

**October 9, 2012  
Medway Planning and Economic Development Board  
155 Village Street  
Medway, MA 02053**

**BOARD MEMBERS PRESENT:** Bob Tucker, Karyl Spiller-Walsh, Tom Gay and Chan Rogers. Andy Rodenhiser entered the discussions after 8:30 pm.

**ABSENT WITHOUT NOTICE:**

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

The Vice Chairman opened the meeting at 7:05 pm.

There were no Citizen Comments.

**ANR Plan - 34 Broken Tree Road:**

The Board is in receipt of an ANR application for 34 Broken Tree Road which was completed by Paul DeSimone of Colonial Engineering.

This was submittal was for applicant Michael Curatola and Michael Sheehan.

The Board has a letter dated October 1, 2012 from Colonial Engineering, Inc. **(See Attached)**

The Board is also in receipt of a review memo commenting on the ANR Plan Submittal from Gino Carlucci, PGC Associates dated October 4, 2012. **(See Attached)**

The applicant provided revised plans indicating the zoning district and the applicable minimum lot area as had been recommended by PGC Associates.

The applicant will provide 5 copies to the Planning Board office.

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to endorse the ANR Plan for 34 Broken Tree Road as revised. (Member Gay abstained from vote)**

**Consultant Reports**

**Dave Pellegrini, Tetra Tech Rizzo:**

Consultant Pellegrini indicated that the Applegate project is still on hold until there is a resolution in relation to the drainage. The testing results came back and everything passed.

**Gino Carlucci, PGC Associates:**

Consultant Carlucci communicated that he has not followed up with Brookline in regards to the sign bylaw. He will have something by the next meeting.

The next SWAP meeting will be October 17, 2012 in Franklin.

Funding for the SWAP Transit Feasibility Study was approved by Metropolitan Planning Organization (MPO).

**Susy Affleck-Childs, Planning and Economic Development Coordinator's Report**

There will be an Open Meeting Law workshop held on Thursday October 11, 2012 at 7:00 pm. There will be an all Board meeting to follow.

There will be a meeting of the Community Preservation Committee on Tuesday October 16, 2012. The purpose of the meeting is to discuss the Thayer house project and proposed CPA funding for it. Board members are welcomed to attend.

The Economic Development Specialist Claire O'Neil started October 1, 2012.

**Public Hearing Modification to Bay Oaks Definitive Subdivision Plan:**

Vice Chairman Tucker opened the public hearing on the **MODIFIED** Bay Oaks Subdivision Plan. That plan is dated August 15, 2012.

The subject parcel is an 8.78 acre site located at 104 Fisher Street.

The property owner is Andy Rodenhiser of Medway, MA.

Andy Rodenhiser is an elected member of the Planning and Economic Development Board. He will NOT participate in this public hearing as a board member. He may participate as the owner of the subject property.

For the benefit of those present in the audience, please be aware that this meeting is being videotaped, recorded and is broadcast live on Medway local cable access.

Introductions of the Board were done. It was indicated that he, Bob Tucker, is the Vice-Chairman of the Planning and Economic Development Board. I would like to introduce my fellow Board members to you. Karyl Spiller-Walsh is to my right. Chan Rogers and Tom Gay are to my left.

Also at the table with us are:

- Gino Carlucci of PGC Associates, our planning consultant
- Dave Pellegrini of Tetra Tech, our engineering consultant
- Susy Affleck-Childs, Medway's Planning and Economic Development Coordinator, and

- Amy Sutherland, our meeting recording secretary. Amy takes notes of the entire meeting for the preparation of the official meeting minutes.

State law requires a municipal planning board to hold a public hearing on any proposed subdivision plan or any modification to an approved definitive subdivision plan. The public hearing usually occurs over the course of several meetings. The board must also issue a written decision regarding the plan. That decision is called a Certificate of Action and is filed with the Town Clerk.

The original Bay Oaks Definitive Subdivision Plan dated May 18, 2012 was “constructively approved” on September 3, 2012. This occurred because neither a Certificate of Action or a deadline extension were filed within 90 days of the date the original Bay Oaks subdivision application and plan were submitted to the Town on June 5, 2012.

Pursuant to that “constructive approval” the subject property is now legally divided into 4 lots.

The Planning and Economic Development Board met on September 18, 2012 and decided to initiate proceedings to amend the constructively approved Bay Oaks Subdivision Plan dated May 18, 2012.

