

**August 23, 2011
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053**

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

ABSENT WITH NOTICE:

ABSENT WITHOUT NOTICE:

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

The Chairman opened the meeting at 7:00 pm.

The Chairman asked for any citizen comments. There were none.

Consultants Reports:

Engineering Consultant Dave Pellegri will provide paperwork in relation to Speroni Acres and Franklin Creek is still under review and he will provide feedback at the next meeting scheduled for September 13, 2011.

Evergreen Meadow:

The Board is in receipt of a memo from Tetra Tech Rizzo dated August 11, 2011. **(See Attached)**

A site inspection was done by Steve Bouley. It is the recommendation of Tetra Tech Rizzo that the current condition of the subdivision satisfies the conditions of the approved OSRD Definitive Subdivision Plan, Certificate of Action and Scenic Road Work Permit. The items on the generated punch list have been addressed.

It was recommended that the applicant flush the stormwater drainage system prior to the Town taking ownership of the roadway and infrastructure. Dave Pellegri will be meeting at the site on Monday August 29, 2011.

The Board was made aware that Iarussi Way will be placed on the warrant for street acceptance for the fall 2011 town meeting.

Speroni Acres:

Tetra Tech Consultant Dave Pellegri is in the process of doing the overlays on Speroni Acres. The as-built plans have been supplied to TTR. It was communicated by Dave that the locations

shown on the as-built plans seemed accurate to what he has observed on site. There will be another meeting to discuss this. There is no decision yet.

It was suggested to look at the deeds regarding the easements and to also review the as-built plans against the original subdivision plan. Dave Pellegrini will do this research.

Franklin Creek:

Tetra Tech Rizzo Consultant, Dave Pellegrini indicated that the developer's surveyor is preparing the as-built plan. Once these are submitted they will be reviewed by Tetra Tech Rizzo.

Evergreen Meadow:

Member Rogers asked about the construction trailer. Was it permitted?

Susy Affleck-Childs reported that she had checked with the Building Department and no permit had been issued for the temporary site trailer.

On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to have the applicant obtain a temporary trailer permit or remove the trailer.

NOTE – Susy Affleck-Childs will follow-up with the Building Department and the developer Taniel Bedrosian.

Village Estates Definitive Subdivision Plan – 272 Village Street:

The continued Public Hearing for Village Estates Definitive Subdivision Plan was opened at 7:15 pm.

Mr. DeSimone of Colonial Engineering was present to represent the owner/applicant Russ and Dorothy Santoro.

The Board is in receipt of a confidential email from Town Counsel Barbara Saint Andre dated August 18, 2011. The email provides the Board with guidance relative to the applicant moving the proposed right of way easterly away from the western property line. The Board had suggested to the applicant that the right of way width be reduced from 50' to 40'. This would need to be requested by a waiver. The result of this is a reserve strip which would also need a waiver.

It was the opinion of Counsel that with a two foot strip of land between 274 Village Street and the new street that the side setback issue at the adjacent property to the west is resolved.

Abutter Wayne Brundage (268 Village Street) is still concerned about the water coming onto his property.

Dave Pellegrini indicated that he had been out on site and has looked at the site distance from the southern end of the roadway out to Village Street. To the East there is plenty of site distance

and to the West it looked ok. He recommended that the applicant put the site distances on the plan with the accurate measurements.

Dave Pellegrini also looked at the sidewalk area on Village Street. He indicated that the sidewalk is in decent condition. There are about 6 or 7 panels which could be fixed. He suggested bituminous concrete.

There was also a recommendation from the DPW to reduce the size of the water line to 6” since it does not need to be as big as indicated on the plan. Consultant Carlucci suggested that the elevations and the physical impacts of those be reviewed.

Dave Pellegrini responded that the elevations seem ok.

On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to continue the public hearing for Village Estates until Tuesday, September 13, 2011 at 7:15 pm.

Medway Middle School Site Plan

Member Tucker recused himself as a Board member at 7:37 pm. as he serves as chairman of the Medway Middle School Building Committee.

The Board is in receipt of a draft Minor Site Plan Decision for the Medway Middle School – New Entryway & Façade Improvements for 45 Holliston Street. The draft decision is dated August 18, 2011. **(See Attached)**

The Board discussed page three of the document. Under Conditions of Approval, it was noted that there will be ongoing cooperation with the Medway Design Review Committee. This will be accomplished by having the applicant continue meeting with the Medway Design Review Committee over the course of the project development and construction on the noted items listed within the approval.

It was recommended that the last sentence in the fourth bullet on page three be eliminated. Another change will be to the sixth bullet which will eliminate the word “breezeway” and replace it with the words “new lobby exterior wall” and also add the words “metal window frames”. It was also suggested to eliminate “around windows” with “new insulated panels”.

Member Rogers communicated that the Design Review Committee are design professionals and are equipped to do this. He also communicated that he has been briefed by DRC Chairman Matt Buckley.

The Board is comfortable with how the decision is written.

On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the Minor Site Plan Decision for the Medway Middle School at 45 Holliston Street with the noted revisions.

NOTE - Bob Tucker did not take part in any of the voting)

Bay Oaks Preliminary Subdivision Plan – 104 Fisher Street:

Chairman Rodenhiser recused himself from the discussion as he is the applicant/developer. Vice Chairman Tucker ran the meeting.

Mr. Rodenhiser communicated that his engineer is not present since he is finished with the preliminary aspect of the presentation unless the Board wants something else.

Vice Chairman Tucker informed all that Town Counsel Barbara Saint Andre was asked to give advice about the questions which were brought up by the Board during previous meetings. Her confidential communication was distributed.

Affleck-Childs provided the Board with an overview of the opinion from Town Counsel. The Board was seeking guidance of the scope of the abutter's right in relation to the right-of-way and their rights to use it and or improve it. Counsel opined that the abutters can use this area and improve it if they choose to.

The other question was whether the Town's zoning setback requirement applies to property lines or the easement right-of- way lines. Counsel indicated that the right of way is not the same as a property line and the setback requirement is from the street line.

The third question asked of Counsel was in relation to the former subdivision covenant from 1986. It was the opinion of Counsel that when the Planning Board released that covenant it was a release of all the conditions listed and applied to everything.

Member Rogers stated that the easement with the deed still remains and will continue to exist and runs with the land. The covenant does not release the plan. The right of way easement is contained in separate documents. So therefore, this is double covered (plan, deed and easement).

Counsel indicated that in order to put in a road, it would have to be 35 feet away from any house.

Applicant Rodenhiser responded that there is no proposal for a road to go up the right of way. In the revised preliminary plan that we have provided, the proposed location for a house has been moved and thus there is no issue, there is now 35 feet or more space between the right of way and any future house.

The Board wanted to know what the next steps would be in relation to this process. Susy Affleck-Childs responded that the next step would be to write up a series of questions. This would be a statement of issues for the applicant to address at the definitive plan stage. The applicant may choose to move ahead with the definitive plan if he chooses.

Member Spiller-Walsh noted that she is still concerned about the water.

Vice Chairman Tucker responded that the Board has been tracking those issues and will be noted in the letter to the applicant.

The forum was opened to the public.

Deborah Batog, attorney for the Gionovellas, indicated that there is a third right of way which has not been released or terminated. The Attorney wants to make sure that this third right-of-way is reflected in the next plan.

The Attorney wanted to receive a copy of Town Counsel's letter and was told that this is a confidential document. Attorney Batog wanted to know if Mr. Rodenhiser was provided with the letter from counsel.

Susy-Affleck-Childs responded that Mr. Rodenhiser was not provided with a copy of the letter.

Attorney Batog wanted to know if Town Counsel looked into other subdivisions from that time period which had covenants and more specifically how the covenants were written. She wants to know if the same form was used and referenced the recent decision from Wingate Farm. She questions why in this case, a general release. It is clear from actions of this Board that throughout there are these are the type of covenants that run in perpetuity. The timing of the release was done out of foreclosure and the deed references subject to and not noted subject by. What was protocol then? The same type of language was used with Wingate Farms and Rolling Meadows.

