted within ninety days, this approval shall expire unless the deadline is extended at the developer's request by the Planning and Economic Development Board.

B. *Copies of Endorsed Plans* - Within thirty (30) days after plan endorsement, the Applicant shall provide the Town with one set of the approved plans in 11" x 17" and eight sets in 24" by 36" paper format. The Applicant shall also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The applicant may be asked to pay any reasonable associated costs, to update the Medway GIS/Assessor's maps relative to this subdivision.

9. **Recording of Plans and Documents**

A. Within ninety (90) days of plan endorsement, the following documents/plans shall be recorded at the Norfolk County Registry of Deeds:

- 1) Williamsburg Way OSRD Definitive Plan

- 2) Williamsburg Condominium OSRD Definitive Plan Certificate of Action
 - 3) Covenant
 - 4) Certificate of No Appeal from the Medway Town Clerk
- B. Within thirty (30) days of recording the OSRD Definitive Plan and associated documents with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.
10. **Maintenance Responsibility During Construction** - The Applicant shall provide for snow plowing, sanding and full maintenance of Williamsburg Way and all related infrastructure including stormwater management facilities throughout the entire construction process.
11. *Fire Protection – In lieu of installing a fire alarm system within the development, the Planning and Economic Development Board requires a sum of money be paid to the Town equal to the cost of such installation for use by the Fire Department for future capital expense to upgrade the town's fire alarm system. A fee of \$1,000.00 per fire alarm box has been established by the Fire Department for this purpose. The Williamsburg OSRD Definitive Plan shows approximately 1,134 linear feet of roadway. Therefore, a fee of \$1,000 shall be paid to the Town of Medway for the Fire Alarm Special Capital Account prior to the issuance of the occupancy permit for the seventh market rate dwelling or within three years after the first building permit is issued, whichever comes first.*
12. **Building Permits**
- A. No building permit shall be issued before the Planning and Economic Development Board endorses the Williamsburg Condominium OSRD Definitive Plan.
- B. The Planning and Economic Development Board authorizes the applicant to apply for a building permit to begin construction on Units 1 & 2 prior to installation of the base coat of paving (binder course) on Williamsburg Way. One of the two units will be used as a model home for the development.
- C. Before the Board will authorize a building permit for the second structure, the following items, at a minimum must be installed and inspected and approved by the Board:
- 1) Roadway gravel subbase
 - 2) Roadway binder course
 - 3) Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales,

- infiltrations systems or any other stormwater management facilities.
- 4) As-built plan of each detention pond and forebay and all critical elevations and details of the associated structures, pipes and headwalls.
- 5) Street name signs in a size and form as specified by the Medway Department of Public Works, and all regulatory signs as specified on the approved OSRD Definitive Plan.
- 6) Stop line pavement markings.
- 7) Sidewalk binder
- 8) Provisions for fire prevention and protection.

13. Sidewalk Construction on West Street

- A. As part of this approval, the applicant shall construct a 4' wide bituminous sidewalk with concrete curbing and a handicap ramp on the north side of West Street within the Town's right of way immediately west of the entry way to the Williamsburg Condominium in front of 68 West Street (Medway Assessor's Map 2, Parcel 6), running approximately 120 linear feet to meet with the western edge of pavement on Holbrook Street. All work shall comply with the current Town of Medway street standards and Massachusetts Architectural Access Board (AAB) requirements. The Town of Medway will install the crosswalk between Holbrook Street and Williamsburg Way.

Timing for sidewalk completion. [Cimo suggests by the time 9th unit is occupied] [Paul Yorkis indicates the sidewalk will be completed by 10-15-2010.]