The public notice requirements for the hearing on the modified plan have been satisfied. On September 19, 2012, a public hearing notice was sent to all owners of property located within 300 feet of the development site in both Medway and Holliston and to all parties of interest. The official legal notice for this public hearing was posted at the Medway Town Clerk’s office and on the Town’s web site on September 19, 2012. The legal advertisement was published in the *Milford Daily News* on September 24 and October 2, 2012.

On September 25, 2012, Town boards and departments were notified of the public hearing on the modified plan. .

The ground rules for how tonight’s public hearing will proceed were covered.

1. The Board will enter into the record all of the various documents pertaining to this subdivision that it received or compiled on June 6, 2012 and after.
2. The Board will enter into the record any new information which has been prepared since its September 18, 2012 decision to initiate proceedings to modify the constructively approved plan.

3. Next, the public will have its opportunity to speak. The comments should pertain only to the modified plan dated August 15, 2012. There is no need to repeat previously provided comments. If you wish to comment or ask a question, please raise your hand. I will recognize all speakers and responders. When called upon, please come forward to the microphone, state your name and address so our recording secretary can have accurate information for the record. You may offer comments, ask questions, or read a prepared statement. If you have a prepared statement, please provide a copy to Amy.
4. After all citizens/residents and their representatives have been given the opportunity to speak, we will then move to any Town staff and representatives of other Town boards or committees. If anyone is present from Town staff, they should come forward to the microphone; state their name and which department or committee they represent. They may offer comments, ask questions and make suggestions for improvements and additional information.
5. After that, we will return to Board members for additional comments and further discussion.

Based on the information gathered and the comments we receive this evening, the Board will determine its next steps. Most likely, we will continue the public hearing to a specific future date and time that we will announce at the end of tonight's hearing.

The public was informed that the Board does not need to re-notify the abutters regarding the next public hearing date. So please take note of the date and time that will be announced. Susy will post a public hearing continuation notice with the Town Clerk. You may also call the Town's Planning and Economic Development office at any time to check on the date and time.

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to waive the reading of the public hearing notice.**

NOTE – The public hearing notice is Attached.

Member Rogers communicates that this is an example of why the Massachusetts subdivision control process is so expensive and the highest in the country. This is a problem.

Susy Affleck-Childs explains that there is a draft of the decision on the modified definitive subdivision plan and the draft references all of the documents which were previously provided. This includes all the review letters, reports, consultant recommendations, public professional and citizen testimony and all information provided during the public hearings. The dates of the professional testimony were included along with reference to the departmental review comments.

The new information which will be entered into the record includes:

1. Sidewalk construction estimate prepared by Tetra Tech Rizzo dated September 19, 2012 **(See Attached)**
2. Copy of the Town Clerk's Certificate of Failure to Act dated September 25, 2012. **(See Attached)**
3. Text for page 12 of the draft decision from Consultant Gino Carlucci. **(See Attached)**
4. Letter from Attorney Deborah Batog of Gilmore Rees & Carlson dated October 5, 2012. **(See Attached)**. Ms. Batog is attorney for the Giovanella family, an abutting property owner.

Vice Chairman Tucker indicated that he did review the comments from both attorneys.

Attorney Batog began by indicating that she sent a letter as a submission in an email dated July 26, 2012 with attachments that was not listed in the decision. The letter of October 5, 2012 was noted and the only question is in regards to procedure. Were there any other cases where the Board failed to render a decision within the last year?

Susy Affleck-Childs responded that this is the first time this has happened in twelve years.

Attorney Batog wanted to know if there were any changes since the August 15, 2012 plan.

Susy Affleck-Childs responded that the plan did evolve but there were no changes on the definitive plan.

Vice Chairman Tucker communicated that the Board had two options. One option is to do nothing and let the constructive approval stand. The other option is to modify the plan and render a decision on the modified plan. The board decided as a group to proceed with option two. This discussion took place at the September 18, 2012 meeting.

Mr. Rodenhiser indicated that he was willing to extend time under the circumstances, but Counsel has said it was mute.

Attorney Batog responds that her client is not opposed to this project, but her clients want more say on the findings, waivers and conditions regarding the permanent private way and future forward concerns. She wants to look to see if there is something to be done in the Certificate of Action.

