

## **March 16, 2010 Special Meeting Medway Planning and Economic Development Board**

Present – Karyl Spiller-Walsh, Bob Tucker, Andy Rodenhiser, Chan Rogers  
Absent – Tom Gay

Also present – Susy Affleck-Childs  
Gino Carlucci

Meeting opened at 7:10 pm

No Citizen Comments

### **Applegate Farm Subdivision Covenant Amendment**

Susy noted that this development needs a new subdivision covenant to correspond to the decision modification the board approved last week to extend the completion deadline to 2013. She spoke with Ralph Costello and asked him to have his attorney prepare a document. It is here for your review and action.

Motion by Bob Tucker, seconded by Chan Rogers to sign a new covenant. Approved. NOTE – Andy Rodenhiser did not vote as he had not participated in the public hearing on the decision modification.

The board signed the covenant

### **March 9, 2010 PEDB Meeting Minutes**

Motion by Karyl Spiller-Walsh, seconded by Bob Tucker to approve the minutes of the 3-9-10 meeting as presented. Approved. NOTE – Andy Rodenhiser did not vote as he had not attended that meeting.

### **Daniels Wood II Modification Decision -**

Attached is the draft decision dated March 8, 2010 which the board reviewed.

Attorney Glenn Murphy and applicant Fred Sibley were present.

Glenn Murphy – There had been some confusion about who owned what parcels  
Parcel B (road) – is both Sibley and Todd Allen  
Parcel A (cul de sac) – is just Sibley

I have had conversations with the Allen's' attorney – he still has some questions on the documents, specifically on the private roadway agreement – his concern is whether his client (Todd Allen) should be responsible for any maintenance on parcel B as far as the private roadway agreement – however, there is already a private roadway agreement on record that assigns responsibility to both parties

Andy Rodenhiser – has the likelihood of an increased expenditure on maintenance been anticipated – more road to plow?

Fred Sibley – yes, probably would be 2-3 times more

Glenn Murphy – I could scan the old private roadway agreement and send it to Barbara Saint Andre so she can advise if a new agreement is needed.

Fred Sibley – when Todd bought the land, it was packaged so that his responsibility ended at what is now parcel B -

Glenn Murphy— I explained to Todd's attorney that the existing private roadway agreement puts him on the hook for maintenance of what is now parcel B –

The Board reviewed the draft decision dated March 8, 2010.

A motion was made by Chan Rogers, seconded by Bob Tucker to approve the project evaluation criteria.

#### **Discussion on Project Evaluation Criteria**

Karyl Spiller-Walsh – I have difficulty with 5.16.3 with anything related to the water system – that the drainage system allows flowage easements – I find anything that involves surface flowage easements to be unacceptable . . . it is a no design approach – it is not an answer in other cases that we have looked at

Chan Rogers - I say her concern about drainage easements doesn't exist – there are none of the nature she is concerned – there is a scale difference here

Karyl Spiller-Walsh – they are exactly the same . . .

Bob Tucker – I don't have a problem with the design

Andy Rodenhiser – I feel this is an improvement over the previous design (original Daniels Wood II plan).

Karyl Spiller-Walsh – to my way of thinking, there is not an adequate amount of land on this parcel to accommodate a better drainage system and they have nuked the site and the site has become a funnel for water –

Andy Rodenhiser - he is creating a hardship on himself as the abutter if there is one to be had

The motion to approve the project evaluation criteria was approved. Rodenhiser, Tucker and Rogers in support. Spiller-Walsh opposed.

Motion by Bob Tucker, seconded by Chan Rogers to approve the Waiver Findings as presented.

#### **Discussion on Waiver Findings**

Karyl Spiller-Walsh – I am not comfortable granting a waiver on the stormwater standards.

The motion to approve the Waiver Findings was approved. Rodenhiser, Tucker and Rogers in support. Spiller-Walsh opposed.

Motion by Chan Rogers, seconded by Bob Tucker to approve the waiver Requests.

The motion to approve the Waiver Requests was approved. Rodenhiser, Tucker and Rogers in support. Spiller-Walsh opposed.

### **Discussion on Conditions**

#### **Legal Documents**

Karyl Spiller-Walsh – the entire lot 2B-1 is moving water across its surface – the entire lot should be an easement

Andy Rodenhiser – I don't agree – if you put a septic system in front, there will be a mounded system

Bob Tucker – you could make that argument for every single house lot in the town

Karyl Spiller-Walsh – not true, subdivisions are done with some kind of stormwater gathering system

Chan Rogers – every piece of land has water flowing on it and you don't consider the entire lot

Karyl Spiller-Walsh – there is no receptive system that is taking the water –

Karyl Spiller-Walsh – it is designed to move water across the surface – the only thing that is not is the footprint of the house - if it fails, then it could affect town property (to the north)

Andy Rodenhiser – Dave Pellegrini has reviewed this and said it was an adequate design for the purposes of the parcel

Chan Rogers – I think Karyl Spiller-Walsh is misusing the word easement

Karyl Spiller-Walsh – I disagree with you –

Andy Rodenhiser – he is creating his own hardship on his own land

Karyl Spiller-Walsh – I don't think it will wake Fred Sibley up in the morning – I think it will impact the wetlands

Andy Rodenhiser – we are not charged with addressing the wetlands –

Karyl Spiller-Walsh – it is our responsibility to not allow water from a subdivision to move off the site . . .