Susy Affleck-Childs reported she did not pose those questions to Counsel and Counsel was not asked to look at previous cases or other subdivisions. Counsel was only supplied what the Board asked in relation to the three questions. Town Counsel was not asked to look at previous covenants from other subdivisions.

Attorney Batog will scan and provide a written explanation for the Board to review.

Susy Affleck-Child communicates that the covenant now is a form of performance guarantee or promise that the applicant is making to the board. The applicant is agreeing that the lots cannot be sold until a certain amount of the construction is completed or security provided. When the applicant can prove that the certain work is done, and a bond provided based on the value of the remaining work, the board releases those lots from the performance covenant. It appears that the covenant for back then probably served as a decision.

Attorney Batog asked then why include perpetuity if that is the intent. A release would not release the construction. This is not clear cut what the intent is in relation to the restrictions. The easement of record in the chain of title needs to be noted.

Susy Affleck-Childs asked Attorney Batog if she could put in writing her questions and concerns.

Susy Affleck-Childs will prepare a document for the Board to review for the September 13, 2011 meeting.

Chairman Rodenhiser returned to the meeting at 8:28 pm.

Claybrook II Subdivision:

A letter was sent out August 16, 2011 to Mr. Rosenau relative to the surety held by the Middlesex Savings Bank for the completion of the Claybrook II Subdivision. **(See Attached.)**

To date, the Town has received no communication back from the bank.

Member Tucker indicated he would like to have a status report on this matter at the September 13th meeting.

Draft Warrant Articles for Fall Town Meeting (See Attached) dated August 12, 2011

Street/Infrastructure Acceptance & Open Space:

This article is to see if the town will vote to accept Iarussi Way. The language of the article will be refined.

Rezone Parcel near I-495:

This article is to rezone the portion of parcel 3-43 B that is located west of Interstate 495 from Agricultural Residential I to Industrial III as had been recommended/requested by Bruce Hamblin.

Susy Affleck-Childs will check with Bellingham and Milford to get the accurate parcel numbers for the abutting properties and will include that information in the article.

Commercial III & IV – Allow for accessory family dwelling units.

The article is to see if the Town will vote to amend the Medway Zoning Bylaw to allow for accessory family dwelling units, by special permit, in the Commercial III and IV zoning districts.

FRONTAGE

The Board discussed the proposed definition and felt more work was needed. They agreed to have Susy Affleck-Childs rework the language relative to the proposed definition of frontage.

Proposed Amendments to the OSRD Bylaw:

The Board received a cover memorandum from Susy Affleck-Childs dated August 17, 2011 relative to the proposed amendments to the OSRD bylaw. **(See Attached.)** The document includes proposed amendments to the OSRD bylaw prepared by Gino Carlucci. She noted that the proposed changes were based on discussions held during various PEDB meetings over the past 6 months and specific discussion which took place between Consultant Carlucci, Susy Affleck-Childs and member Tom Gay.

The text incorporates the OSRD amendments approved by the June 13, 2011 town meeting,

There are a variety of changes proposed for the Board to review:

There was discussing about increasing the overall minimum tract size from 8 to 10 acres. The tracts of land totaling less than 10 acres could only be considered if the land abuts the Charles River, Chicken Brook or Hopping Brook.

The next bullet item specified what information needs to be provided to the Board for Pre-application review. This would require the applicant to submit a pre-application. The application shall consist of information such as aerial and ground photos of site, map illustration features on site (such as aquifers, streams, etc) identification and documentation of any stone walls, historic structures, significant trees etc.

There would need to be a calculation of the density of areas within 1,000 feet of the site perimeter.

At the pre-application review, the applicant shall propose and identify potential development areas and open space areas including potential trails and trail connections.

It was also recommended to establish a maximum overall density for the OSRD tract to be consistent with the density of the adjacent neighborhood. Further in no case shall the number of dwelling units for an OSRD result in a density for the entire site that exceeds the highest density of the same number of existing contiguous dwelling units.

The Board next moved to discuss that the Board may adjust the amount of required open space depending on the size of the tract. 50% open space would be required for parcels between 10 and 25 acres in size. 60% open space would be required for parcels over 25 acres.

The Open Space Committee should be given an opportunity to review this document. The Board would like to look at an updated version and rework this further before this is provided to the Open Space Committee.

The Board will continue working on this document.

Minutes of August 9, 2011 meeting:

On a motion made by Bob Tucker and seconded by Chan Rogers, the Board votes unanimously to approve the minutes from July 26, 2011 with noted revisions on page five.

Adjourn:

On a motion made by Karyl Spiller-Walsh, and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting at 10:15 pm.

Future Meetings:

The next meetings scheduled are: Tuesday, September 13, & 27, 2011.

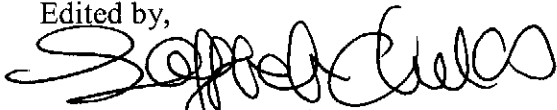
The meeting was adjourned at 10:15 PM.

*Medway Planning and Economic Development Board
Minutes of August 23, 2011 meeting
APPROVED – September 13, 2011*

Respectfully Submitted,


Amy Sutherland
Meeting Recording Secretary

Edited by,


Susan E. A. Heck-Childs
Planning and Economic Development Coordinator



TETRA TECH

MEMORANDUM

To: Susan Affleck-Childs – Medway Planning and Economic Development Board
Coordinator

Fr: Steven Bouley–Tetra Tech (TT)

Re: **Evergreen Meadow
Subdivision Review (Punchlist)
Medway, MA**

Dt: 08/11/11

RECEIVED
AUG 17 2011

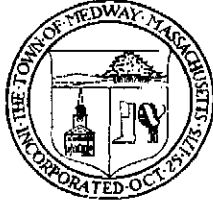
TOWN OF MEDWAY
PLANNING BOARD

At the request of the Medway Planning Board, Steven Bouley from TT performed an inspection of the Evergreen Meadow Subdivision against the approved OSRD Definitive Subdivision Plan, Certificate of Action and Scenic Road Work Permit in order to generate a punch list for incomplete construction items and current issues that should be repaired or resolved. We found that the current condition of the subdivision satisfies the conditions of the aforementioned documents. However, TT recommends that the applicant flush the drainage system prior to the town taking ownership of the roadway.

If you have any questions or require additional information, please don't hesitate to contact me at (508) 903-2000.

Very truly yours,

Steven Bouley
Civil Engineer



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

Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Cranston (Chan) Rogers, P.E.,
Karyl Spiller Walsh

Draft – August 15, 2011

Minor Site Plan Decision
Medway Middle School – New Entryway & Façade
Improvements
45 Holliston Street

You are hereby notified that on August 23, 2011, at a duly called and properly posted meeting, the Medway Planning and Economic Development Board acted on the application of the Medway School Department for approval of a minor site plan project for the new entryway and façade improvements for the Medway Middle School at 45 Holliston Street. After reviewing the application and information compiled during the public review process which commenced on July 27, 2011 (*the date of application submittal*), the Board, on a motion by _____, seconded by _____, approved the application with conditions noted herein. Those voting in favor were Andy Rodenhiser, Chan Rogers and Karyl Spiller-Walsh. Thomas Gay was absent from the 8-9-2011 meeting and member Robert Tucker was recused.

SITE INFORMATION – The application pertains to the Medway Middle School building at 45 Holliston Street in the Agricultural Residential Zoning District, shown as Parcel 1C-118&26 on Medway Assessors Map 1-2 (January 1, 2010).

PROPOSED MODIFICATION – The Town is undertaking a comprehensive repair project for the Medway Middle School. This is a 2 year project to commence September 2011 and conclude August 2013. The scope of work is primarily the replacement of interior building systems. There are no proposed changes to the use of the building or its functioning as a middle school for grades 5-8 and as administrative offices for the Medway School Department. The project does not change the enrollment or employment numbers. No alterations are planned to the vehicular or pedestrian access to and from the building.

