

May 27, 2010 Planning and Economic Development Board meeting minutes
Approved – June 22, 2010

May 27, 2010 Meeting Medway Planning and Economic Development Board Medway Town Hall 155 Village Street

BOARD MEMBERS PRESENT: Andy Rodenhiser, Bob Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers.

ABSENT : John Williams

ALSO PRESENT: Susy Affleck-Childs, Planning and Economic Development Coordinator
Gino Carlucci, PGC Associates
Dave Pellegrini, Tetra Tech Rizzo
Fran V Hutton Lee, Administrative Secretary, PED

The meeting was called to order at 6:32 pm by Vice Chair Bob Tucker. (Andy Rodenhiser arrived late.)

Pine Meadow II Subdivision – Request to extend completion deadline & evaluate updated bond estimate

Gary Feldman representing the owners of the Pine Meadow subdivision was present, requesting an extension of one year for completion of the development. As well, there was an update of the bond estimate prepared by Tetra Tech Rizzo.

Chan Rogers moved to approve the request for an extension, seconded by Karyl Spiller-Walsh.

There was discussion on the motion.

Bob Tucker – Is it going to start? Or restart?

Gary Feldman – Yes, we already have.

There was general discussion on the state of the development. Chan Rogers and Gary Feldman discussed the artificial sod for erosion control measures, and the situation regarding “parcel A”.

Chan Rogers amended his motion that the extension be for one year, seconded by Karyl Spiller-Walsh. The request was approved unanimously.

Susy Affleck-Childs – Now we need to deal with the bond reduction.

Chan Rogers moved that the Bond be reduced to \$135,000, seconded by Karyl Spiller-Walsh. The motion passed unanimously.

Bob Tucker asked Dave Pellegrini about the numbers on the bond reduction and the costs. Dave said that the numbers were not a problem, the cost were for unit costs, which were pretty straight forward, as opposed to repair costs.

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There was discussion on the rock wall and its extension and slope. Gary Feldman asked about the small parcel to be deeded to the neighbor. What is they don't accept it?

Susy Affleck Childs – We have a plan and a decision. We must go by that.

Tom Gay Agreed and noted that if the neighbor (Nick Turr) does not agree, the parcel returns to the owner.

Susy pulled up the decision to check the language. She also noted that they need to maintain \$3,000 in the construction account; currently there is less than \$2000.

Mr. Feldman agreed the funds due the Town for the CO fund could be taken from the bond reduction.

Karyl Spiller Walsh moved to require the six foot transition granite curbs per the engineers report, seconded by Chan Rogers. The motion was approved.

Franklin Creek Subdivision – Request to extend completion deadline/evaluate updated bond estimate

Andy Rodenhiser asked Dave Pellegrini if he'd had a chance to evaluate and update the bond estimate.

Dave reported that the updated bond estimate is valued at \$48,688.

Bob Tucker asked if the costs were up to current values, and if Dave had made sure the unit values and costs were increased. Dave Pellegrini said they had been increased.

Chan asked if the subdivision was on the west side of Franklin Street. Bob Tucker and Andy Rodenhiser replied that it was on the east side.

Tom Gay asked the current value of the bond, and Susy Affleck-Childs reported the current balance is \$46,982.

Andy Rodenhiser asked if we needed a motion to be made to increase the bond, and Susy Affleck-Childs replied that we do. Andy asked if there were any questions.

Susanna Vajentic said that they understood. She stated that everything was the same, one house had been sold, and they were on track. Susy Affleck Childs noted that some of the new home owners had already been to Town Hall to pick up recycling bins.

Susanna Vajentic asked if the retaining wall was still necessary, or if there could be a reduction on it. Dave Pellegrini said we needed to look at the plan. Susy Affleck Childs said that they might be able to do a minor modification of the plan in regards to the wall. Dave Pellegrini said they should submit a sketch from their engineer.

Andy Rodenhiser suggested the Vajentics discuss the wall with the engineer (or contractor??). He asked if the board was ready to vote on the bond increase knowing that a minor modification may be coming later to reduce the bond.

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Bob Tucker moved that the bond estimate be approved, seconded by Karyl Spiller-Walsh and the motion passed unanimously. However, the Board decided to not require payment of the \$1706 differential at this time.

It was observed that the silk fence was fine, and but the hay bales were now the issue. Dave Pellegrini noted that removal of the hay bales was a Conservation issue, which Susy Affleck-Childs reiterated, noting that the board could not tell the Vajentics that it was okay to remove the hay bales, that was matter for the Conservation Commission. She pointed out that the Conservation Commission was meeting next week Thursday.

2-4 Main Street - Review Draft Decision – Site Plan Modification for Phase III work

Susy – Bob Poteau can't be here tonight. If the board cannot vote tonight on this decision, there is a request from Bob to extend the deadline for action. (Susy passes out drafts of the site plan decision.)

Andy Rodenhiser – Are there any issues?

Susy – Bob Poteau had a comment on the project description; he suggested different language. He suggested that we not specify the specific business name (Metro West Auto Sales), just the business in general as the business is a tenant and may change.

Andy Rodenhiser – Where is the water going to go? Is he tearing down a building?

Susy Affleck Childs and Karyl Spiller-Walsh noted that it was always the plan to demolish the building.

Gino Carlucci – There will not be a significant increase in paving, going where the building was.

Tom Gay – There will also be a seven by fifteen foot planting area around the sign.

Susy Affleck-Childs – Is there anything else to discuss?

Karyl Spiller-Walsh - Page 5.

Susy Affleck-Childs – Was it safe driveways?

Karyl Spiller-Walsh – Yes, or was it comments on the site plan, number fourteen.

Susy Affleck-Childs – We should make note that there are three existing driveways.

Karyl Spiller-Walsh – The new plan and signage makes for safer entrances and exits and three different addresses.

Bob Tucker – We worked with abutters, assessors, working to make it as safe as we can given the circumstances and existing site conditions.

Susy Affleck-Childs – It's different when there is a virgin/undeveloped site versus one already in progress, retro-fitting a less than ideal.