Glenn Murphy – Conservation will have to address this when somebody goes to build the house and get an Order of Conditions. NOTE – Mr. Murphy is a member of the Conservation Commission.

Fred Sibley – the wetlands on my land are actually higher

Susy Affleck-Childs – you have granted a waiver to not require compliance with stormwater regs in the Subdivision Rules and Regs because it is just one lot.

Bob Tucker – I want to make sure that the existing private roadway agreement addresses maintenance.

Glenn Murphy - I could send Town Counsel the prior roadway agreement to determine if it is sufficient.

Motion by Chan Rogers, seconded by Bob Tucker to approve the definitive subdivision plan modification and decision. Approved. Rodenhiser, Rogers and Tucker in favor. Spiller-Walsh opposed.

FRED SIBLEY – This modification has been much more involved that I ever expected – more expensive than the first two combined.

### **Discussion on Draft Agricultural Commission Bylaw**

See attached draft dated March 11, 2010.

Karyl Spiller-Walsh – I have a lot of issues with this – in reading thru, it is very encumbered – the number of responsibilities we are going to expect a commission to take on is too much – if you are looking for people from the farming community – it will have a negative connotation –

Bob Tucker – which items are negative?

Karyl Spiller-Walsh – we are trying to entice people – this is too much – this is a good thing, but with a low number of people that showed the other night (at the public meeting) – I don't know if these folks have the time and focus and have the time to muster up to this level of responsibility

Bob Tucker – then why bother with this idea at all?

Andy Rodenhiser – I would rather put something out there that empowers folks

Karyl Spiller-Walsh – I wish there had been more communication with folks – we are not yet communicating with people – a lot of other folks, all they are doing is sitting by

Chan Rogers – I say we empower people to do things

Susy Affleck-Childs – I sent this draft plus a letter to all the folks who attended

Bob Tucker – I look at this as an enabling tool like we have done so many times before – I don't see others jumping up to do more and have a positive impact on the town – I think it is a great starting point – get it out to a public hearing and hear what people have to say.

Andy Rodenhiser - I don't think people will really care what the text is. It is our job to inspire people to get involved.

Chan Rogers – I thought the attitude was excellent –

Andy Rodenhiser – Even Paul Revel said he would do it – he hates the Town and is suing the Town –

Gino Carlucci – the flip side of the argument is wouldn't you want to be on a committee that has some authority?

Karyl Spiller-Walsh – exactly

Andy Rodenhiser – Do you realize how crazy this sounds

Karyl Spiller-Walsh – people in the town who farm – professional or not, effects everything . . . all these people are not interested in giving time into the educational process – they want to negotiate the use of land - they want to mitigate against the notions of the Board of Health, they want to be proponents of farming

Andy Rodenhiser – do you have a recommended alternative?

Karyl Spiller-Walsh – it is very layered – it has to be less layered – I want it to be attractive to those that do farm –

Andy Rodenhiser – what would make it attractive to them?

Karyl Spiller-Walsh – it needs to sound more actual farming – it needs to be simplified – that is my opinion, I am done – I went to the farm meeting, I went to the farm bureau – I am for the idea – knowing the people in Medway, I feel there is a lot in here that would put people off . . .

Gino Carlucci – get something on the books and then it could be revised after

Andy Rodenhiser – this is a document that empowers and allows – this committee will make their own goals

Karyl Spiller-Walsh – first you have to get them in there . . . go ahead . . . I have put my two cents in . . . I am usually right on things like this . . . I would be delighted if there was a flock of people who wanted to get involved.

Further Discussion on draft – Suggestions

Change Commission to Committee  
Tighten up text

Motion by Chan Rogers, seconded by Bob Tucker to approve the draft Agricultural Committee bylaw for the warrant for the 2010 Annual Town Meeting. Motion was approved unanimously.

Karyl Spiller-Walsh - I would like to see it happen – I think it will fail.

Susy Affleck-Childs – will you speak against this at town meeting?

Karyl Spiller-Walsh – No . . . I don't want to see it fail . . . . .

Andy Rodenhiser – you can be a leader on this . . . .

Chan Rogers – the day following the meeting, I was talking with Medway Assessor Will Naser. . . . he was looking at assessments of farm property – we got talking about the dilapidated building at the southeast corner of West and Beech Street (near Bellingham) - - - that property has not been paying taxes since 1991 – the owners are deceased – the town is going for it in tax title -

**Town Facilities Management Study Committee**

Susy Affleck-Childs - there is a slot for the PB on this committee – we need to give the BOS a nominee – Tom, Chan, Bob and John Williams have all expressed interest.