The major exterior aspect of the work pertains to the demolition of the existing front entrance plaza and a proposed new front entrance and lobby addition (approximately 2000 sq. ft) on the Holliston Street side of the school building. The work will also include concrete paving in front of the addition. Other exterior improvements will entail window replacement and installation of colored panels along the east facing building façade

Site improvements include the replacement of portions of the existing parking lots on the east side of the building. However, there are no increased parking requirements resulting from the overall scope of interior work. Other site work entails removal and replacement of some of the existing concrete sidewalks in areas of disrepair and the addition of some sections of sidewalk to provide a continuous accessible loop around the entire building. Replacement site lighting is proposed to improve conditions. Landscaping is minimal and is limited to repairs to areas disturbed by the construction process and the installation of underground utilities including new water line and electric service.

Site regrading is limited to improvements needed to achieve adequate ADA accessibility. The proposed site improvement work is not expected to have any effect on peak stormwater runoff rates and volumes. No adverse effects to the existing drainage system are anticipated.

PROCEDURAL SUMMARY

- June 6 and July 11, 2011 Applicant meets informally with the Medway Design Review Committee to discuss façade renovation
- July 27, 2011 Medway Middle School Building Committee, on behalf of the Medway School Department, submits an application for a minor site plan for improvements to the Middle School building at 45 Holliston Street.
- July 28, 2011 Notice of Public Briefing is mailed to abutters and posted with the Medway Town Clerk and to the Town's web site.
- August 4, 2011 Building Inspector/Zoning Enforcement Officer John Emidy confirm provides a written confirmation of his prior determination that the proposed scope of work constitutes a minor site plan project pursuant to the Site Plan section of the Medway Zoning bylaw.
- August 9 and 23, 2011 Public Briefing is opened and closed. NOTE – As Planning and Economic Development Board Member Robert Tucker is chairman of the Medway Middle School Building Committee, he recused himself from acting in the capacity of a Board member for purposes of reviewing the site plan application.

INFORMATION PROVIDED:

Application for Minor Site Plan Review – dated July 26, 2011

Project Description dated July 27, 2011 prepared by KBA Architects, Charlestown, MA

Development Impact Report dated July 27, 2011 prepared by KBA Architects

Stormwater Review Letter dated July 27, 2011 prepared by Christopher Garcia, PE of Garcia Galusaka Desousa Consulting Engineers, Inc., Dartmouth, MA

The proposal is shown on plans titled *Repairs to the Medway Middle School*, prepared by KBA Architects as follows:

Sheet C1.0	Site Demolition and Preparation Plan – July 1, 2011
Sheet C1.1	Site Layout Plan – July 1, 2011
Sheet C2.1	Site Utility Plan - July 1, 2011
Untitled Sheet	Main Entry Perspective A, Main Entry Perspective B, Floor Graphics Study. Main Office Rendered Floor Plan, Exterior Elevation at at Main Entry

TESTIMONY

Applicant & Representatives

Robert K. Tucker, Chairman of the Medway Middle School Building Committee
Dan Bradford – KBH Architects
_____ - Compass Project Management

Matthew Buckley, Chairman of the Medway Design Review Committee

_____ ??????????? citizen . . .

CONDITIONS OF APPROVAL

1. **Plan Revisions –**

- a. A Cover Sheet
- b. A signature box for Planning and Economic Development Board endorsement signatures with space provided for approval and endorsement dates.
- c. Add a note that lighting must comply with lighting standards of Medway zonignn bylaw.

2. **On-going Cooperation with the Medway Design Review Committee**

Light fixtures
Replacement paving materials/pattern for plaza area in front of new entry
Color selection for panels
Selection of landscape materials

3. **Plan Endorsement** - Within thirty (30) days after the Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan reflecting all required revisions, if any, to the Board to review for compliance with the Board's *Decision*. The Applicant shall provide an original of the site plan modification documents in their final form to the Board for signature/endorsement. After endorsement, the Applicant shall provide 6 full copied sets of the modified plan documents to the Board plus an electronic file.

4. **Project Completion**

A. If the work is conducted as a Construction Control Project, prior to the issuance of a permanent occupancy permit, the applicant shall provide the Board with a written certification of a professional engineer and/or architect registered in the Commonwealth of Massachusetts that all construction work has been completed in strict compliance with the approved and endorsed site plan and decision.

APPEALS - Any person aggrieved by the Board's *Decision* may appeal such to the court within twenty (20) days of the date the *Decision* is filed with the Town Clerk.

PLANNING & ECONOMIC DEVELOPMENT BOARD MEMBERS:

Date: _____

ATTEST:

Susan E. Affleck-Childs, Planning & Economic Development Coordinator

- cc: Robert K. Tucker, Medway Middle School Building Committee
Dr. Judith Evans, Medway School Superintendent
John Emidy, Building Commissioner
Thomas Holder, DPS Director
Suzanne K. Kennedy, Town Administrator
Paul Trufant, Fire Chief
Dan Bradford, KBA Architects

Questions for next week – for Dan Bradford

Light fixtures

Paving materials/patterns

Building panels – color

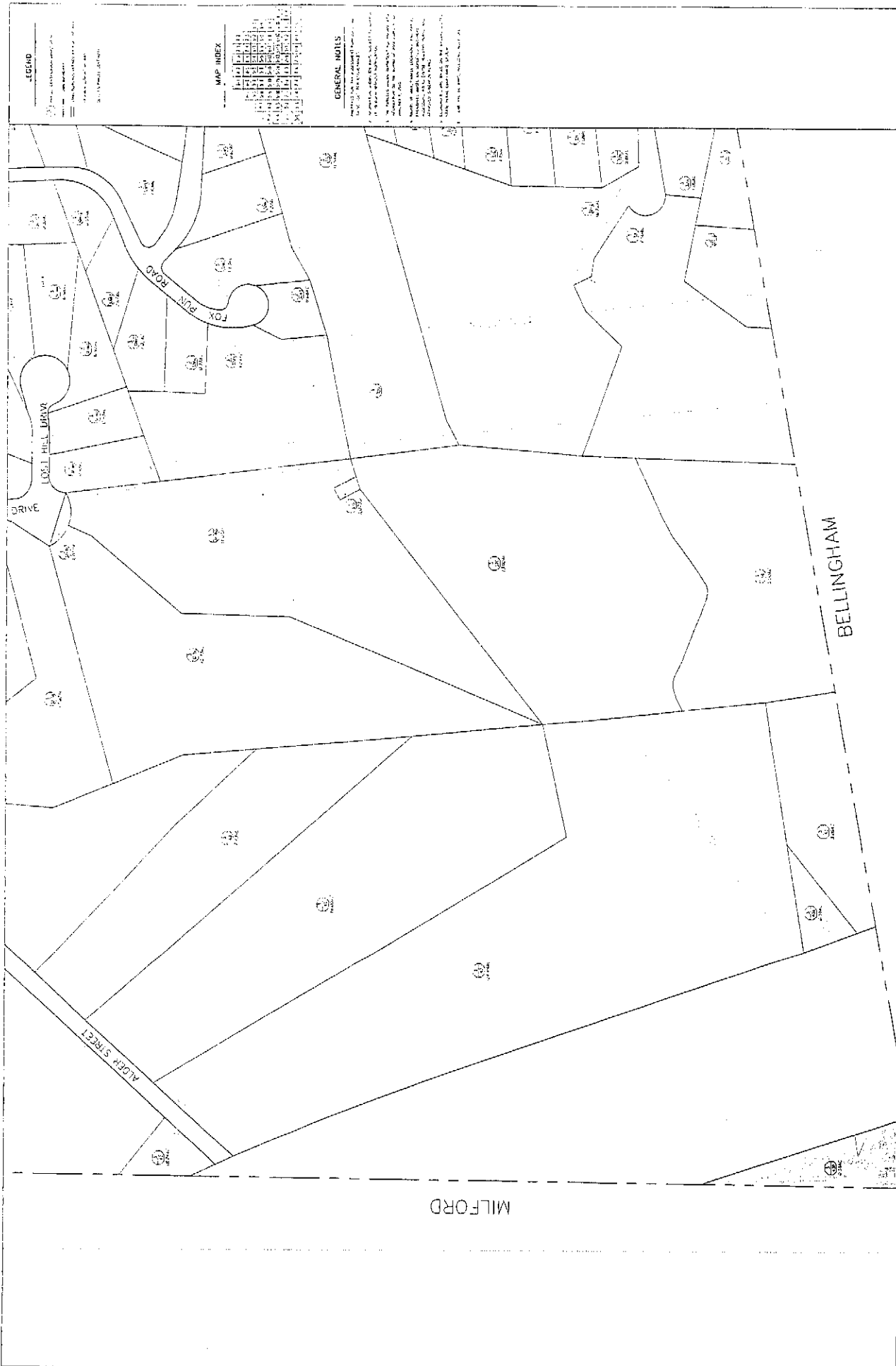
Sac Draft – 8-12-2011

ARTICLE ____: To see if the Town will vote to amend the Medway Zoning Map as follows:

Rezone the entire portion of Parcel 3-43B that is located west of Interstate 495 as shown on a map on file with the Town Clerk from Agricultural Residential I to Industrial III.