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Andy Rodenhiser – Going forward we are not likely to let this happen again.

Karyl Spiller-Walsh – This was begun before any of us were on the board. Not safe, but safer. We need to word this for our comfort zone as well.

Tom Gay – Note that the access points are as far apart as possible.

Susy Affleck-Childs – I'll work on the language.

Chan Rogers – On page ten was it your intent to have or/(slash)?

Susy Affleck-Childs – Yes.

Bob Tucker – Lets renumber to 4 and eliminate the slash.

Susy Affleck Childs – Back to the bottom of page seven...work to be done...paving, high berm...Bob has requested a completion date of 9-21-1012 to be done.

Bob Tucker – I suggest we go with this date.

Andy Rodenhiser – I thought he would be done in October this year.

Susy Affleck-Childs – That was the previous phase.

Tom Gay – He can't get a Certificate of Occupancy until all phases are complete.

Bob Tucker – Well, do we ask to be given a real date when he expects to be done, and not keep coming back for extensions?

Dave Pellegrini – What is a high berm?

There was discussion regarding the high berm.

Tom Gay – As a condition of occupancy all Phase 2 and 3 must be complete.

Karyl Spiller-Walsh – That is a comfort zone.

There was discussion about the paving as part of phase 3.

Claybrook II – Discussion on updated bond estimate and next steps

Andy Rodenhiser – Are you okay with updated estimate?

Dave Pellegrini – With repairs, quantities give off a different idea. So I did a lump sum, so okay.

Susy Affleck-Childs – There is a memo from Town Counsel Barbara Saint Andre with recommendations on how to proceed. Unlike the standard joint passbook account, this was a tri-party agreement. The bank cannot reduce it without permission of the town. Barbara suggests drafting a letter and getting it rolling.

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I'd like to suggest June 22 for a public hearing. We need to give them an amount of time to deposit additional security. In the meantime I've been in touch with the VP of Lending at Middlesex Bank(Doug Rosenau), expressed our concerns, considering taking the bond. They are researching to find the account.... This is very old, from the 1990's.

There was discussion regarding the bank looking into finding the parties – David Franchi.

Bob Tucker – Send the bank a registered letter as well.

Susy Affleck-Childs – I spoke with Christine Jorgensen (neighbor on Wildebrook Road). I told her we are working on it. I'll include her on the letter as well.

Kingson Lane - Report on meeting

Andy Rodenhiser reported on a meeting he had with Dennis Crowley and Dave D'Amico (who was on the Zoning Board of Appeals at the time the 40B comprehensive permit was issued) and Mike Leone of the Condo Association regarding the possibility of street acceptance. Mike was unaware of the association's prior efforts to secure street acceptance. Andy related the discussion with the individual. He said that the board has no desire to entertain the issue again. The condo owners bought the property that way, and any claim is against their own attorney.

Applegate Farm Subdivision - Discussion

There was discussion regarding the Construction Inspection report from Dave Pellegri.

Bob Tucker – This needs a resolution.

Andy Rodenhiser – Should we send a letter?

There were several yes responses.

Andy Rodenhiser – Is there a motion to accept the engineers suggestions?

There was discussion on the motion.

Bob Tucker – (quoting) "it is anticipate" ... who is, and what...who's judgment?

Dave Pellegri – Yes we can follow up with that.

Bob Tucker – I want it addressed; if you don't concur with corrective actions...want to see words to justify actions and who is making the judgments.

Susy Affleck-Childs – Someone needs to be very directive here with the developer.

Andy Rodenhiser – Susy is correct...needs a letter...has material that needs to be removed...no inspections.

Dave Pellegri - ...needs a final degrade

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Andy Rodenhiser – The intent is to dump on the raised grade and bulldoze down the hill.

Bob Tucker – He was told up front and he chose to ignore us.

Dave Pellegrri - I think he wants to put more material down to get people in to see the lots.

Susy Affleck Childs – So call him on it now.

Dave Pellegrri – Can't move anything 'til inspections.

Chan Rogers – Where'd he come from? He won't last long pulling that kind of crap.

Andy Rodenhiser – If we can do this, let's show him he cannot do this sort of thing. We need to be aggressive.

There was discussion regarding the silt from the Applegate property from the last flooding.

Andy Rodenhiser – Yes.

Bob Tucker – Yes. Look at it.

Andy Rodenhiser – Have him put down stakes then take it all out.

Dave Pellegrri – The stakes tell me where I am vertically and horizontally.

Andy Rodenhiser – If there was trust that had been built on past practices we might give him leeway.

Chan Rogers – How much was put down without inspection?

Dave Pellegrri – All of it.

Andy Rodenhiser – Close to 1000 yards, twenty 10 wheelers dumped in, just dumped.

Planning and Economic Development Coordinator's Report

Susy Affleck-Childs - We had another demonstration with Peoples GIS. DPW attended this time and Tom Gay too.

Tom Gay – Look at the options, do the pros and cons. I attended the first meeting of the Town-Wide Facilities Management meeting...three out of eight members didn't show, the selectman representative did not show. It was a less than stellar meeting. They meet again June 7.

Other Business

Town Engineer Selection

Chan Rogers – Who is the Planning Board representative for the town engineer?

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Susy Affleck Childs – I am. Interviews will be on June 10th. We've narrowed it down to 5 candidates. The initial review committee was myself, Tom Holder, Bill Fisher, Bob Tucker, and Trish Brennan (the ConCom Agent who recently resigned). We are hoping to have another ConCom agent...encourage that concept.

Chan Rogers – Sorry to hear she is gone. Wish her well.

2B Oak St – Thayer House

Susy Affleck Childs – The Community Preservation Committee is looking for proposals on the Thayer House at 2B Oak St. I have informed Habitat for Humanity of the property and they have looked at it.

There was general discussion regarding the property, the house, the open space there, and the tree which several noted should be saved.

Public Hearing - Proposed amendments to Medway Zoning Bylaw

Andy Rodenhiser moved to waive the reading of the notice, seconded by Bob Tucker. The motion passed unanimously. The public hearing notice is attached.