- B. The construction standards of the Subdivision Rules and Regulations require the installation of sidewalks along a property's frontage of existing public ways. For this site, the frontage along West Street is approximately 225 linear feet. The Planning and Economic Development Board has found that sidewalk construction along the property's West Street frontage is not practical due to the location of a vernal pool on Open Space Parcel A. Accordingly, in lieu of such sidewalk construction on West Street and to fulfill its responsibility to support sidewalk construction in Medway, the applicant or its assigns shall make a payment in lieu of sidewalk construction to the Medway Sidewalk Improvement Fund. This payment shall be provided to the Town before the occupancy permit for the seventh market rate dwelling unit is granted or within three years after the building permit for the first market rate dwelling unit is issued, whichever comes first. At that time, the amount of the payment in lieu of sidewalk construction shall be determined by the Planning and Economic Development Board and shall be calculated based on the latest Weighted Average Bid Prices issued by Mass Highway in effect at that time. The payment amount shall be equal to the estimated cost for the Town to

construct 225 linear feet of bituminous concrete sidewalk with hot mix asphalt standup berm (Curb Type 3) in accordance with the Town's requirements per the Medway Subdivision Rules and Regulations; total width from street to edge of sidewalk including the curb would be 6 feet. The amount of the payment in lieu of sidewalk construction amount will not include any additional construction contingency percentage. Due to the development's inclusion of three affordable dwelling units (16.67% of the total number of 18 dwelling units), a 16.67% discount will then be applied to determine the final amount of the required payment in lieu of sidewalk construction.

14. Affordable Housing

- A. *Three dwelling units within the Williamsburg Condominiums will be affordable housing units that will comply with the requirements for inclusion on the Subsidized Housing Inventory established by the Massachusetts Department of Housing and Community Development.*
- B. *Affordable dwelling units are hereby designated as units # 9, 11 and 17. The Affordable units shall have three bedrooms.*
- C. *Prior to the issuance of the occupancy permit for the first dwelling unit, the applicant shall prepare or cause to be prepared an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, the Massachusetts Department of Housing and Community Development and the Williamsburg Condominium Corporation, or its successors/ assigns and recorded at the Norfolk County Registry of Deeds. The affordable units are subject to the Regulatory Agreement and shall be sold and resold in accordance with the provisions of the Regulatory Agreement.*
- D. *Prior to the issuance of the occupancy permit for the first dwelling unit, the applicant shall prepare or cause to be prepared a marketing plan for the selection of qualified purchasers for Planning and Economic Development Board approval. The marketing plan shall be prepared after consultation with the Medway Affordable Housing Committee and shall comply with the requirements of the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing, 10. 3.*
- E. *A long term Affordable Housing Deed Rider/Restriction, as specified in Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing and in a form acceptable to the Town and the Massachusetts Department of Housing and Community Development shall be recorded with the deeds for the affordable units.*
- F. *The Williamsburg Condominium Master Deed and all legal documents related to the affordable units shall include language to specify:*

- 1) the unit numbers of the designated affordable units
 - 2) that the affordable units shall be sold to income eligible persons or households
 - 3) that the local preference criteria for the sale and re-sale of the affordable units shall be in accordance with the Massachusetts Department of Housing and Community Development Local Initiative Program or other applicable state housing program that provides units eligible for inclusion in the Subsidized Housing Inventory
- G. Minimum design and construction standards for affordable housing units – The affordable housing units shall:
- 1) be integrated with the rest of the development and the exterior shall be of compatible design, appearance, character, construction and quality of materials with the market rate units;
 - 2) be designed so as to not be obviously identifiable by a visitor as being affordable by their exterior appearance;
 - 3) comply in all respects to the minimum design and constructions standards set forth in the Local Initiative Guidelines by DHCD, July 1996, or as amended pertaining to the interior features of affordable dwelling units; and
 - 4) have a minimum size of 1,500 square feet and three bedrooms excluding basement space.
- H. The owners and tenants of affordable housing units shall have the same rights and privileges and responsibilities as do the owners and tenants of the market rate dwelling units including access to and use of any amenities within the development.
- I. All other provisions of Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing shall apply.
15. **Condominium Documents** - Prior to the issuance of an occupancy permit for the first unit in the development, the following documents shall be recorded at the Norfolk County Registry of Deeds.
- A. Williamsburg Condominium Master Deed, Bylaws, Rules & Regulations, and the Stormwater Operation and Maintenance and Management Plan
 - B. Declaration of Trust of the Williamsburg Condominium organization
 - C. Open Space/Conservation Restriction applicable to Parcel A.