Or to act in any manner relating thereto.

Planning and Economic Development Board



LEGEND
Public Infrastructure
Water Features
Easements
Other

MAP INDEX

Lot No.	Area (Ac.)	Area (Sq. Ft.)
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GENERAL NOTES
1. THE MAP IS A REPRESENTATION OF THE CURRENT RECORDS OF THE COUNTY CLERK'S OFFICE.
2. THE MAP IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN THEREON.
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LEGEND
Public Infrastructure
Water Features
Easements
Other

MAP INDEX

GENERAL NOTES

SCALE: 1" = 100'

COMPILED/APPROVED

DATE: JANUARY 1, 2010

BY: [Signature]

FOR: [Signature]

ATLAS MAP NO. 3-4
REV. 02.10

REDWAY ASSESSORS'
ATLAS MAP NO. 3-4
REV. 02.10

DUNN, MURPHY & ASSOCIATES, INC.
10000 100th Ave NE, Suite 1000, Redmond, WA 98073
Phone: (509) 881-1111, Fax: (509) 881-1112, Email: info@dunnmurphy.com

** Check zoning in
Muyford + Bellingham*

Street/Infrastructure Acceptance & Open Space Parcel
Sac Draft – 8-12-2011

ARTICLE : To see if the Town will vote to accept Iarussi Way from Station 0+00 to its end at Station 9+57.36 as laid out by a vote of the Board of Selectmen as a public way as shown on *Plan of Land - Street Acceptance - Iarussi Way* prepared by GLM Engineering Consultants, Inc. of Holliston, MA dated July 8, 2011, last revised _____ on file in the office of the Town Clerk.

And further to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, and to accept the deed or deeds to the Town of a fee simple interest or easements in said streets and any associated drainage, utility or other easements for said streets, and for any trail or public access easements and to appropriate a sum of money for this purpose and any related expenses;

And to accept the conveyance of a deed for OPEN SPACE PARCEL

And further to authorize the Board of Selectmen and town officers to take any and all related actions necessary or appropriate to carry out the purposes of this article;

Or to act in any manner relating thereto.

Planning and Economic Development Board

Commercial III – Allow for accessory family dwelling units
sac draft - 8-12-2011

ARTICLE : To see if the Town will vote to amend the Medway Zoning Bylaw by revising SECTION V. USE REGULATIONS, Sub-SECTION I. Commercial District III by inserting a new Paragraph 3 as follows and by renumbering the existing Paragraph 3 to become paragraph 4.

3. An accessory family dwelling unit is authorized by special permit only. The special permit must be recorded prior to the issuing of an occupancy permit. Upon transfer of property, the special permit shall become null and void. An accessory use in a single-family dwelling is subject to the following conditions:
 - a) The single-family dwelling or accessory family dwelling shall be occupied by the owner of the premises. For the purpose of this section, the “owner” shall be one or more individuals who hold legal or beneficial title to the premises and for whom the premises is the primary residence for voting and tax purposes.
 - b) The accessory family dwelling unit only may be occupied by the following family members: mother/father, mother-in-law/father-in-law, son/daughter, son-in-law/daughter-in-law, sister/brother, sister-in-law/brother-in-law, grandmother/grandfather, step-mother/step-father, step-son/step-daughter, step-sister/step-brother, step-grandmother/ step-grandfather. A notarized statement of the relevant relationship shall be provided to the Inspector of Buildings prior to the issue of a certificate of occupancy for the accessory family dwelling unit.
 - c) There shall not be more than one (1) bedroom in the accessory family dwelling unit.
 - d) The accessory dwelling unit shall have an exterior design such that the structure is not changed from the character of a single-family dwelling.
 - e) There shall be no additional driveway or curb cut providing access to the premises. All parking to be off-street.
 - f) A certificate of occupancy for the accessory family dwelling unit is required, and shall be issued to the owner only, and is not transferable. Upon transfer of ownership of the premises, the certificate of occupancy for the accessory dwelling unit shall be null and void. The Occupancy Permit shall expire not more than three years after date of issue.

**Commercial IV – allow for accessory family dwelling units
sac draft - 8-12-2011**

ARTICLE : To see if the Town will vote to amend the Medway Zoning Bylaw by revising SECTION V. USE REGULATIONS, Sub-SECTION J. Commercial District IV by inserting a new Paragraph 3 as follows and by renumbering the existing Paragraph 3 to become paragraph 4.

3. An accessory family dwelling unit is authorized by special permit only. The special permit must be recorded prior to the issuing of an occupancy permit. Upon transfer of property, the special permit shall become null and void. An accessory use in a single-family dwelling is subject to the following conditions:
 - a) The single-family dwelling or accessory family dwelling shall be occupied by the owner of the premises. For the purpose of this section, the “owner” shall be one or more individuals who hold legal or beneficial title to the premises and for whom the premises is the primary residence for voting and tax purposes.
 - b) The accessory family dwelling unit only may be occupied by the following family members: mother/father, mother-in-law/father-in-law, son/daughter, son-in-law/daughter-in-law, sister/brother, sister-in-law/brother-in-law, grandmother/grandfather, step-mother/step-father, step-son/step-daughter, step-sister/step-brother, step-grandmother/ step-grandfather. A notarized statement of the relevant relationship shall be provided to the Inspector of Buildings prior to the issue of a certificate of occupancy for the accessory family dwelling unit.
 - c) There shall not be more than one (1) bedroom in the accessory family dwelling unit.
 - d) The accessory dwelling unit shall have an exterior design such that the structure is not changed from the character of a single-family dwelling.
 - e) There shall be no additional driveway or curb cut providing access to the premises. All parking to be off-street.
 - f) A certificate of occupancy for the accessory family dwelling unit is required, and shall be issued to the owner only, and is not transferable. Upon transfer of ownership of the premises, the certificate of occupancy for the accessory dwelling unit shall be null and void. The Occupancy Permit shall expire not more than three years after date of issue.

DRAFT – 8-22-2011 sac

Add definition for “frontage” and use it instead of “lot width”

ARTICLE : To see if the Town will vote to amend the Medway Zoning Bylaw by inserting in alphabetical order a definition for “frontage” in SECTION II DEFINITIONS as follows:

Frontage: The lot line along a street or streets providing rights of and actual access to a potential building site.

and by deleting the term “Minimum lot width” and replacing it with the term “Minimum Continuous Frontage” in SECTION V. USE REGULATIONS as follows:

Sub-Section G. Commercial District I – 2. c)

Sub-Section I. Commercial District III – 3. c)

Sub-Section J. Commercial District IV – 3. c)

Sub-Section K. Commercial District V – 2. c)

Sub-Section M. Industrial District I – 2. c)

Sub-Section N. Industrial District II – 2. c)

Sub-Section O. Industrial District III – 2. c)

Sub-Section V. Business/Industrial – 2. c)

Or to act in any manner relating thereto.