Rondi Chapman (from FinCom) – Article 30, about the Green Community article, FINCOM had a problem with the term “biomass.”

There was discussion as to what the term means and what might or might not be included in biomass, and what might or might not be burned as biomass.

Rondi Chapman – FinCom's problem is with half of biomass.

Gino Carlucci reads from the proposed article. Susy Affleck-Childs points out the section on electrical energy generation. Tom gay noted the controls on the system.

Andy Rodenhiser – I'm opposed to “Not In My Back Yard.” We produce it. We are trying to enable legislation here.

Rondi Chapman – I'm opposed to biomass.

Andy Rodenhiser – It is green because it is carbon neutral.

Rondi Chapman – It is?

Karyl Spiller-Walsh – Perhaps we need an energy expert.

There was more discussion about what was or was not included in biomass, what may or may not be burned during the process, and where the biomass Medway produces ought to be processed if not in Medway.

Karyl Spiller-Walsh – Can't throw out the baby with the bathwater.

Tom Gay – Take out the word “waste.”

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Andy Rodenhiser – Is there a motion to take out waste?

Karyl Spiller-Walsh moved that the Planning Board recommend that word “waste” be removed from Article 30, seconded by Chan Rogers. The motion passed unanimously.

Rondi Chapman – Article 35: FinCom voted to hold on that one...to be determined by the selectmen. Article 37: Home based business...can't put out own shingle...FinCom is opposed to the regulation that a home based business cannot have a sign.

Bob Tucker – Not in a residential zone.

Rondi Chapman – FinCom says that if an attorney, accountant, or social worker wants to hang their own shingle, then why not?

Andy Rodenhiser – Where does it stop? Contractors, bulldozers, mulch, trucks in and out.

Bob Tucker – If they want a business, they should go into a business area.

Andy Rodenhiser – We don't want people to move out of commercial space. If they can't afford the overhead they should be working for someone else.

There was discussion regarding the advantages and disadvantages of signs for home based businesses. It was noted that since home based businesses would be allowed, it makes it easier to find the business while driving, if there is a sign. This is a safety issue. It was also noted that the person's name and house number on the home was enough.

Susy Affleck Childs – Signs are currently allowed in the ARI and ARII zoning districts.

Andy Rodenhiser – Really... How much?

Susy explained that eight square feet was currently allowed and the language she had originally suggested was to reduce the size, but not eliminate all signs for home based businesses.

Rondi Chapman – There ought to be a middle ground.

Susy Affleck-Childs – I had language in...I'll write it up for the next meeting. Four square feet...if we are going to put it back in, we need to put it back in both Articles 35 and 37.

Andy Rodenhiser – Are there any other issues?

Bob Tucker – Regarding wind turbines on page 21 of the warrant. I this to allow or not allow?

Susy Affleck-Childs – They want you to call out one of the types.

Gino Carlucci – The state wants the language...they want us to call out...the minimum

Bob Tucker – What do we currently allow?

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Andy Rodenhiser – Electrical power

Bob Tucker – What are we allowing? I don't understand the 250K power. I have no idea what we are trying to accomplish then.

Susy Affleck-Childs – That we will allow large scale solar power generation in Industrial II.

Bob Tucker – I understand that.

Karyl Spiller-Walsh – As Gino said, we need to call out, an official call out, one to officially qualify.

Bob Tucker – Do we need to be specific?

Andy Rodenhiser – We need to say 250K, the minimum to meet state qualifications.

Susy Affleck-Childs – By saying it this way it meets state requirements for Green Community Designation.

Chan Rogers – I don't see any reason not to do it now.

Andy Rodenhiser – What is the largest one in the state?

Bob Tucker – The one in Northborough is the largest in the state.

Andy Rodenhiser – What do you want to know? Are we good with it? Are we moving on? Good. There was discussion regarding today's announcement regarding Green Community designation; 35 communities in Massachusetts have achieved it.

Discussion regarding the Energy Committee's comments regarding the Draft Zoning Articles

Susy Affleck-Childs passes out a memo with comments from the Energy Committee. Regarding article 30, it was recommended removing redundant language. Andy Rodenhiser pointed out that it was the State's language "fuel cells that use renewable energy." Susy Affleck-Childs said she would confirm that.

Bob Tucker noted 4:b of Article 38. Susy noted it was related to the wind article. The Energy Committee suggested that after the word "neighborhood" that "flicker, shadow, or other" be added.

Tom Gay suggested adding the language in 4 instead.

Andy Rodenhiser noted that it already said "no nuisance."

Susy Affleck-Childs – They wanted to be sure that nuisances specific to wind generation were noted. Tom's suggestion is good.

Andy Rodenhiser – Good, put it in there.

Bob Tucker – Are we setting a minimum size of wind turbine that doesn't require a permit? You can buy small prepackaged ones that shouldn't require a special permit. Raise the bottom threshold to 2000 watts. So exempt anything 2000 watts and below. That is 2 KW.

Susy Affleck-Childs – Let's see where it makes the most sense to put that in. I think in site standards.

Tom Gay – This changes what we just did.

There was discussion about how far from the lot line a wind generator should be, and why.
Bob Tucker shared some pictures of turbines on his phone.

Gino Carlucci read from the article then stated you could change "reduce" to adjust" – then "A" becomes the guideline.

Susy Affleck Childs – Do we need more work on this?

Gino Carlucci – Zoning Board of Appeals may reduce or increase.

Andy Rodenhiser – Do we need to wait?

Susy Affleck-Childs – Go with Gino's language...keep open.

Karyl Spiller-Walsh – We need to see how we can incorporate this.

Tom Gay – Should we say "adjust" not increase or decrease?

Gino Carlucci – Okay.

There was more discussion on New England and wind turbines integrating into typically New England neighborhoods. Karyl mentioned having designer Paul Lukesz come to Medway to speak about this matter.