Bob Tucker – the Town is starting to recognize that their facilities and properties need ongoing maintenance and repairs and what they are looking for is to create a single entity instead of having multiple entities performing the same function

Chan Rogers – sooner or later a lot of cities and towns are going to have to do regionalization and force towns to look at better ways of operating . . . budget constraints are going to force these issues

Bob Tucker – any properties that the Town owns should all be maintained under a centralized system

Andy Rodenhiser – pockets of money meant for maintenance get hijacked for other purposes –

Chan Rogers – I have passion about this. I am working with Tom Holder (DPW Director) on a highway barn project – I feel I have something to contribute

Bob Tucker – it is in my background, but with this School Building Committee I am chairing, I just don't see it as something I can do – if whoever we appoint needs some help or resources or somebody to attend a meeting periodically, I would be glad to jump right in and help out – I don't want to take on more than I can handle – I would almost like to suggest that we recommend two people to the committee – bring good balance – both Tom and Chan Rogers from that standpoint --

Motion by Bob Tucker, seconded by Karyl Spiller-Walsh to recommend both Chan Rogers and Tom Gay to the BOS. APPROVED.

## **Reports/Other Business**

Chan Rogers – two things I want to mention to you:

1. Tom Holder just got a letter from DEP limiting all the towns around here to x amount of water per day – it was slightly reduced from what we had -- it allows nothing for development – there is some leeway . . . we have no watering and have some conservation measures – all the controls are in place – BOS has agreed to appeal this decision to DEP -

We are not taking water out of the basin - we are using water within the basin and we are replacing it with groundwater – I don't see the purpose of this restriction

Bob Tucker – this has been in place for a number of years . . .

Andy Rodenhiser – I am told you just ask for more . . .

Gino Carlucci – I know lots of towns that struggle to get an action from DEP

2. A situation has come up in the Speroni Acres subdivision – they are all on force main ejector pumps – during a heavy rainfall a week ago, the whole system failed – it is alleged that the manhole in the Restaurant 45 parking lot was gunked up with grease and blocked up the line – one home caught the brunt and it all back flowed into a house – 2 feet of raw sewage – problem as I see it, it was not a good idea to have 14 separate systems – it should have been one system –

Andy Rodenhiser – none of that stuff is publicly accepted

## **Future Meeting Topics**

Susy Affleck-Childs – You have 3 informals next week - Christine price has asked for an informal about her Hill Street property – You will remember that Tony Biocchi had been in here before for a very informal chat. Also John Greene for Medway Mill and Paul Yorkis for the Neelon Lane property.

Andy Rodenhiser - I would like these people to meet with Susy first

Bob Tucker – Christine needs to make up her own mind about what she wants to do - - is Holliston amendable to the width of the road that they want to have come off Hill Street?? Has she done the homework we asked about?

Andy Rodenhiser – we perceive there is less than an adequate width for a road up there – we had concerns

Andy Rodenhiser – what about John Greene – he keeps doing little things there without any site plan at all

Karyl Spiller-Walsh – in the DRC, we are finding that having informals has become a tactical strategy on the part of an applicant

Bob Tucker – Susy, listen to what they have to say and you know the rules/regs and the zoning as it applies within this Town . . . give them some direction – I personally would like to put these off. We have other work we need to do on zoning -- we need to focus on a number of zoning articles that are in front of us. . they are dragging out and out way too long . . .

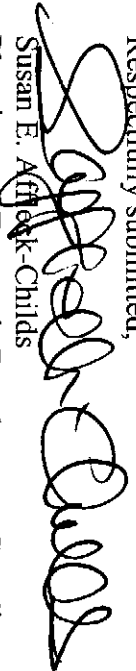
Chan Rogers – I have sat here quietly and twice tried to say something -- since I have been on this board, there has never been a discussion re: Hill Street.

Susy Affleck-Childs – I will contact Christine and tell her to meet with me first – I will ask if she has spoken to Holliston yet? I will tell John Greene that he needs to file a site plan and get started. The same with Paul Yorkis re: Neelon Lane - file the application and get started

Motion by Karyl Spiller-Walsh, seconded by Chan Rogers to adjourn. APPROVED.

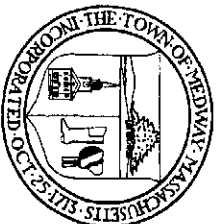
The meeting was adjourned at 9:50 pm.

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

Revised Draft – March 8, 2010  
10:15 am

**CERTIFICATE OF ACTION**  
**MODIFICATION to the Daniels Wood II**  
**Definitive Subdivision Plan and Certificate of Action**  
**(\_\_\_\_\_ with Waivers and Conditions)**

**I. APPLICANT & PROPERTY OWNER:**

Fred Sibley  
12 Oak Street  
Medway, MA 02053

**II. SUBJECT PROPERTY -** The subject property is a 6.15 acre site located at 12 Oak Street in the Agricultural Residential II zoning district. The property is located on the north side of Oak Street and at the eastern end of Daniels Road. The site is shown as Medway Assessors Map 5, Parcel 354.

**III. BACKGROUND -** The applicant wishes to modify the previously approved Daniels Wood II Definitive Subdivision Plan and the associated Certificate of Action/Decision.

Daniels Wood II *Subdivision Certificate of Action* – Approved by the Medway Planning Board on April 29, 2008. NOTE – The applicant has not recorded this Certificate of Action at the Norfolk County Registry of Deeds. Daniels Wood II *Definitive Subdivision Plan* – Endorsed by the Medway Planning Board on May 27, 2008. Prepared by Colonial Engineering of Medway, MA dated September 23, 2007, last revised May 23, 2008. This plan was recorded at the Norfolk County Registry of Deeds on September 25, 2009 in Plan Book 595, Page 36.