16. **Play area in Parcel C** - A play area is shown on Sheet 4 of 17 TIMING ??? – Gino notes one option is to require the play area to be improved before the last

occupancy permit is issued. Paul Yorkis suggests that the play area will be improved once the Williamsburg Condominium Association is formed.

17. **Signage** – The Williamsburg Condominium development will not include any permanent development identification signage except for standard private way street signs.

18. **Performance Security**

A. *Covenant* - Prior to plan endorsement, the Applicant shall sign a *Covenant*, on a form provided by the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services, sidewalks and site amenities as specified in the approved OSRD Definitive Plan. Reference to the *Covenant* shall be noted on the cover sheet of the OSRD Definitive Plan. The *Covenant* shall specify that no unit may be occupied or conveyed until such services are completed or an alternative form of security is provided. The *Covenant* shall specify that the roadway and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within three (3) years of the date of plan endorsement. The *Covenant* shall be recorded at the Norfolk County Registry of Deeds at the same time the OSRD Definitive Plan and this Decision are recorded.

B. *Alternative Performance Security*

- 1) At such time as the Applicant wishes to secure a building permit for the which method or combination of methods may be selected and from time to time varied by the applicant, in a sufficient amount, source and form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town including:
- a. the date by which the developer shall complete construction
 - b. a statement that the agreement does not expire until released in full by the Planning and Economic Development Board
 - c. procedures for collection upon default.
2. *Amount* - The amount of the performance guarantee shall be equal to pedestrian facilities and all site amenities as specified in the OSRD Definitive Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so. The security amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid such. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. In five percent (25%) contingency.

The Board has agreed the security amount will NOT include the cost of sidewalk construction in the right of way in front of a portion of 68 West Street.

C. *Adjustment of Performance Guarantee* – At the developer's written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Planning and Economic Development Board upon the partial completion of the roadways and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the Williamsburg Condominium OSRD Definitive Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the MassHighway Department. The estimate shall also include the cost to maintain the roadways, stormwater management system and other infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus a twenty-five percent (25%) contingency.

D. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

19. **40B Comprehensive Permit** – After the expiration of the 20 day appeal period after the issuance of this Certificate of Action, the applicant or its assigns shall submit a letter to the Planning and Economic Development Board and the Zoning Board of Appeals pursuant to 760 CMR 56.05(11) that it wishes to change the comprehensive permit granted by the Zoning Board of Appeals on June 15, 2005 for the subject property by having the comprehensive permit declared null and void.

20. **Project Completion**

A. **As-Built Plans** – Upon completion of all work included on the plan and specified in the Decision, the Applicant shall prepare and provide as-built construction plans of the roadways, utilities and other infrastructure prepared in accordance with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted, determined to be complete and approved by the Planning and Economic Development Board. The Applicant shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The Applicant may be directed to pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/ Assessor's maps relative to this development.

- B. **Developer's Certification of Completion and Compliance** – A Letter of Completion and Compliance signed under oath by the developer and signed and stamped by a Professional Engineer registered in the Commonwealth of Massachusetts, who shall attest and certify that all facets of the subdivision work including roadway and all infrastructure was constructed and completed in strict compliance with the approved and endorsed Williamsburg Condominium OSRD Definitive Plan and the *Subdivision Rules and Regulations*, shall be provided to the Board.
 - C. Conveyance of Open Space Parcel B to the Town of Medway
 - D. Approved conservation restriction on Parcel A has been certified by the State.
 - E. All required affordable housing documents have been completed and approved by the Town of Medway and the Massachusetts Department of Housing and Community Development.
 - F. Certificate of Compliance from MASS DEP relative to the Superseding Order of Conditions for the site.
 - G. Proof of taxes paid to the Town of Medway for all property owned in the development by the Williamsburg Condominium Corporation and the Williamsburg Condominium Association.
- 21. Site clearing began prior to the issuance of this Certificate of Action and prior to the endorsement of the OSRD Definitive Plan. Such work is performed at the applicant's risk of the applicant and is subject to all conditions noted herein. The applicant participated in a pre-construction meeting and has agreed to having inspections conducted of all work
- 22. All other provisions/conditions of the OSRD Special Permit dated 3-10-09 shall also apply to this Decision.