Planning and Economic Development Board



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

MEMORANDUM

August 17, 2011

TO: Medway Planning and Economic Development Board
FROM: Susy Affleck-Childs
RE: Proposed amendments to the OSRD bylaw

Attached are proposed amendments to the OSRD bylaw prepared by Gino Carlucci. See draft dated July 22, 2011. They are based on discussions held during various PEDB meetings over the past 6 months and a specific discussion Gino and I had with Tom Gay over a month ago. The text INCLUDES the OSRD amendments approved by the June 13, 2011 Town Meeting.

There are a variety of additional changes proposed for your review.

- Increase the overall minimum tract size from 8 to 10 acres. Tracts of land totaling less than 10 acres could only be considered if the land abuts the Charles River, Chicken Brook or Hopping Brook. (page 1)
- Specify what info needs to be provided for the pre-application review. (page 2)
- Establish a maximum overall density for the OSRD tract to be consistent with that in the adjacent neighborhood. (page 6)
- Adjust the amount of required open space depending on the size of the tract. 50% open space would be required for parcels between 10 and 25 acres in size. 60% open space would be required for parcels over 25 acres. (page 7)
- Require the open space to be integrated within the development and to link to abutting areas. (page 7)
- No parking, fields, etc. would be allowed within the open space parcel for those developments with less than 60% of the total area used as open space but they would be allowed for developments with more than 60% of the tract designated for open space. (page 7). Gino used the open space percentage as the qualifying metric rather than total acreage. This would mean that a parcel with under 25 acres that provides 60% open space (though only 50% is required) could include parking in the open space parcel. (page 7)
- Require that the siting of the dwelling units, accessory buildings and site improvements be done to maximize views of the open space. (page 9)

PROPOSED AMENDMENTS TO OSRD BYLAW

*(Deletions are shown in ~~strikethrough~~ type and additions are in **bold**. Notes are in **bold brackets [xxx]**)*

T. OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

1. **Purpose and Intent** - The primary purposes for OSRD are:

- a) To allow for greater flexibility and creativity in the design of residential development
- b) To protect community water supplies;
- c) To minimize the total amount of disturbance on the site;
- d) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and/or historical and archeological resources.
- e) To discourage sprawl and encourage a more efficient form of development that consumes less open land and conforms more closely to existing topography and natural features than a conventional **[grid?]** subdivision;
- f) To further the goals and policies of the Medway Master and/or Open Space Plans;
- g) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economic and efficient manner.
- h) To preserve and enhance the community character;
- i) To preserve and protect agriculturally significant land;
- j) To protect the value of real property;
- k) To allow for housing types that will diversify the community's housing stock including the provision of affordable housing for persons of low and moderate incomes.

(Item k) added May 14, 2007)

2. **Eligibility**

- a) **Zoning Classification** - Only those tracts located in the AR-I and AR-II Districts shall be eligible for consideration as an OSRD.
- b) **Contiguous Parcels** - To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. For the purposes of this section, parcels that are directly opposite each other across an existing street, and each have a minimum of 25 feet of frontage on the same 25-foot section of roadway, may be considered as if contiguous. Provided, however, that parcels or sets of parcels on opposite sides of a street must each have practical development potential as evidenced by either meeting the dimensional requirements of the residential zoning district in which it lies, or, in the opinion of the Planning Board, has sufficient access and area to be subdivided in accordance with the Planning Board's Rules and Regulations for the Review and Approval of Land Subdivisions.
(Revised June 15, 2009)
- c) **Land Division** - To be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to M.G.L. c. 41, s. 81P, provided, however, that an OSRD may also be permitted where intended as a condominium on land not so divided or subdivided.
- d) **Tract Size** - An OSRD shall be on a site that is a minimum of **8 10** acres in area. The Planning and Economic Development Board may approve an OSRD on a tract of land that is less than **8 10** acres if such property directly abuts the Charles River, Chicken Brook or Hopping Brook and that portion of the property that abuts any of these waterways is included in the open space.
(Item d) added June 15, 2009)

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3. *Special Permit Required*

- a) The Planning Board may authorize an OSRD pursuant to the grant of a special permit. Such special permits shall be acted upon in accordance with the provisions outlined below.
- b) The Planning Board shall adopt *OSRD Rules and Regulations* which shall more fully define the application requirements including the size, form, number and contents of the *Site Context and Analysis Plan, Concept Plan, and Yield Plan*, identify supporting information needed, and establish reasonable application, review and inspection fees, and performance bond requirements.
- c) Upon approval by the Planning Board, an OSRD may include a Local Convenience Retail use of no more than 7,500 square feet of gross building area. *(Item c) added 6-2-08)*
- d) Upon approval by the Planning Board, an OSRD may include a Community Center or Building erected solely for the use of the residents of the OSRD and their guests for educational, recreational and social purposes. *(Item d) added 6-2-08)*

4. *Pre-Application Phase*

- a) *Pre-Application Review* -The purpose of the pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning and Economic Development Board at the earliest possible stage in the development. **The applicant is required to submit a pre-application and to schedule a pre-application review at a regular business meeting of the Planning and Economic Development Board.** The Planning and Economic Development Board shall invite the Conservation Commission, Open Space Committee, Board of Health, and Design Review Committee to **review the pre-application and** attend the informal pre-application review.

The pre-application shall consist of already existing and readily available information and shall include, but not be limited to:

- 1) **Aerial and ground photos of the site**
- 2) **Map(s) illustrating features of the site and nearby surrounding areas including water resources (such as aquifers, streams and riparian areas, DEP Zone II's, wetlands, floodplains and certified and potential vernal pools), BioMap areas, Priority Habitats and Estimated Habitats of Rare and Endangered Species, other protected open space and any other features that the applicant believes may be significant**
- 3) **Identification and documentation (which may consist of photographs) of any stone walls, historic structures, significant trees, important landscapes, scenic views or other resources of the site**
- 4) **Calculation of the density of areas within 1000 feet of the site perimeter**

At the pre-application review, the applicant shall:

- 1) outline the proposed OSRD including presentation of a preliminary Site context and Analysis Plan prepared with input from a Registered Landscape Architect)
- 2) **propose and identify potential development areas and open space areas, including potential trails and trail connections**

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- 3) seek preliminary feedback from the Planning and Economic Development Board and/or its agents
- 4) ~~review potential open space, trails and trail connections~~
- 5) present a preliminary concept for handling stormwater runoff
- 6) discuss potential mitigation measures pursuant to paragraph 13. B) herein
- 7) and set a timetable for submittal of a formal application.

At the applicant's request and expense, the Planning and Economic Development Board may engage technical experts to review the applicant's informal plans and facilitate submittal of a formal application for an OSRD special permit.

- b) *Site Visit* – As part of a request for a pre-application review, the applicant shall grant permission to Planning and Economic Development Board and Open Space Committee members and agents to visit the site, either as a group or individually, so that they may become familiar with the site and its surrounding area.

(Paragraph 4. Replaced in its entirety – June 13, 2011)

5. **Four-Step Design Process** - At the time of the application for an OSRD Special Permit, an applicant is required to demonstrate to the Planning and Economic Development Board that the following *Four-Step Design Process* was performed with the assistance of a Registered Landscape Architect (RLA) and considered in determining the layout of proposed streets, house lots and/or dwelling units and open space.

- a) *Identify Conservation & Potential Development Areas*

- 1) Identify and delineate *Conservation Areas*: This includes:
 - a. *Primary Conservation Areas* such as wetlands, riverfront areas, and floodplains regulated by state or federal law, and verified by the Medway Conservation Commission through an Abbreviated Notice of Resource Area Delineation (ANRAD)
 - b. *Secondary Conservation Areas* including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views)
- 2) Identify and delineate *Potentially Developable Area(s)*. To the maximum extent feasible, the *Potentially Developable Area(s)* shall consist of land outside identified *Primary and Secondary Conservation Areas*.

The specific features of the parcel that are proposed to be preserved shall be identified. The Planning and Economic Development Board may require that certain features (including but not limited to specimen trees, stone walls, etc.) within the Potential Development Area be preserved.