Telephone: 508-533-3291

Fax: 508-533-3287

planningboard@townofmedway.org

That prior plan divided the subject parcel into:

- Lot 2B-1 (24,212 sq. ft) – A new building lot to be accessed by a 107.23 linear foot extension of the Private Way portion of Daniels Road which is
- Parcel A - a 11,979 sq. ft cul-de-sac right of way (from Station 7+43.13 to Station 8+50.37) to provide legal frontage for Lot 2B-1
- Lot 2B-2 (5.32 acres) – The remaining land which is accessed from a driveway off of Oak Street with 254' of legal frontage on Oak Street.

The previously approved site work was to include construction of a 14' paved private roadway and a T shaped turnaround within the cul de sac; installation of stormwater drainage facilities; and construction of water lines to connect Lot 2B-1 to the Town's system. Lot 2B-1 would be serviced by a new on-site septic system.

The approved infrastructure construction work has not occurred; Lot 2B-1 has not been sold. As a result of soil tests completed in April 22, 2009, the applicant has determined that the utility arrangement, driveway, site grading and stormwater management design need to be modified to accommodate the needed sewage disposal system for Lot 2B-1.

The applicant also wishes to modify the prior Certificate of Action/Decision and Covenant to allow the applicant to convey Lot 2B-1 and Parcel A to a new owner who will be responsible for the infrastructure construction.

#### **IV. MODIFICATION DESCRIPTION** - The modified design is shown on

*Alternative Driveway and Grading Plan* – Daniels Wood II Definitive Subdivision Modification, dated October 29, 2009, last revised December 17, 2009, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying co. of Medway, MA. As described by the applicant, the intended purpose of the revised design is to provide for:

- A. the use of graded drainage pathways instead of the catch basin and drywell system to control storm water runoff across lot 2B-1 to the low point on Lot 2B-2.
- B. the creation of an 18" grass basin and swale to allow for the natural infiltration of storm water runoff from the single family home driveway;
- C. the construction of a gravel emergency vehicle turnaround area within the cul-de-sac area to reduce runoff; and
- D. the reduction in the size of the proposed house size on Lot 2B-1 to a 1,800 sq. ft. footprint (as compared to the original 3,200 sq. ft footprint on the original Daniels Wood II plan)

- E. the development of a limited Operation and Maintenance Plan for the maintenance of Parcel A and its associated stormwater management system.

The proposed *Alternative Driveway and Grading Plan* will supplement the original *Daniels Wood II Definitive Subdivision Plan* last revised May 23, 2008, endorsed by the Planning Board on May 27, 2008, and recorded at the Registry of Deeds on September 15, 2009. The *Alternative Driveway and Grading Plan* essentially replaces Sheets 4 and 5 of the *Daniels Wood II Definitive Subdivision Plan* and also serves to void the *Driveway Infiltration Field Detail* and *Street Cross Section Detail* on Sheet 6 as they are no longer required because of the modified design.

The roadway layout and lot delineation shown on the new *Alternative Driveway and Grading Plan* vary slightly from the original Daniels Wood II plan (5-23-08). Lot 2B-1 is now shown as 23,463 sq. ft. as compared to 24,212 q. ft. This is a correction provided by the current land surveyor.

**V. PROCEDURAL SUMMARY:** With respect to the proposed modification to the Daniels Wood II Definitive Subdivision Plan and its associated Certificate of Action, the Planning and Economic Development Board verifies that:

- A. On October 30, 2009, it received an application to modify the *Daniels Wood II Definitive Subdivision Plan* and Certificate of Action/Decision.
- B. On November 10, 2009, it circulated the *Alternative Driveway and Grading 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 24, 2009. The Board of Health did not provide any written comments.
- C. On November 24, 2009, it commenced a public hearing on the proposed plan modification. The public hearing was duly noticed on November 9 and 17, 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 November 3, 2009. The public hearing was continued 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 the definitive plan modification were present at all sessions.

**VI. VOTE OF THE BOARD** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on March 9, 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 boards, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the *Alternative Driveway and Grading Plan* for the Daniels Wood II Definitive Subdivision prepared by FAIST Engineering and O'Driscoll Land Surveying, Inc., originally dated October 29, 2009, last revised December 17, 2009, as a modification to the *Daniels Wood II Definitive Subdivision Plan*, subject to the *Specific and General Conditions* as specified herein and with *Waivers from the Subdivision Rules and Regulations* dated April 26, 2005 also as specified herein. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed.

## **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.

### ***Daniels Wood II Definitive Subdivision Plan Certificate of Action***

Issued by the Medway Planning Board on April 29, 2008.

### ***Daniels Wood II Definitive Subdivision Plan***

Prepared by FAIST Engineering & O'Driscoll Land Surveying  
Originally dated September 23, 2007; last revised May 23, 2008  
Endorsed by the Medway Planning Board – May 27, 2008

### ***Alternative Driveway and Grading Plan – Daniels Wood II Definitive Subdivision***

***Modification*** prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying Co. of Medway, MA.  
Dated October 29, 2009,  
Last revised December 17, 2009.