General Conditions

- 23. **Expiration of Appeal Period** - Prior to plan endorsement, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk's office.
- 24. **Payment of Balance of Fees/Taxes** - Prior to plan endorsement, releases, security adjustments or plan modifications, the Applicant shall pay the balance of any outstanding plan review and construction services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations or fees due the Town of Medway pertaining to these properties. The Applicant shall also provide proof from the Medway Town

- Treasurer/Collector that all real estate taxes are current for all property included in this subdivision.
25. **Proof of Taxes Paid** - Prior to plan endorsement, releases, security adjustments or plan modifications, the Applicant shall provide proof from the Medway Town Treasurer/ Collector that all real estate taxes and other fees due the Town of Medway are current to that date for all property included in this development.
26. **Order of Conditions** - Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all “*Order of Conditions*” as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the Definitive Open Space Plan that may be required under the “*Order of Conditions*” shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a modification to the Definitive Plan. The Planning and Economic Development Board reserves the right to work with the issuing authority to accomplish any mutually acceptable modifications to the “*Order of Conditions*” that may be deemed appropriate by the Planning and Economic Development Board and the Town’s Consulting Engineer. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty (20) day appeal period must be received from the Town Clerk’s office before the Planning and Economic Development Board endorses the plan modification.
27. Additionally, upon issuance of any “*Order of Conditions*” requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.
27. **Construction Account** – Inspection of roadway, infrastructure and utility construction by the Town’s Consulting Engineer and review of legal documents by Town Counsel is required. Prior to plan endorsement, the Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town’s Consulting Engineer. A construction account shall be established with the Medway Planning and Economic Development Board prior to plan endorsement. The Applicant shall provide supplemental payments to the Town of Medway, for reasonable construction inspection and legal services, upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed, municipal services are installed, the as-built plan is reviewed and all legal documents associated with this development have been reviewed and determined to be satisfactory.

28. **Restrictions on Construction Activities - During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following restrictions on construction activity shall apply:**
- A. Outside construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m. including truck and machine start-up and movement.
 - B. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
 - C. There shall be no off-site tracking of materials. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create a hazardous or deleterious conditions for vehicles, pedestrians or abutting residents.
 - D. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.
29. **Modifications to Plan and/or Decision** – The Board, on its own motion on the petition of the Applicant or any person interested, may modify or amend or require a change in the Definitive Plan and/or the associated Certificate of Action. All of the provisions of the Medway *Subdivision Rules and Regulations* relating to the submission and approval of a plan shall be applicable to the approval of a modification or amendment to the Certificate of Action. Any changes are subject to the *Rules and Regulations* in effect at the time a modification or amendment is sought.
30. **Compliance**
- A. All construction shall be as specified in the approved OSRD Definitive Plan and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy requirements, MPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
 - B. The Planning and Economic Development Board shall use all legal options available to it, including referral of any violation to the Building Commissioner/ Zoning Enforcement Officer for appropriate enforcement action to ensure compliance with this Decision.

XI. APPEALS – Appeals, if any from this Decision shall be made to the Superior Court or Land Court in accordance with M.G.L. Chapter 41, Section 81BB, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Medway Town Clerk.

**WILLIAMSBURG CONDOMINIUM
OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)
DEFINITIVE PLAN**

CERTIFICATE OF ACTION

Date of Action by the Medway Planning and Economic Development Board:

AYE: _____ *NAY:* _____

Date Signed: _____

Attest: _____ *Susan E. Affleck-Childs* _____ *Date*
Planning and Economic Development Coordinator

Date Filed with the Town Clerk:

- Copies To:*** Paul Yorkis, Patriot Real Estate
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John Emidy, Building Commissioner
Bill Fisher, Board of Health
Thomas Holder, DPW
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Melanie Phillips, Treasurer/Collector
Barbara Saint Andre, Petrimi & Associates Town Counsel
Dave Travalini, Conservation Commission
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Jeffrey Watson, Police Safety Officer
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