Susy Affleck-Childs – There was comment from the Energy Committee regarding the language on page 10 of the draft wind bylaw ...under review process, any petition for this be referred to whichever committee. The Energy Committee felt it shouldn't specifically mention them.

Andy Rodenhiser – We need to tell the ZBA who an application should be referred.

Bob Tucker – Building permit needed...inspections can require engineer.

Susy Affleck-Childs – As long as the Energy Committee exists, I feel the Zoning Board of Appeals should send a special permit proposal for a wind turbine to the Energy Committee for review.

Andy Rodenhiser – Are there any other comments...any comments Barbara?

Barbara Saint Andre – I'm looking forward to those wind turbines.

Karyl Spiller-Walsh – I think we need to point out why this is on the warrant. Right now just a building permit is needed.

Susy Affleck-Childs – This creates some level of review process.

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Minutes

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh, and the Board voted unanimously to approve the minutes of the May 18, 2010 meeting.

Adjourn

A motion to adjourn was made by Karyl Spiller-Walsh, seconded by Tom Gay, and approved unanimously.

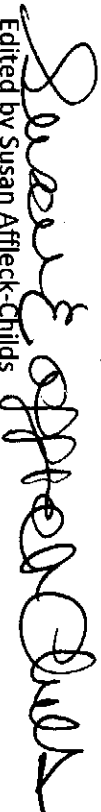
The meeting was adjourned at 9:35 PM.

Respectfully Submitted,



Fran V Hutton Lee

Administrative Secretary
Planning & Economic Development



Edited by Susan Affleck-Childs
Planning and Economic Development Coordinator

REVISED (2) – May 7, 2010

NOTICE OF PUBLIC HEARING
Town of Medway – Planning & Economic Development Board
Proposed Amendments to Medway Zoning Bylaw &
Medway General Bylaws

Pursuant to the Medway Zoning Bylaw and M.G.L. Ch. 40A, Section 5, ***the Medway Planning and Economic Development Board will conduct a public hearing on Thursday, May 27, 2010 at 7:15 p.m.*** in Sanford Hall, at Medway Town Hall, 155 Village Street, Medway, MA to receive comments and deliberate on a series of proposed amendments to the *Medway Zoning Bylaw* (last update published October 19, 2009). The Board will also hear comments on proposed amendments to the *Medway General Bylaws*. Proposed amendments will be considered at the June 14, 2010 Annual Town Meeting. The subject matter of the proposed amendments is indicated below. Warrant article numbers are subject to change.

MEDWAY GENERAL BYLAWS – Proposed Amendments

ARTICLE 24: Amend the Medway General Bylaws by adding a new Section 12.25 to Article 12 Penal Laws regarding the registration and maintenance of abandoned and/or foreclosed residential properties.

ARTICLE 27: Amend the Medway General Bylaws by adding a new Section 2.21 to Article II Town Officers and their Duties to establish the Medway Agricultural Commission.

MEDWAY ZONING BYLAW – Proposed Amendments

ARTICLE 25: In SECTION III. Administration, revise the text in Sub-Section D. Board of Appeals, paragraph 1 Appeals, by revising the text to state that parties aggrieved by actions, orders, permits or decisions of the Inspector of Buildings, other administrative officials, town boards, committees or commissions (as such pertain to zoning) may appeal such actions to the Zoning Board of Appeals.

ARTICLE 31: In SECTION II. Definitions, add definitions for *Manufacturing, Alternative Energy, Renewable Energy, and Research & Development Facilities*.

ARTICLE 32: In SECTION V. Use Regulations, Sub-Section M. Industrial District I, revise the text to add research and development facilities and facilities for the manufacturing of renewable or alternative energy products to the list of allowed uses.

ARTICLE 33: In SECTION V. Use Regulations, Sub-Section N. Industrial District II, revise the text to add research and development facilities, facilities for the manufacturing of renewable or alternative energy products, and electric power generation including renewable or alternative energy generating facilities such as ground mounted solar photovoltaic installations to the list of allowed uses.

ARTICLE 34: In SECTION V. Use Regulations, Sub-Section O. Industrial District III, revise the text to add research and development facilities and facilities for the manufacturing of renewable or alternative energy products to the list of allowed uses.

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ARTICLE 35: In SECTION V. USE REGULATIONS, Sub-Section C. Site Plan Review and Approval, add item e) to paragraph 5 General Requirements to require developers to provide sidewalks along the frontage of properties being developed/redeveloped which are subject to site plan review and approval.

ARTICLE 36: In SECTION V. USE REGULATIONS, Sub-Section R. Sign Regulation, make a series of amendments in Paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 regarding definitions, sign exempt from regulation, prohibited signs, sign standards, sign permit application, special permit provisions and non-conforming signs.

ARTICLE 37: In SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, delete 3. b) Glare and insert a new Paragraph 7 Exterior Lighting Regulations.

ARTICLE 38: Make a series of amendments pertaining to Home Based Businesses as follows:

- In SECTION II DEFINITIONS, add definitions for *Commercial Motor Vehicle* and *Home Based Business*
- In SECTION V. USE REGULATIONS, Sub-Section E. Agricultural Residential District I, Paragraph 1, delete item b. regarding home offices for recognized professions and replace it with a reference to a new Sub-Section AA Home Based Businesses; and delete item c) (5) regarding customary home occupations and reorder the remaining items.
- In SECTION V. USE REGULATIONS, Sub-Section F. Agricultural Residential District II, Paragraph 1, delete item b) regarding home offices for recognized professions and replace it with a reference to a new Sub-Section AA Home Based Businesses; and delete item c) (4) regarding customary home occupations and reorder the remaining items

ARTICLE 39: In SECTION V. USE REGULATIONS, add a new Sub-Section Z. Small Wind Generation to allow for the installation of small wind energy systems by special permit from the Zoning Board of Appeals.

The complete text of the proposed amendments is on file with the Medway Town Clerk, Medway Town Hall, 155 Village Street, Medway, MA and may be inspected Monday through Thursday from 8:00 a.m. to 4:00 p.m. and Fridays from 8:00 a.m. to 1:00 p.m. The information may also be viewed online at the Planning and Economic Development Board pages <http://www.townofmedway.org>.