- b) *Locate Dwelling Unit Sites* - Locate the approximate sites of individual houses and/or attached dwelling units within the *Potentially Developable Area(s)* and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

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- c) *Align the Streets and Trails* - Align streets in order to access the house lots or dwelling units. Additionally, new streets and trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, existing or proposed new open space parcels and trails on abutting public or private property.
- d) *Draw in Lot Lines*

A narrative and accompanying illustrations documenting the findings and results of each of the four steps shall be provided. *(Paragraph 5 was replaced in its entirety – June 13, 2011.*

6. OSRD Application

- a) Contents – An application for an OSRD Special Permit shall include:
 - 1) *Site Context and Analysis Plan* – The Site Context and Analysis Plan shall illustrate the tract’s existing conditions and its relationship with adjoining parcels and the surrounding neighborhood. Using existing data sources and field inspections, it should indicate the important natural resources or features within the site as well as on adjoining lands. Such resources include, but are not limited to, wetlands, streams and riparian areas, floodplains, steep slopes, ledge outcroppings, woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (including old structures and stone walls), unusual geologic formations and scenic views.
 - 2) *Concept Plan* - The *Concept Plan* shall be prepared by a Registered Landscape Architect, or by a multi-disciplinary team of which one member must be a Registered Landscape Architect. The *Concept Plan* shall show the Proposed Development Area (s) and the proposed Open Space Parcels and shall address the general features of the land, give approximate configurations of the lots, building footprints, open space, stormwater management facilities, utilities and roadways, pedestrian ways and include the information listed in Preliminary Plan section of the *Subdivision Rules and Regulations*. The *Concept Plan* shall incorporate the results of the Four-Step Design Process, according to Paragraph 5 above, and the Design Standards according to Paragraph 10 below, when determining a proposed design for the development.
 - 3) *Yield Plan* - See Paragraph 7 herein.
 - 4) *Design Plan* - The Design Plan shall include a preliminary design scheme for the development including, at a minimum, sample façade designs for the buildings and a preliminary landscaping identifying typical features such as fences, stone walls, light posts, or other items in addition to vegetation that are being considered.
 - 5) *Mitigation Plan* – Proposed mitigation measures in compliance with Sub-Section 13 (b) shall be included as part of the application.
 - 6) Narrative Statement that describes how the proposed OSRD meets the general purposes and evaluation criteria of this bylaw and why it is in the best interest of the Town to grant the OSRD Special permit rather than approve a conventional subdivision plan.

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- 7) *Other Information* – The submittals and permits of this section shall be in addition to any other applicable requirements of the Subdivision Control law or any other provisions of this Zoning Bylaw, including, but not limited to the Affordable Housing provisions of Section X.

(Paragraph 6 replaced in its entirety – June 13, 2011)

d) General Procedures – Upon receipt of an application for an OSRD Special Permit, the Planning Board shall, within fourteen (14) days of the filing of the completed application, distribute copies of the application, accompanying plans and other documentation to the Board of Health, Conservation Commission, Open Space Committee, Building Inspector, Department of Public Services, Police Chief, Fire Chief, Design Review committee, and the Town's consulting engineer and consulting planner for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all the required materials. Failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing the Planning Board is held prior to the expiration of the 35-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within the 35-day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departure from the recommendations of any reviewing party.

SAC NOTE – I am not sure what happened to this section as we did the most recent amendments! I may have deleted it by accident! P/O. We can easily make a notation of Paragraph 6.

7. *Maximum Number of Dwelling Units/Yield Plan*

- a) The maximum possible number of OSRD dwelling units shall be derived after preparation of a *Yield Plan*. The *Yield Plan* shall indicate the tract's total area (TA) and its wetland and riverfront area (WA). WA shall include those portions of the tract that are classified as wetland and/or are located within the 200' riparian zone of a perennial stream as determined by the Medway Conservation Commission. *(Revised June 15, 2009)*

The following formula shall be used to determine the maximum possible number of OSRD dwelling units that may be permitted. The resulting amount shall be rounded down to the nearest whole number.

$$\text{Maximum \# of OSRD Dwelling Units} = \frac{\text{TA} - (0.5 \times \text{WA}) - (0.1 \times \text{TA})}{\text{Zoning District Minimum Lot Area}}$$

- b) The maximum number of OSRD dwelling units may not necessarily be the number of units the Planning Board approves in the OSRD Special Permit. **In no case shall the number of dwelling units (including any bonus units that may result from Section X Affordable Housing) result in a density for the entire site that exceeds the highest density of the same number of existing contiguous dwelling units (exclusive of roadway right-of-way and lot area beyond 25%? above the minimum required area for that district) within 2500 feet of the site perimeter. [This might work in developed areas, but if the site is in an area without nearby development it probably does not work. Perhaps there could be an exclusion if there is no existing development within**

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500 feet or 1000 feet of the developed area or perhaps we could use the zoning district density for undeveloped areas]

8. **Adjustment of Dimensional Requirements** - The Planning and Economic Development Board may authorize modification of lot size, shape, and other bulk requirements for lots within an OSRD, subject to the following limitations:
- a) Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved, provided, however, that the Planning and Economic Development Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
 - b) Lot frontage shall not be less than fifty feet (50’).
 - c) Each lot shall have a front setback of at least twenty-five feet (25’) unless a reduction is otherwise authorized by the Planning and Economic Development Board.
 - d) Each lot shall have a minimum of fifty percent (50%) of the minimum required lot area for the zoning district in which it is located.
 - e) In order to allow flexibility and creativity in siting building locations while also promoting privacy, buildings shall be separated as follows:

Type/Size of Building	Average Separation Distance (feet)
Single family detached dwelling units with 2500 ft ² or less of habitable space	20
Two or three attached dwelling units with an average of 2500 ft ² or less of habitable space each	
Single family detached dwelling units with more than 2500 ft ² of habitable space	30
Four or five attached dwelling units with an average of 2500 ft ² or less of habitable space each	
Four or five attached dwelling units with an average of more than 2500 ft ² of habitable space each	35

The average separation distances shall be calculated based on the buildings that can be connected with an imaginary line that does not cross a roadway. Thus, on a through road, the separation distances on each side of the road shall be calculated separately. On a cul-de-sac, all of the buildings that can be connected by an imaginary line on both sides and around the bulb of the cul-de-sac shall be counted. On a loop road, the buildings on the exterior and interior of the loop will be calculated separately. Detached accessory buildings such as garages up to 2 bays and 1 story sheds of a size not requiring a building permit shall not be considered in calculating the distances between buildings.

- f) Garage doors facing the street shall be set back a minimum of five feet (5’) more than the front wall of the principle building. No more than fifty percent (50%) of the garage doors within an entire OSRD shall face the street from which it is accessed. These requirements may be waived by the Planning and Economic Development Board for corner lots where the garage door faces a different street than the front of the dwelling unit or for other extraordinary circumstances that the Planning and Economic Development Board deems to be in the Town’s best interests.