### ***Stormwater Management Letter/Report***

*Letter/Report* prepared by Faist Engineering - October 29, 2009 including excerpts from the Massachusetts Stormwater Handbook (January 2, 2008) and limited stormwater management calculations

*Pre-Post Development: Limited Drainage Calculations & HydroCAD Report* – December 28, 2009, prepared by Faist Engineering.

### ***Daniels Wood II - Lot 2B-1 Long Term Operation and Maintenance Plan- Site***

***Stormwater Management System***  
Prepared by Faist Engineering – October 2009

### ***Soil Suitability Assessment for On-Site Sewage Disposal***, prepared by O'Driscoll

Land Surveying Co, April 22, 2009

**Waiver Request**

Prepared by Faist Engineering, October 29, 2009

**Town Engineering Consultant Review Letters - David Pellegrini, P.E., Tetra Tech**

**Rizzo, Inc.**

November 4, 2009 review letter responding to initial application  
January 4, 2010 review letter responding to revised *Alternative Driveway and Grading Plan* dated December 17, 2009 and additional information submitted on December 29, 2009.

**Medway Departmental/Board Review Comments**

Memo from Medway Fire Chief Paul Trufant

**Supplemental Information Provided By Applicant**

December 28, 2009 letter David Faist, Faist Engineering responding to the  
November 20, 2009 review letter from David Pellegrini, Tetra Tech Rizzo.

**VIII. PUBLIC HEARING SUMMARY:** The public hearing and review of the

Alternative Driveway and Grading Plan for Daniels Wood II was conducted over the course of two (2) Planning and Economic Development Board meetings (11-24-09 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**

Fred Sibley, owner

**Professional Review/Testimony**

Gino Carlucci, AICP, PGC Associates, Inc., Medway Planning Consultant  
David Faist, PE, FAIST Engineering, engineer for the applicant  
Paul Yorkis, Patriot Real Estate, representing the applicant  
David Pellegrini, PE, Tetra Tech Rizzo, Inc., Medway Engineering Consultant  
Glenn Murphy, Attorney for the applicant

**Other Testimony - None**

**IX. PROJECT EVALUATION CRITERIA –** Before taking action on a

Definitive Plan, the Board must 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 March 9, 2010 a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the Project Evaluation Findings as such pertain to the proposed modification as conditioned and approved by this Certificate of Action. The motion was \_\_\_\_\_ by a vote of \_\_\_\_\_ in favor ( ) and \_\_\_\_\_ opposed ( ).

**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* – This modification does not significantly change the street pattern previously approved. The extension of the street serves just 2 lots and the existing segment, which currently functions as a “driveway” serving a single lot will be widened to accommodate the second lot. Future extension is not a viable option as the abutting lot has a restriction against further subdivision. Therefore, the Planning and Economic Development Board finds that 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* – The design of this development includes a drainage system reviewed by the Town’s consulting engineer and determined to be adequate. The location of the site and the grading of the lot ensure that it is generally protected from natural disasters. As noted above, the street pattern is also safe and traffic will be minimal. 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 a single lot with minimal street development, the environmental impact of this development is minimal and even falls below the threshold subject to DEP’s stormwater management regulations. Also, the development results in the preservation of an abutting 5.32-acre parcel as a single lot, which might have been further subdivided under another development plan. 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 serves a single additional lot and the segment leading to it, that functions as a driveway serving a single lot, is being widened to accommodate the second lot. It has been reviewed by the 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 proposed modification corrects the lot size to 23,463 square feet which exceeds the minimum area required by the Zoning Bylaw of 22,500. The frontage requirement is also met by the new cul-de-sac. All other applicable zoning requirements are also met. 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 modification of this previously-approved development continues to meet the purposes of the Subdivision Control Law in that a street layout is created to serve a lot meeting the requirements of the Zoning Bylaw. The Subdivision Rules and Regulations have been waived in accordance with the circumstances of the development, but the project is essentially consistent with the purposes of subdivision control. Therefore, the Planning and Economic Development Board finds that this criterion is met.*

- X. WAIVERS** – The Applicant has requested the following additional waivers from certain provisions of Section 7 of the Medway Subdivision Rules and Regulations, dated April 26, 2005. Please note that the Daniels Wood II Definitive Subdivision Plan Certificate of Action issued by the Medway Planning Board on April 29, 2008 included other waivers from selected provisions of Sections 5, 6 and 7 of the Subdivision Rules and Regulations. Those waiver approvals remain in effect.

**SECTION 5. PROCEDURES FOR SUBMISSION AND REVIEW OF DEFINITIVE SUBDIVISION PLANS**

***SECTION 5.20.2 d) – Performance Guarantee – Restriction Covenant – 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 . . .***

***EXPLANATION** – The applicant seeks a waiver from this regulation to allow Lot 2B-1 to be sold to a new owner who will be responsible for the construction of the services*

and infrastructure shown on the plan. Otherwise, it places a heavy financial burden on the applicant.