Interested persons or parties are invited to review the proposed amendments, attend the public hearing, and express their views at the designated time and place. Written comments are encouraged and may be sent to the Medway Planning and Economic Development Board, 155 Village Street, Medway, MA 02053 or emailed to: planningboard@townofmedway.org. For further information, contact Medway's Planning and Economic Development office at 508-533-3291.

Audry Rodewisner
Planning & Economic Development Board Chairman

To be published in the *Milford Daily News*: Tuesday, May 11, 2010 and Tuesday, May 18, 2010.



TOWN OF MEDWAY
Planning & Economic Development Board
155 Village Street
Medway, Massachusetts 02053

Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Karyl Spiller-Walsh
Cranston R. Rogers, P.E.
John W. Williams, Associate Member

May 27, 2010

SITE PLAN DECISION
2-4 Main Street Site Plan Modification – Phase 3 Work
Approved with Conditions

You are hereby notified that on May 27, 2010, at a duly called and properly posted meeting, the Medway Planning and Economic Development Board, after reviewing the application and information compiled during the public review process which commenced August 29, 2009 (*the date of application submittal*), voted 3-0 (Rogers, Tucker and Spiller-Walsh) on a motion by Chan Rogers and seconded by Robert Tucker to approve with conditions as specified herein, the application of Robert Potheau of Medway, MA to modify a previously approved site plan for 2-4 Main Street, Medway, MA as such pertains to Phase 3 building renovation work. Members Rodenhiser and Gay abstained from voting as they had not attended all the public hearings.

This Decision includes the following sections:

- I. Project Location
- II. Background
- III. Project Description – Proposed Modification
- IV. Procedural Summary
- V. Index of Site Plan documents
- VI. Testimony
- VII. Findings
- VIII. Special Conditions of Approval
- IX. General Conditions of Approval

I. PROJECT LOCATION - The application pertains to the property known as 2-4 Main Street, an approximately 5.5 acre parcel located in the Industrial I zoning district, as shown on Medway Assessors Map 6-4, Parcel 6-4-79. The property is owned by Robert Potheau of Medway, MA. The parcel is bounded on the south by Main Street/Route 109, it abuts the Medway/Milllis town line.

II. BACKGROUND - The overall site plan for this multi-phased development was previously approved by the Medway Board of Selectmen as follows:

Vote on Site Plan Approval:
Certificate of Site Plan Approval Signed:
Site Plan Endorsed:

January 10, 2005
January 24, 2005
January 24, 2005

The redevelopment of 2-4 Main Street site was approved to be completed in three phases.

Phase 1 includes construction of a new 4,032 sq. ft. building at the easterly end of the site for Metro West Auto Sales in conjunction with the installation of associated stormwater drainage facilities and parking. *Phase 1* work was carried out during the summer/fall of 2006.

Phase 2 includes renovation of the existing two story industrial building at the westerly end of the parcel and site improvements to the area immediately in front of and to the west of that building. *Phase 2* work commenced during the summer of 2007 and was to be completed by September 21, 2008 (pursuant to a 7/10/07 Planning Board vote and 7/18/07 written extension of the site plan completion deadline). *Phase 2* site improvements were to include the following:

1. Enlarge the westerly curb cut on Main Street/Route 109 from 20' to 30'.
2. Install stone faced retaining walls including wheelchair ramp, walkway and stairs in front of the existing two story industrial building at the westerly end of the property.
3. Excavate and install parking lot infiltration and associated stormwater drainage equipment and structures for the new parking area to be constructed in front of the existing two story industrial building at the westerly end of the property.
4. Install landscaping and security lighting.
5. Pave the new parking area.

For the *Phase 2* building renovation component, the Board of Selectmen's 1-24-05 site plan decision required the applicant "to submit detailed building renovation design plans for the *Planning Board's review and approval*" before any building permit could be issued for exterior improvements to the building (except for roof replacement). Per the Planning Board's 7/18/07 extension of the site plan completion deadline for *Phase 2* site work, submittal of plans for the *Phase 2* building renovation were to be handled as a *Plan Modification* to the previously approved site plan in accordance with Section V. C. Site Plan Review and Approval of the *Medway Zoning Bylaw*, as amended.

Phase 2 building renovation plans were submitted on May 16, 2008 and approved by the Planning and Economic Development Board on May 27, 2008. At this time, *Phase 2* work is largely completed.

Phase 3 of this redevelopment project was to address the multiple buildings in the center area of the parcel. The submittal of plans for *Phase 3* was to be handled as a *Plan Modification* to the previously approved site plan in accordance with Section V. C. Site Plan Review and Approval of the *Medway Zoning Bylaw*, as amended.

III. PROJECT DESCRIPTION/PROPOSED MODIFICATION - The scope of this site plan modification pertains to the **Phase 3 work** to address the middle area of the site and the development and adoption of a Master Signage Plan for this multi-tenant development. The applicant will demolish the existing, dilapidated, approximately 2,500 square foot, one-story, non-conforming block building that sits very close to the Main Street roadway. The existing 2 story block

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building with gambrel roof and the attached 1 story front storage building facing Route 109 on the westerly end of the 2 story building will remain in place. The existing wooden fence and concrete block wall located immediately to the west of the site's residential structure will be removed and replaced with approximately 100 linear feet of decorative white vinyl fencing. The southern façade of the westerly portion of the remaining 1 story building façade (approximately 42 linear feet) that faces and is visible from Main

Street and which is outside of the fence shall be refaced with NOVA brick surfacing materials similar in color to the brick surfaces used elsewhere on the site. The present gravel driveway in front of the fence will be graded and paved in bituminous materials for use as a display area for an additional 5-6 autos for sale. Other site work includes the installation of three 7' by 15' planting areas for business and development signs.