(Paragraph 8 replaced in its entirety – June 13, 2011)

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9. **Open Space Requirements** - A minimum of fifty percent (50%) of the tract shown on the development plan for **parcels of 25 acres or less** shall be open space. **For parcels of more than 25 acres, a minimum of sixty percent (60%) of the tract shown on the development plan shall be open space.** For purposes of this section, open space shall be considered to be land left in its natural state and/or land used for any of the purposes described in item (c) below. Open space is to be owned and managed as outlined in item (e) below. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- a) In the minimum required open space area (equal to 50% ~~or 60%~~ of the total area of the proposed OSRD parcel), the percentage of land that is a *resource area* (as defined and regulated by the Medway General Wetlands Protection Bylaw (ARTICLE XXII) shall not exceed the percentage of the total tract that is a *resource area*; provided, however, that in any proposed open space beyond the minimum required, the applicant may include a greater percentage of *resource area*.
(Revised May 14, 2007 & June 15, 2009)
- b) The open space shall be contiguous. Open Space will be considered as contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw and/or protect the identified Primary and Secondary Conservation Areas. **In either case, the open space shall be integrated into the development and/or abutting areas in a manner that maximizes its visibility and function.**
- c) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, parks, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. **For developments in which 60% of the tract is open space, the Planning Board may permit up to 10% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., ~~pedestrian walks and bike paths, playgrounds, or other recreation facilities~~). For developments with less than 60% of open space, use of the space shall be limited to pedestrian walks, picnic areas or other passive uses. Open space along the water may be used for water-based recreation purposes such as canoe launches, fishing piers, etc.** The open space shall be accessible to the public, unless the Planning Board waives this requirement because it deems that it is in the best interests of the Town to do so. The Planning Board may require a minimum number of off-street parking spaces to facilitate such public access.
(Revised June 15, 2009)
- d) While protecting resources and leaving land in its natural state is a primary goal, the Planning Board also encourages the use of open space to provide active and passive recreation in the form of commons, parks and playgrounds to serve the needs of the development and surrounding neighborhoods.
- e) The following shall not qualify toward the required minimum open space area:
 - 1) Surface stormwater management systems serving the OSRD such as retention and detention ponds.
 - 2) Sub-surface drainage, septic and leaching systems per Title 5
 - 3) Seventy-five percent (75%) of the land area subject to any type of utility easement
 - 4) Land within thirty feet (30') of any dwelling unit

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- 5) Local Convenience Retail buildings or Community buildings or other buildings housing common facilities and any associated parking.
- 6) Median strips, landscaped areas within parking lots or landscaped areas on individual home lots.
- 7) Strips of land equal to or less than fifteen feet (15') wide, unless, in the opinion of the Planning and Economic Development Board, they serve as necessary pedestrian connectors to a public way, trail, or another open space parcel.
- 8) Buffer areas in the Development Area as required in Subsection 10 (i)

(Revised June 13, 2011)

- f) Ownership of the Open Space - The open space shall, at the Planning Board's discretion, be conveyed to:
- 1) The Town or its Conservation Commission, upon its agreement;
 - 2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above, upon its agreement;
 - 3) A corporation or trust owned jointly or in common by all owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed of trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.
- g) The Planning and Economic Development Board shall make the final determination regarding the open space parcels. This shall include the location, size, shape, configuration and use of all proposed open space. Following such a determination, the Board may consider this to be an inappropriate contribution of open space and may require additional land to satisfy this requirement.

(Item 9. g) revised June 13, 2011)

10. ***General Design Standards*** – The following General Design Standards shall apply to all OSRDs and shall govern the development and design process:
- a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.
 - b) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.

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- c) **Dwelling units and associated accessory buildings, parking, drainage facilities, landscaping, lighting, etc. shall be located to maximize views of the open space for residents of the development, abutting properties and passersby to the extent practicable.**
- c) The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.
- d) All open space (*landscaped and usable*) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- e) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
- f) **Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.**
- g) **Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning Board.**
- h) Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space. *(Added May 14, 2007)*
- i) A minimum fifteen foot (15') wide buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, acceptable to the Planning and Economic Development Board, shall be located on the perimeter of the Development Area where it abuts existing neighborhoods unless a reduction is otherwise authorized by the Planning and Economic Development Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements. *(Revised June 13, 2011)*
- j) **Parking – A minimum of three (3) off-street parking spaces shall be required for each dwelling unit. The Planning and Economic Board may require additional off-street parking areas for use in common by residents and their guests. Locations for additional guest parking shall be shown on the Concept Plan.** *(Revised June 13, 2011)*
- k) Sidewalks shall be provided along the entire frontage of the OSRD tract along existing Town ways, including the frontage of any lots held in common ownership with the parcels within five (5) years prior to the submission of the OSRD Special Permit application. In those instances where sidewalk construction is not feasible or practical, the Planning Board shall require that the applicant support sidewalk construction elsewhere in the community. This may be accomplished either by constructing an equivalent length of sidewalk elsewhere in the community as recommended by the Department of Public Services or by making a payment in lieu of sidewalk construction to the Town of Medway's Sidewalk Special Account in an amount determined by the Planning Board at the recommendation of the Town's Consulting Engineer. *(Added June 15, 2009)*

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- l) Pedestrian circulation measures shall be provided to facilitate movement within the Development area as well as between it and the Open Space and the abutting existing neighborhood(s). *(Added June 13, 2011)*
- m) Trails shall be provided to facilitate public access to the Open Space unless the Planning and Economic Development Board finds that it is not in the best interests of the Town to locate a trail on a particular parcel. *(Added June 13 2011)*

11. ***Decision of the Planning Board*** - The Planning Board may grant an OSRD Special Permit if it determines that a proposed OSRD has less detrimental impact on the tract than a conventional subdivision development proposed for the tract, after considering the following factors:

- a) Whether the OSRD achieves greater flexibility and creativity in the design of residential development than a conventional plan;
- b) Whether the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archeological resources;
- c) Whether the OSRD promotes less sprawl and a more efficient form of development that consumes less open land and better conforms to existing topography and natural features than a conventional subdivision;
- d) Whether the OSRD reduces the total amount of disturbance on the site;
- e) Whether the OSRD furthers the goals and policies of Medway's Open Space and/or Master Plan;
- f) Whether the OSRD facilitates the construction and maintenance of streets, utilities, and public services, in a more economical and efficient manner; and
- g) Whether the *Concept Plan* and its supporting narrative documentation complies with all sections of this Zoning By-Law.
- h) Whether the design of buildings within the OSRD is consistent or compatible with traditional New England architectural styles as further described in the Planning Board's *Design Review Guidelines*.
- i) Whether the OSRD is compatible or in harmony with the character of adjacent residential neighborhoods.
- j) Whether the OSRD will have a detrimental impact on abutting properties and residential neighborhoods.
- k) Whether the impact of the OSRD on abutting properties and residential neighborhoods has been adequately mitigated.
- l) Whether the OSRD protects and enhances community character

(Items 11 (h) – 11 (l) added May 14, 2007)

An OSRD Special Permit decision shall include the approved *Concept Plan*. The OSRD Special Permit Decision shall specifically state that the OSRD Definitive Plan shall substantially comply with the approved *Concept Plan*. The applicant shall record the OSRD Special Permit Decision/*Concept Plan* at the Norfolk County Registry of Deeds. *(Added June 2, 2008)*

12. ***OSRD Definitive Plan***

- a) Subsequent to recording the OSRD Special Permit Decision and *Concept Plan* at the Registry of Deeds, the applicant shall prepare and submit an OSRD Definitive Plan to the Planning Board. The OSRD Definitive Plan shall include all plan changes as may be required by the conditions of the OSRD Special Permit.
- b) The Inspector of Buildings shall not issue a building permit for any building or structure authorized by an OSRD Special Permit unless the Planning Board has approved or conditionally approved and endorsed an OSRD Definitive Plan, filed such with the Town Clerk and provided such to the Inspector of Buildings,
- c) An OSRD Definitive Plan shall comply with the application contents, review process, and Design & Construction Standards of the *Subdivision Rules and Regulations* for a definitive subdivision plan, except that another traffic study and development impact report are not required. The Planning Board may agree to waive/vary those standards upon written request of the applicant, provided that the Planning Board finds that it is in the best interests of the Town to do so.
- d) In cases where a definitive subdivision plan is not technically necessary (e.g. a multi-family condominium project), the Planning Board will consider site design features that are normally the subject of Site Plan Approval (SECTION V. USE REGULATIONS, Sub-Section C of the Medway Zoning Bylaw) such as parking, lighting, landscaping, site amenities, etc. The Development Standards of the Planning Board's *Site Plan Rules and Regulations* shall be adhered to. The OSRD Definitive Plan shall be prepared to comply with those standards. The Planning Board may agree to waive/vary those standards, upon written request from the applicant, provided that the Planning Board finds that it is in the best interests of the Town to do so.
- e) The OSRD Definitive Plan shall substantially comply with the approved OSRD *Concept Plan*. An OSRD Definitive Plan will be considered not to substantially comply with the approved *Concept Plan* if the Planning Board determines that any of the following conditions exist:
 - 1) An increase in the number of building lots;
 - 2) A decrease in the open space acreage of more than 5%;
 - 3) A significant change in the lot layout;
 - 4) A change in the general development pattern which, in the opinion of the Planning Board, adversely affects natural landscape features or other features identified for preservation in the approved *Concept Plan*;
 - 5) A change to the stormwater management facilities which, in the opinion of the Planning Board, adversely affects natural landscape features or other features identified for preservation in the approved *Concept Plan*; and/or,
 - 6) Changes in the wastewater management systems, which, in the opinion of the Planning Board, adversely affect natural landscape features or other features identified for preservation in the approved *Concept Plan*.