**FINDINGS** – The Board finds this to be a reasonable request in light of the small size of the development. A condition shall be included in this decision to not allow a building permit to be issued to construct a home on Lot 2B-1 until the required roadway and infrastructure is completed to the Board's satisfaction.

## SECTION 7. CONSTRUCTION STANDARDS

### SECTION 7.7.1 – 7.7.5 Stormwater Management

**EXPLANATION** – The applicant seeks a waiver from the provisions of the Stormwater Management standards of the *Subdivision Rules and Regulations* due to the small scale and size of the development site and the need to redesign the site and Parcel 2B-1 to accommodate the correctly sized septic system.

**FINDINGS** - The *Medway Subdivision Rules and Regulations* provide that the Board may modify the stormwater requirements to address specific needs of a particular site. The *Rules and Regulations* also defer to the Mass DEP Stormwater Management Policy. That policy, dated January 2, 2008, specifically exempts a single family house and housing developments comprised of detached single family dwellings on four or fewer lots from its provisions. Accordingly, the Planning and Economic Development Board finds its stormwater management provisions are not applicable for the following reasons:

- The modified plan includes only Lot 2B-1 and Parcel A, which combined are less than one acre in size and therefore the subject lot and parcel are exempt from the Mass DEP Stormwater Management Policy.
- At the request of the Planning and Economic Development Board, the applicant has provided limited stormwater analysis and the plan shows a scaled back “country style” drainage system that has been reviewed by the Town’s Consulting Engineer and found to adequately mitigate the increased flow and volume of stormwater runoff that will be created by the construction of a single family home on Lot 2B-1 and the associated extension of Daniels Road.

**Action on WAIVER FINDINGS** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on March 9, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to the above noted Waiver Findings. 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 March 9, 2010, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to the above requested Waiver from Section 7.7.1 – 7.7.5 of 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 modification applies to Lot 2B-1, Lot 2B-2 and cul de sac Parcel A as shown on the original *Daniels Wood II Definitive Subdivision Plan* and the new *Alternative Driveway and Grading Plan*. As a permanent condition of this plan, no further subdivision of Lot 2B-2 will be allowed. The applicant is required to record a deed restriction pertaining to Lot 2B-2 to the satisfaction of the Planning and Economic Development Board and Town Counsel. The prior agreement to not allow any further subdivision of Lot 2C as shown on the original *Daniels Wood II Definitive Subdivision Plan* also applies.
2. The applicant or his successors in title shall construct the roadway and all related infrastructure including stormwater facilities and utility extensions as shown on the *Alternative Driveway and Grading Plan*. Roadway construction shall occur Construction shall commence within Parcel B, continue easterly and conclude at the eastern end of Parcel A at Station 8+50.37. The entire length of the roadway shall be paved 14' wide.
  2. **Ownership/Maintenance**
    - A. The extension of the Daniels Road right of way and the stormwater drainage facilities onto Parcel A will be privately owned in common by the owners of the new Lot 2B-1 and the owners of the property at 10 Daniels Road (Medway Assessors Map 5 - Parcel 354E12) and maintained by both parties. It is the intent of the Planning and Economic Development Board that these facilities will never 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
      - 2) Stormwater management facilities
      - 3) Snowplowing/sanding
      - 4) Landscaping
      - 5) Street lights
3. **MITIGATION PLAN**

- A. The extension of Daniels Road as shown on this plan will be a private way in perpetuity and thus the Town will be relieved of the on-going responsibility and expense for its upkeep and maintenance.
- B. The stormwater management facilities will be privately maintained and thus the Town will be relieved of the on-going responsibility and expense for their upkeep and maintenance.
- C. The applicant has agreed to not further divide Parcel 2B-2 (5.32 acres) or Lot 2C as shown on the original *Daniels Wood II Definitive Subdivision Plan* to the extent that might be otherwise allowed per the Medway Zoning Bylaw for the ARII zoning district. The applicant will permanently restrict such further division of the aforementioned parcels through a deed restriction to be prepared and approved by Town Counsel and recorded at the Norfolk County Registry of Deeds.
- D. The reduced width of road paving will result in reduced disturbance to the topography and have less impact on the site's natural features and resources.

- 4. **Timetable for Completion** – Construction of the roadway and all related infrastructure including the stormwater management system and installation of all utilities as shown on the Daniels Wood II Modified Plan shall be installed to the satisfaction of the Planning and Economic Development Board, within three (3) years of the date of plan endorsement. 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 appropriate further modifications of the modified Daniels Wood II definitive plan.

- 5. **Plan Revisions** - Prior to plan endorsement, the *Alternative Driveway and Grading Plan* dated October 29, 2009, last revised December 17, 2009 will be further revised as follows:

- A. Sheet 1
  - 1) The Plan Set shall be titled – Daniels Wood II Definitive Subdivision Modification; Sheet 1 is Alternative Driveway and Grading Plan
  - 2) The final plan revision date
  - 3) The list of additionally Approved Waivers
  - 4) Standard Subdivision plan reference to a Covenant
  - 5) The boundaries of Parcel B need to be checked and revised to NOT include that portion of the Daniels Road public right of way that extends easterly from the end of the cul de sac for Daniels Road (public way) ending at Station 5+79.01
  - 6) The drainage easement shall be shown to extend further onto Lot 2B-2.
  - 7) Reference to a Private Roadway Agreement

- B. A Sheet 2 titled "Easement Plan" shall be added to the Plan Set. The Easement Plan shall show the property lines and easements as per the Planning & Economic Development Board's Decision. Area of all lots and parcels shall be shown. Sheet 2 shall also include the standard Definitive Subdivision Plan reference to a Covenant.
- C. The plan shall be revised to reflect 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 OSRD definitive plan.