IV. PROCEDURAL HISTORY- Phase 3

- A. August 26, 2009 – Application to modify an approved site plan was filed with the Medway Planning & Economic Development Board.
- B. August 31, 2009 – Public Hearing notice was filed with the Town Clerk. The hearing was advertised in the *Milford Daily News* on September 8 and 15, 2009. Abutters were notified by certified mail on September 3, 2009.
- C. September 22, 2009 – Public Hearing commenced. The public hearing was continued to October 13, 2009, March 9, 2010 and May 11, 2010 at which time the hearing was closed.
- D. Action Deadline Extensions – At its 10-27-10 meeting, the Planning and Economic Development Board approved the applicant's request to extend the action deadline to April 1, 2010. At the March 9, 2010 meeting, the Board approved the applicant's request to extend the action deadline to May 30, 2010.

V. INDEX OF SITE PLAN DOCUMENTS

- A. The Phase 3 site plan modification application for 4 Main Street included the following:
 - 4 *Main Street Modification of Site Plan*, dated July 31, 2009, prepared by Merrikin Engineering of Mills, MA and Colonial Engineering of Medway, MA.
 - Free-standing Sign Plan Drawings dated September 3, 2008, prepared by Jack Knight Sign
 - Wall Signs Drawing (westerly building), dated September 15, 2008, drawn by Henry Marcel
- B. During the course of the public hearing process, the following additional documents were submitted:
 - Project Description dated August 27, 2009 prepared by owner Robert Potheau
 - 4 Main Street Proposed Signs Plan of Land, dated September 18, 2009 prepared by Merrikin Engineering.
 - Phase 3 Front View drawing dated September 21, 2009, unidentified designer

- Draft Master Sign Plan dated October 9, 2009, revised October 13, 2009, revised March 9, 2010, revised May 7, 2010.
- Revised Master Sign Plan dated May 7, 2010.

VI. TESTIMONY - In addition to the site plan application materials submitted and provided during the course of our review, the Planning & Economic Development Board received written or verbal testimony from:

- Robert Potheau, owner.
- Letter dated September 18, 2009 from Claudette and John McNeil, 107 Oakland Street
- Review letter dated September 18, 2009 from Gino Carlucci, PGC Associates, the Town's Consulting Planner.
- Email communication dated September 10, 2009 from Patricia Brennan, Medway Conservation Agent.
- Memorandum dated May 6, 2010 from Will Naser, Medway Principal Assessor, authorizing the use of 2, 4 and 6 Main Street addresses for this parcel.

VII. FINDINGS – The Planning & Economic Development Board must determine whether the proposed site plan modification constitutes a suitable development based on conformance with the purposes of Site Plan Review as specified in the *Zoning Bylaw* and with the various site development standards and criteria set forth in the *Site Plan Rules and Regulations*. The Planning & Economic Development Board, at its meeting on May 27, 2010, on a motion by Chan Rogers seconded by Robert Tucker voted 3-0 (Rogers, Tucker and Spiller-Walsh) to approve the following **FINDINGS** regarding the site plan modification for 2-6 Main Street. Members Rodenhiser and Gay abstained as they had not attended all the public hearings.

ZONING BYLAW – Section V. C - Site Plan Review & Approval

- (1) Are the buildings, uses and site amenities properly located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods?
The site is already developed and one building will be torn down while landscaping will be added to the site. Therefore, the Board finds that this criterion is met.
- (2) Are the construction and renovation of buildings and the installation of site amenities thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the *Design Guidelines*?
The building to be torn down is severely deteriorated so its removal and upgrading of the building behind it represents an improvement over existing conditions. The addition of the landscaping also enhances the site. Therefore, the Board finds that this criterion is met.
- (3) Are adjacent and neighboring properties protected from nuisance and harmful effects caused by noise, fumes, and the glare of headlights and other light sources generated by uses on the development site?

Since the proposed project represents minor changes in the site and its use, there will be no appreciable increase in harmful effects. Therefore, the Board finds that this criterion is met.

- (4) Are significant natural features on a development site (i.e. hills, water bodies, wetlands, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats, and other areas of aesthetic and ecological interest) preserved with as minimal site disturbance as possible?

The site is already developed so there are no natural features to preserve. Added landscaping will enhance the site. Therefore, the Board finds that this criterion is met.

- (5) Are off-street loading facilities and methods for unloading vehicles, goods, products materials and equipment incidental to the normal operation of the establishment(s) on the development site conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view?

Loading and unloading is currently done off-street, and this existing practice will continue. Therefore, the Board finds that this criterion is met.

- (6) Are facilities for the storage, handling and disposal of sewage, refuse and other solid wastes resulting from the normal operations of the establishment(s) on the development site provided and adequately screened from public view?

The site is connected to the Town sewer system. There is no change in the handling of wastes. Therefore, the Board finds that this criterion is met.

- (7) Are pedestrian ways, access driveways, loading and parking facilities properly designed for the convenience and safety of customers, employees and the general public?

There are few pedestrian facilities on the site but there is a sidewalk in front of it. The access driveways and parking facilities are adequate and one driveway will be enhanced by removal of the existing building as well as with improved signage and added landscaping. Therefore, the Board finds that this criterion is met.

- (8) Is convenient and safe access for fire-fighting and emergency rescue vehicles provided to and within the development site in relation to adjacent streets?

Adjacent streets are adequate for emergency vehicles. The parking lot and access driveways also provide adequate emergency access. Therefore, the Board finds that this criterion is met.

- (9) Are satisfactory methods for drainage of surface water to and from the development site provided?

There is already a drainage system on site. The amount of impervious surface will not increase appreciably with the additional paving since the existing building is also being removed. Therefore, the Board finds that this criterion is met.

- (10) Are public ways and private drives properly designed to be constructed to serve the intended use and provide an adequate level of service in relation to the traffic to be generated by the development site?

The amount of new traffic to be generated by the addition is minimal. The public and private ways provide an adequate level of service. Therefore, the Board finds that this criterion is met.

- (11) Have the effects and impacts of the proposed use of land or structures on vehicular and pedestrian traffic, municipal services and utilities, roadways, parking, drainage,

environmental quality, water resources, signage, lighting, and community economics, character, values, amenities and appearance been identified and evaluated?