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- f) If the Planning Board determines that the OSRD Definitive Plan does not substantially comply with the approved *Concept Plan*, the Board may disapprove the OSRD *Definitive Plan* for failure to comply with the conditions of the OSRD Special Permit.
 - g) The Planning Board may conditionally approve an OSRD Definitive Plan that does not substantially comply with the approved *Concept Plan*. However, such conditional approval must identify where the OSRD Definitive Plan does not substantially comply with the approved *Concept Plan* and shall require that the applicant file an application to modify the OSRD Special Permit within a specified time period in order to amend the approved *Concept Plan* by incorporating the significant changes identified by the Planning Board. The public hearing on the application to amend the OSRD Special Permit and *Concept Plan* shall be limited to the significant changes identified by the Planning Board in their conditional approval of the OSRD Definitive Plan.
(Paragraph 12 added 6-2-08)
 - h) The OSRD Definitive Plan shall be recorded at the Norfolk County Registry of Deeds.
(Item h) added June 15, 2009)
- 13) ***OSRD Special Permit Provisions*** - Depending on the nature of the particular OSRD, the Planning Board may, as a condition of any Special Permit for an OSRD, establish conditions, limitations and safeguards; require construction observation/inspection, bonding or other performance guarantees, plan compliance measures and the submittal of as-built plans; and establish reasonable mitigation measures which the Board believes are in the Town's best interests.
(Corrected June 15, 2009)
- a) ***Conditions, Limitations and Safeguards*** - The Planning Board may require conditions, limitations and safeguards to promote the health, safety, convenience and general welfare of the community including, but not limited to, the following:
 - 1) Plan revisions and design modifications to preserve property values, preserve aesthetic or historic features, maintain compatibility with existing uses, and promote the attractiveness of the community.
 - 2) Controls on the location and type of access to the site;
 - 3) Controls on the number, type and time that service and delivery vehicles access the site;
 - 4) Provision for preservation of scenic views;
 - 5) Limitations on the hours of operation for any Local Convenience Retail Use or Community Center/Building included in the OSRD;
 - 6) Conditions to minimize off-site impacts and environmental quality during construction;
 - 7) Requirements to screen parking facilities from adjoining premises or from the street by walls, fences, plantings or other devices to mitigate adverse impacts;
 - 8) Conditions to minimize the adverse impacts of the development on abutters and the adjacent neighborhood, including but not limited to

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adverse impacts caused by noise, dust, fumes, odors, lighting, headlight glare, hours of operation, or snow storage.

- b) ***Mitigation Measures*** – The Planning Board may require reasonable mitigation measures to offset adverse impacts of the development on the community, including but not limited to:
- 1) requirements for off-site improvements up to a maximum value of six percent (6%) of the *total development cost* of the proposed project to improve the capacity and safety of roads, intersections, bridges, pedestrian access, water, sewer, drainage, and other public facilities and infrastructure including traffic signals/controls, or municipal services, sufficient to service the development project. The *total development cost* shall mean the total of the cost or value of land and all development related improvements and shall be determined on the basis of standard building or construction costs published in the *Engineering News Record* or other source acceptable to the Planning Board, for the relevant type of structure(s) and use (s).
 - 2) Donation and/or dedication of land for right-of-way to provide for roadway and/or intersection widening or improvements. *(Added 11-10-08)*

(Sub-Section T. was replaced in its entirety June 6, 2005)

DRAFT

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August 16, 2011

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Middlesex Savings Bank
6 Main Street
Natick, MA 01760

Attn.: Mr. Doug Rosenau

**DEMAND FOR RELIEF UNDER MASSACHUSETTS GENERAL
LAWS CHAPTER 93A**

Dear Mr. Rosenau:

Please be advised that this office is town counsel to the Town of Medway, Massachusetts. This is a formal demand letter pursuant to Massachusetts General Laws chapter 93A. It is a demand for relief and damages on behalf of my client for the unfair, deceptive, and unreasonable practices employed by the Middlesex Savings Bank with regard to the surety held by the Middlesex Savings Bank for the completion of the Claybrook II Subdivision in Medway.

On or about May 7, 1997, the Middlesex Savings Bank (the Bank) entered into an agreement (the agreement) with the Town of Medway (the Town), and Philip Wax and Jon Mark Delli Priscoli as Trustees of the Claybrook II Development Trust (the applicant). A copy of that agreement has been provided to you previously, but another copy is enclosed for your convenience. This agreement was to secure the construction of ways and installation of municipal services in the Claybrook II Subdivision (the Subdivision). Under the agreement, the applicant and Bank bound themselves to the Town, through its Planning Board (now the Planning and Economic Development Board) in the amount of \$91,000 to secure the obligations of the applicant to complete the construction of ways and installation of municipal services in the Subdivision. In September of 1997, the Planning Board voted to release a portion of the surety, reducing the amount to \$42,190 (this amount does not include any accumulated interest.)

The agreement provides, among other things, that the "lender hereby agrees that none of the funds retained as security, as specified herein, shall be disbursed to the applicant without the prior written release of said funds by the Planning Board." The agreement further provides: "In the event that after the expiration of the time set forth in the documents 1-4 above...the Applicant has failed to complete any stage of construction, and further provided that the Town has notified the Applicant by certified mail of the Applicant's failure to properly complete and a period of 30 days has elapsed since the Applicant was given notice, than any funds remaining undisbursed shall be made available in whole, or in part, by the lender to the Planning Board for the benefit of the Town of Medway to the extent of the reasonable cost to the Town of completing such construction or installation as specified in this Agreement." The applicant was notified by certified mail on June 2, 2010 that the Subdivision had not been properly completed, and further notified on June 24, 2010, again by certified mail, that the Planning Board had found the subdivision in default. Copies of those letters are also enclosed for your reference.

On August 6, 2010, the Bank was notified by certified mail that the Subdivision was in default and that notice had been provided to the applicant more than 30 days prior. The Bank was notified to deliver to the Town the surety money that the Bank should have been holding pursuant to the Agreement. On behalf of the Bank, you informed the Planning Board, through its representative, Susan Affleck-Childs, that the Bank had discharged the mortgage, and therefore was not holding any of the funds as required by the agreement. The Bank's action was in direct contravention of the Bank's agreement with the Town.


Since that time, Ms. Affleck-Childs has contacted the Bank on numerous occasions in an effort to obtain the funds that rightly should be paid over to the Medway Planning Board to be used toward the completion of the Subdivision. The Bank has failed, neglected, and refused to provide the funds to the Town as required by the agreement. The Bank's failure to do so constitutes a breach of the Bank's agreement with the Town.

As a direct and proximate result of the Bank's unfair, deceptive and unreasonable practices, the Town has been damaged in the amount of \$42,190 plus accumulated interest. The Town hereby demands immediate payment of \$42,190 plus accumulated interest. **This letter requires a written response and/or tender or offer of settlement within thirty days from receipt hereof. Failure to respond with a reasonable settlement offer within said thirty days may subject you to an award of double or triple damages and attorneys' fees. Please note that if you fail to tender a written offer within thirty days, the Town shall have the right to commence legal action in this matter.**

Middlesex Savings Bank
August 16, 2011
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Please direct all further communications in this matter to my office.

Very truly yours,



Barbara J. Saint André

Enclosures

cc: Board of Selectmen
Planning and Economic Development Board