6. **Legal Documents**

- A. **Deeds** – Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the deed to be used to convey Lot 2B-1 and Parcel A for review, comment, amendment and approval by Town Counsel. The deed shall clearly state that the owner of Lot 2B-1 or its assigns shall own and be responsible for the maintenance and upkeep of all improvements and infrastructure on Parcel A including the stormwater management system. The owner of Lot 2B-1 will also share in the responsibility for the upkeep and maintenance of the private roadway on Parcel B. Other deeds may be required as determined by Town Counsel.
- B. **Easements** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed easements for review, comment, amendment and approval by Town Counsel. These easements include, but are not limited to: slope and drainage easement on Lots 2B-1 and 2B-2 and a driveway easement on Parcel B. Additional easements may be required at the direction of Town Counsel.
- C. **Private Roadway Agreement** – The owners of Lot 2B-1, Parcel A and 10 Daniels Road (Parcel 354E12 - Medway Assessors Map 5) shall be subject to a Private Roadway Agreement to be executed and recorded with the plan and Certificate of Action. Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed Private Roadway Agreement for review, comment, amendment and approval by Town Counsel. At a minimum, the Agreement shall include language regarding the property owners' responsibility for the up-keep, repair, and on-going maintenance of the roadway including snowplowing and sanding and the operation and maintenance of the stormwater facilities.

7. **Plan Endorsement**

A. The original drawings of all sheets of the final *Daniels Wood II Definitive Subdivision Plan Modification* shall be endorsed 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 the final Daniels Wood II Definitive Plan Modification is not submitted for endorsement within ninety days, this approval decision shall expire unless the deadline is extended at the applicant'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 endorsed 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 required 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) Daniels Wood II Certificate of Action approved by the Medway Planning Board on April 29, 2008.
- 2) Daniels Wood II Definitive Subdivision Plan Modification – all sheets as endorsed by the Planning and Economic Development Board
- 3) Daniels Wood II Definitive Subdivision Plan Modification - Certificate of Action/Decision
- 4) Subdivision Covenant
- 5) Certificate of No Appeal from the Medway Town Clerk
- 6) Deed Restriction applicable to Parcels 2B-2 and 2C.
- 7) Easements – Slope & Drainage; Driveway, etc.
- 8) Other documents as may be required by Town Counsel

B. Within thirty (30) days of recording the Daniels Wood II Definitive Subdivision Plan Modification and all 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 or its assigns shall provide for snow plowing, sanding and full maintenance of the applicable portion of Daniels Road and all related infrastructure including stormwater management facilities throughout the entire construction process.

**11. Building Permits**

- A. No building permit for Lot 2B-1 shall be issued before the Planning and Economic Development Board endorses the Daniels Wood II Definitive Plan Modification.
- B. Before the Board will authorize a building permit for construction of a home on Lot 2B-1, 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) Provisions for fire prevention and protection. Municipal water service to be constructed, installed and functional.

**12. 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 way and all related infrastructure and installation of utilities and services as specified in the approved Daniels Wood II Definitive Plan Modification. Reference to the *Covenant* shall be noted on the cover sheet of the Daniels Wood II Definitive Plan Modification. The *Covenant* shall specify that no building may be constructed on Lot 2B-1 unit 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 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 Daniels Wood II Definitive Plan Modification and this Certificate of Action/ Decision are recorded.

**B. Alternative Performance Security**

- 1) At such time as the Owner of Lot 2B-1 wishes to secure a building permit to construct a house on Lot 2B-1, the security provided by the *Covenant* shall be replaced by one of the types of performance guarantees set forth in M.G.L. Ch. 41, Section 81U, 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 Counsel. The performance guarantee shall be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company 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 100% of the amount that would be required for the Town of Medway to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the Daniels Wood II Definitive Plan Modification 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 prices issued by the Mass Highway Department. The estimate shall also include the cost to maintain the roadways and 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 services, staff time and public bidding procedures. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a twenty-five percent (25%) contingency.

- 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 Daniels Wood II Definitive Plan Modification 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.

13. **Project Completion**

- A. **As-Built Plans** – Upon completion of all work included on the plan and specified in the Decision, the Applicant or its assigns shall have prepared and provide as-built construction plans of the roadways, utilities. Such as-built plans shall be prepared in accordance with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted. The as-built plans shall be determined to be complete and approved by the Planning and Economic Development Board. The Applicant or its assigns 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 to update the Medway GIS/ Assessor's maps relative to this development.

- B. **Certification of Completion and Compliance** – A Letter of Completion and Compliance signed under oath by the applicant or its assigns 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 the *Subdivision Rules and Regulations*, shall be provided to the Board.