Since the project is simply removal of an existing building from an already-developed site and use, its impacts on traffic and municipal services will be minimal. Therefore, the Board finds that this criterion is met.

- (12) Have site design modifications been proposed and evaluated to lessen the negative and harmful impacts?

Landscaping improvements and improvements to an existing building have been proposed which, along with removal of the deteriorated building, will enhance the site. Therefore, the Board finds that this criterion is met.

- (13) Have reasonable conditions, limits, safeguards and mitigation measures been established?
The landscape and site improvements are adequate in light of the nature of the project. Therefore, the Board finds that this criterion is met.

SITE PLAN RULES AND REGULATIONS – The Planning and Economic Development

Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Rules and Regulations*, unless specifically waived. In making its decision, the Board shall determine the following:

- (14) Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?
The site has three existing access driveways and they are appropriate for the proposed uses and difficult topographical configuration of the site. Improved signage and revised street addresses (using 2, 4 and 6 Main Street as authorized by the Board of Assessors) will improve the safety of the site's access. There is no traffic impact on residential areas. Therefore, the Board finds that this criterion is met.
- (15) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?
The primary change is removal of a deteriorated building as well some landscaping and improvements to an existing building. Therefore, the Board finds that this criterion is met.
- (16) Is reasonable use made of building location, grading and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g. waste removal) from public views or from (nearby) premises residentially used and zoned.
There is no new outside storage. Removal of the existing building and the added landscaping will soften the visible intrusion of this commercial building and use. Therefore, the Board finds that this criterion is met.
- (17) Is adequate access to each structure for fire and service equipment provided?
There is adequate access for emergency service to the buildings on site. Therefore, the Planning finds that this criterion is met.
- (18) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?
a) the volume of cut and fill,

- b) the number of trees to be removed with particular care taken with mature trees and root systems;
 - c) the visual prominence of man-made elements not necessary for safety;
 - d) the removal of existing stone walls;
 - e) the visibility of building sites from existing streets;
 - f) the impacts on waterways and environmental resource areas;
 - g) soil pollution and erosion;
 - h) noise.
- The volume of cuts and fills is minimal, no trees will be removed, the visual prominence of the man-made elements will change minimally, no stone walls will be removed, the visibility of the building to be remain will be improved with the removal of the building in front of it. impact on waterways and environmental resources will not be affected, and the impact on soil pollution and erosion and noise will be unchanged. Therefore, the Board finds that this criterion is met.*

- (19) Is pedestrian and vehicular safety both on the site and egressing from it maximized?
The site has pedestrian access via sidewalks across its front... The three access driveways provide for vehicular safety on site and they maximize egressing from the site. Therefore, the Board finds that this criterion is met.

- (20) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?
There are no natural or historic features on this site to incorporate. However, the removal of the deteriorated building and the added landscaping will improve the site. Therefore, the Board finds that this criterion is met.

- (21) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?
As conditioned any added exterior lighting will avoid glare on adjoining properties and minimize light pollution. Therefore, the Board finds that this criterion is met.

- (22) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.
The proposed work is within an already-developed area and is located to the front of the site adjacent to Route 109. Appropriate measures are being taken to protect resource areas. A new Order of Conditions will be required prior to the start of work. Therefore, the Board finds that this criterion is met.

VIII. SPECIFIC CONDITIONS – Approval of this site plan modification for the Phase 3 work is subject to the following specific conditions:

- A. **Scope of Work** - The Phase 3 site plan is approved for the scope of work described herein in Paragraph III. Project Description and as shown on the endorsed Phase 3 site Plan.

- B. **Plan Revisions** - Prior to endorsement, the 4 Main Street Modification of Site Plan, dated July 31, 2009 shall be further revised as follows:

1. The plan endorsement signature box on all plan sheets shall be revised; delete reference to the Board of Selectmen and replace with reference to the Planning and Economic Development Board
 2. A reference to the approval dates of all prior site plan decisions and the endorsement dates for all previous site plans for this site shall be added to the cover page (Sheet 1).
 3. The Plan Title throughout the plan set shall be revised to **4 Main Street Site Plan – Phase 3.**
 4. The list of waivers on the cover (sheet 1) shall be removed.
 5. A revised Phase 3 Front View drawing shall be added to the plan set as Sheet 9. The 9/21/09 Phase 3 Front View drawing shall be modified as follows:
 - Remove all sign details
 - Add photo of planned fencing design.
 6. An illustrative landscaping plan for the base of the three free-standing signs shall be added to the plan set. Include specifications for plant, hardscape materials and exterior lighting. Specify dimensions.
 7. Show the final plan revision date on the cover page (Sheet 1).
 8. The text and drawings for the Master Signage Plan and the associated drawings shall be assembled as supplemental sheet(s) to the plan set for Phase 3.
- C. **Completion of Previously Approved Site Plan Improvements** – The remaining elements of the Phase 2 site work will be completed by September 21, 2012. These include the installation of a high berm across the back and the finish paving coat on the parking areas.
- D. **Master Signage Plan** – The Master Signage Plan dated May 7, 2010 was approved by the Planning and Economic Development Board on May 11, 2010. Before plan endorsement, the drawings associated with the Master Signage Plan shall be revised as follows and attached to it.
1. Wall Signs drawing dated September 15, 2008 by Henry Marcel
 - Rename drawing – 6 Main Street Wall Signs; remove text re: Development #3.
 - Eliminate text in note #1. Replace text to reference details of the Master Signage Plan for size, type, lighting and design specifications.
 - In each of the boxes above the 4 storefront entrances, remove text regarding wall sign dimensions and lighting.
 - Revise drawing date
 2. Development Signs drawing dated September 3, 2008 by Jack Knight
 - Include a title at the top of the drawing – Freestanding Signs, 2-6 Main Street

- Rename the drawing as described in the title box (bottom right hand corner) – Freestanding Signs for 2-6 Main Street, Medway, MA
- Delete text re: Development #1, #2 and #3.
- Revise address for middle sign (Development #2) drawing to 4 Main Street
- Revise address for western most sign (Development #3) drawing to 6 Main Street
- Correct dimensions of each sign to reflect specific text of Master Signage Plan. All 3 signs are not the same.
- Revise drawing date

E. **Addresses** – The Board of Assessors has authorized the use of 2, 4 and 6 Main Street as addresses for the businesses associated with the 3 curb cuts on Main Street.

F. **Construction**

1. **Time** - Construction work at the site and in the building shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. No construction shall take place on Sundays or legal holidays.
2. **Construction Traffic/Parking** – All parking for construction and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on Main Street/Route 109.
- 3). **Construction Materials/Debris** - There shall be no tracking of construction materials/debris onto any public way. Sweeping of the roadways adjacent to the site shall be done as needed to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for vehicles, pedestrians and neighborhood residents. In the event any construction debris is carried onto a public way, the applicant shall be responsible for all clean-up of the roadway within 24 hours of its occurrence.

G. **Construction Inspection** - Planning & Economic Development Board members, its staff or its designated agents shall have the right to inspect the site at any time, for compliance with the provisions of this Decision. Inspectors may include Town employees or consultants.

H. **Plan Compliance**

1. The Applicant shall construct all improvements in compliance with the approved and endorsed site plan and modifications.
2. Any construction work that deviates from this and the previous site plan decisions shall be a violation of the Zoning Bylaw. The Board or its agents may use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with this decision and its conditions.

3. The Conditions of Approval are enforceable under Section V. C. 12 of the Medway Zoning Bylaw (non-criminal disposition) and violations or non-compliance are subject to the designated fine.

I. **Plan Changes** – Any change to the approved site plan for Phase 3 shall necessitate a further modification of the site plan requiring Planning & Economic Development Board approval pursuant to SECTION V. C. 8 of the Medway Zoning Bylaw. Whenever additional reviews by the Planning & Economic Development Board, its staff or consultants are necessary due to proposed site plan modifications, the Applicant shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing if required including legal notice and abutter notification. If the proposed revisions affect only very limited aspects of the site, the Planning & Economic Development Board may reduce the scope of the required review, public notice and waive part of the filing and review fees.

J. **Schedule for Project Completion** – The Planning and Economic Development Board's approval of this site plan modification for the Phase 3 work shall lapse after one (1) year of the grant thereof if substantial use has not commenced except for good cause. Construction shall be completed by the applicant or its assignees within two (2) years of the date of plan endorsement.

Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Planning & Economic Development Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing and hearing have been held.

K. **Occupancy Permit** - Prior to the issuance of an occupancy permit for the building at the center of the parcel which is the subject of this Phase 3 site plan modification, the applicant shall:

1. secure a written **Certificate of Site Plan Completion** from the Planning and Economic Development Board that all Phase 2 and 3 work was completed in strict compliance with the approved and endorsed site plan modification, this decision and any conditions thereto, and provide such certification to the Inspector of Buildings; and
2. complete all Phase 2 and 3 site improvements and provide **written certification from a Professional Engineer** registered in the Commonwealth of Massachusetts that all Phase 2 and 3 construction work and site improvements have been completed in strict compliance with the approved and endorsed site plan, the decision and any conditions thereto; and
3. submit six (6) copies of an **As-Built Plan**, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Planning & Economic Development Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the approved site plan and any

modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.

Or the applicant shall provide suitable security/performance guarantee acceptable to the Town, to the Board's satisfaction, to cover the costs of all remaining work. Such amount shall be determined by the Board based on recommendation of the Town's Consulting Engineer.

- L. **Prior Decisions** - All other conditions/provisions of the Board of Selectmen's January 11, 2005 Site Plan Certificate of Approval, the Planning Board's July 17, 2007 memorandum approving a time extension for completion of Phase II site construction, and the Phase 2 site plan modification decision from May 2008 shall remain in force.

- M. **Resource Area Protection** - According to the Conservation Agent, the property has an expired Order of Conditions. The applicant will need to file for a new Order of Conditions before they can undertake any construction or site work occurring within the Outer Riparian Zone. The applicant shall provide the new Order of Conditions to the Board.

- N. **Site Lighting** – Other than emergency lights required by the Building Code and exterior lights to illuminate the three free-standing signs, no additional exterior lighting is proposed or authorized for the building or the site.

- O. The area in front of the fence will be graded and paved in bituminous materials for use as a display area for 5-6 additional automobiles. It shall not be used for customer parking.

IX. GENERAL CONDITIONS OF APPROVAL

- A. **Appeal** – Any person aggrieved by the Planning & Economic Development Board's Decision may appeal such to the court within twenty (20) days of the date the Decision is filed with the Town Clerk.

- B. **Plan Endorsement** - Within thirty (30) days after the Planning & Economic Development Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan modification drawing reflecting all required revisions, if any, to the Planning and Economic Development Board to review for compliance with the Board's *Decision* before plan endorsement. All plan sheets shall be bound together in a complete set.

- C. **Fees/Taxes** - Prior to endorsement of the Phase 3 site plan by the Planning & Economic Development Board, the Applicant shall pay the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering and planning consultants, and any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses. The Applicant's failure to pay these fees in their entirety shall be reason for the Planning & Economic Development Board to withhold plan endorsement.

- D. **Construction Standards** - All construction shall be in full compliance with all applicable local, state and federal laws, including but not limited to the Americans

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with Disabilities Act and the regulations of the Massachusetts Architectural Access
Board for handicap accessibility.

Approved by the *Medway Planning & Economic Development Board*: _____

ATTEST:

Susan E. Affleck-Childs
Planning & Economic Development Coordinator

Date

COPIES TO:

David D'Amico, DPS
Bill Fisher, Board of Health
Will Naser, Board of Assessors
David Travalini, Conservation Commission
Melanie Phillips, Treasurer/Collector
John Emidy, Building Commissioner/Zoning Enforcement Officer
Paul Trufant, Fire Department
Jeff Watson, Police Department
Gino Carlucci, PGC Associates
Robert Potheau