- C. Certificate of Compliance from the Medway Conservation Commission relative to any Order of Conditions for the site.

- D. Proof of taxes paid to the Town of Medway for Lot 2B-1 and Parcel A by the applicant or its assigns.

- E. Sign-offs from the Planning and Economic Development Board, the Town's Consulting Engineer, Medway Fire Department, Medway Police Department and other Town departments/boards/ committees with jurisdiction.

- F. The project's design engineer shall provide a signed statement verifying that the roof drain system for the constructed house is of adequate size to accommodate all of its stormwater runoff.
14. All other provisions/conditions of the Daniels Wood II Definitive Subdivision Plan Certificate of Action dated April 29, 2008 which have not been changed due to this Certificate of Action shall also apply.

**General Conditions**

15. **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.
16. **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 to that date for all property included in this development.

17. **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.

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.



18. **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.

19. **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.

20. **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.

21. **Compliance**

- A. All construction shall be as specified in the approved Daniels Wood II Definitive Plan and this Modification and shall be constructed 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, MEPA 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.

**XIII. APPEALS** – Appeals, if any from this Decision shall be made to the Superior Court or to 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.

## **DANIELS WOOD II DEFINITIVE SUBDIVISION PLAN MODIFICATION CERTIFICATE OF ACTION**

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

\_\_\_\_\_

**AYE:**

**NAY:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Date Signed:**

\_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

\_\_\_\_\_  
Date

***Date Filed with the Town Clerk:***

**Copies To:**

Fred Sibley  
Paul Yorkis, Patriot Real Estate  
David Faist, Faist Engineering  
Trish Brennan, Conservation Agent  
John Emidy, Building Commissioner  
Bill Fisher, Board of Health  
Thomas Holder, DPW  
Suzanne Kennedy, Town Administrator  
Will Naser, Assessor  
Melanie Phillips, Treasurer/Collector  
Barbara Saint Andre, Petriani & Associates Town Counsel  
Dave Travalini, Conservation Commission  
Paul Trufant, Fire Chief  
Jeffrey Watson, Police Safety Officer  
Maryjane White, Town Clerk  
Gino Carlucci, PGC Associates  
Dave Pallegri, Tetra Tech Rizzo



## **Medway Agricultural Commission Proposed General Bylaw**

*Draft 3-11-10 – Prepared by Medway Planning and Economic Development*

ARTICLE : To see if the Town will vote to amend the General By-laws of the Town of Medway by adding a new Section 2.\_\_\_\_ to Article II Town Officers and their Duties as follows:

### Section 2.\_\_\_\_ – Agricultural Commission

- (a) There shall be established a Medway Agricultural Commission consisting of at least 5 and no more than 9 individuals.
- (b) The Agricultural Commission will have the following duties and responsibilities:
  1. Act as a spokesman for the Medway farming community.
  2. Advise the Town's elected officials, appointed boards/committees, Town staff and the community at large, by request or on its own initiative, on issues, projects and activities relating to agricultural lands and farming in the community, including land acquisitions and other land transactions. This may include the presentation of oral or written testimony at public meetings and hearings before any Town Board or Committee.
  3. Encourage the pursuit of agriculture in Medway by working to preserve, revitalize and sustain Medway's agricultural enterprises, rural character and farming traditions.
  4. Promote agricultural based economic opportunities in the community
  5. Serve as representatives, advocates, educators, facilitators and/or mediators in the resolution of disputes relating to agricultural issues within the community. Any such recommendations shall be advisory and any such agreements are entered into voluntarily by the parties involved.
  6. Work to preserve, protect and improve private and public agricultural lands & resources.
  7. Pursue all initiatives appropriate to creating, retaining, and sustaining an agricultural community in Medway including farm based recreational activities and agri-tourism opportunities.
  8. Engage in projects and activities to promote farming including educational programs and community events.
  9. Develop, propose and comment on warrant articles, policies and procedures, and rules & regulations from the perspective of advocating and promoting agriculture concerns.

*over*

10. Report on its projects and activities on an annual basis within the Town's Annual Report.
  11. Perform such other duties as the Board of Selectmen may determine in response to the need for encourage agriculture in Medway or as may be authorized by other town bylaws.
- (c) The Agricultural Commission shall be appointed by the Board of Selectmen following an active recruitment process. Committee members shall serve 3 year staggered terms with one-third of the first members appointed for a 3 year term, one-third for a 2 year term and the remaining initial members appointed for a 1 year term. Thereafter, each member shall serve for 3 years or until his successor has been appointed. Vacancies shall be filled by the Board of Selectmen based on the recommendations of the Commission. To maintain the staggered cycle of terms, appointments to fill vacancies shall be based on the unexpired term of the open position.
- (d) Members of the Agricultural Commission shall either reside in the community or own agricultural property in Medway (*or be an owner's designated representative*). A majority of the Agricultural Commission members shall be actively engaged in the business of farming or related agricultural industries. The remaining members shall have a background or demonstrated interest in farming. Non-voting associate members who are supporters or friends of agriculture may also be appointed for 1 year terms.

Or to act in any other manner related thereto.