She further communicates that this Certificate of Approval raises a red flag and is suspect to begin with. She has spoken with other counsels in other towns who indicated they had advised planning boards that it may be better to not render a decision when there are abutter issues. There is case law. The project has components that raise red flags and the process has become muddied due to certain requirements. She indicated that she appreciates the Board coming back to look at this as a modification and she hopes that the conditions and findings address her client's concerns.

Member Spiller-Walsh wanted it communicated crystal clear that we do not have any abutter issues on this project. We have combed through this meticulously. Over the last 15 years, the Board has been more that squeaky clean.

Member Rogers responded that it was reopened so that your clients would be heard.

Attorney Batog noted that this is confusing to lay people who have never been in this situation. It is reflective of the statute and how it was written regards to the timeframes.

Member Rogers noted that all people are losers in this case. This is an increase in delay. He tried to get the statutes changed over the years and there is no movement to change this. It is an archaic process and what we have to put up with this.

Attorney Batog responds that it is unfortunate that the applicant was not up front with her client in the first place about purchasing the land.

Member Rogers noted that this situation make it difficult for all, the applicant, the abutters, and the Board. This is an unusual site.

Mr. Rodenhiser takes dispute with Attorney Batog's characterization about communications between him and the Giovanellas that she who was not party to. These were discussions had with the Giovannella that it was a non-buildable lot was referenced by me. If I had bought that land, I could have not added more to what is being provided. That land has no benefit to them. They were the architect to the subdivision originally by dividing the property and they did not retain frontage anywhere. It requires a road since there is no frontage. They created their own hardship. The purchase price he offered was fair if it was open space based on what it is assessed at.

Susy Affleck-Childs wanted to know if a timeframe could be provided relative to the conversation and with whom.

Mr. Rodenhiser indicated that it was the three Giovanellas in 2011.

John Giovanella responded that the timeframe of the discussion was two weeks before the abutter notices were received. Mr. Rodenhiser offered to buy the land and stated that this was a non-buildable lot along with his lot and the adjacent lot. Mr. Rodenhiser had agreed to relocate the right of way and Mr. Giovanella's father did not agree to the terms and it was relocated to lower right side. Since then, Mr. Rodenhiser did offer a low value considering they are being taxed on it as a "buildable" lot. We always had a 60 foot wide right of way and the other one to the right which is 50 foot wide. Mr. Rodenhiser communicated that he had the site flagged and we were told there were vernal pool flaggings. Mr. Rodenhiser said that the Board would never allow them to divide their land. Mr. Giovanellas said no thanks to Mr. Rodenhiser and stated if you want to give us a better offer, then we might consider it. He came back with another offer. His mother asked him what he would like to do with property. Mr. Rodenhiser commented that he loves nature and would leave it. He never said that a subdivision would be built. The next few days after our discussion, we received a letter in the mail (from the Planning Board) about the hearing. Mr. Rodenhiser called back and said go try to get it approved. It will not go through. He said that he will not let us develop.

Vice Chairman Tucker responded that Mr. Rodenhiser does not make the decisions for the Town of Medway. The conversations did take place and this gives the Board more history and he appreciates the information. He does not discredit what anyone was saying.

Attorney Batog responds that in regards to the Right of Way, Racicot owned the original right of way and then it went to Dean Cooperative Bank who then went in on an ANR with a modification. The ANR plan identifies the location of the existing driveways and cart path which burden Lot 6A. There are references about this in the paperwork she provided.

Mr. Rodenhiser responded that this is not testimony. It is what Attorney Batog thinks. Mr. Rodenhiser explains that he has title insurance and no claims came forward. This is about sour grapes and should not have any bearing on this project. The easements are protected and referenced. If the Giovanellas offered to buy land, they could have and I would have been happy to allow them to do so. They want a price for this land which is not part of this process. Mr. Rodenhiser states that his time is being wasted talking about a land deal that really has nothing to do with anything.

Attorney Batog responds that this is relevant to impeachment and the credibility or the representation of the witnesses.

Member Spiller-Walsh asks what is wrong with the credibility of the existing easements and we have gone to great lengths to make sure they are protected. Where is the contention? We have protected their easements with great care and professionalism.

Attorney Batog is concerned with the fact that the existing permanent private way is not being looked at. The Board is only looking at the extension. The extension and adequate access goes beyond and the applicant owns this and it is within his control.

Vice Chairman Tucker responds that he is not the only ownership of that.

Attorney Batog responds that the applicant has a full right to construct within the 50 ft. road, and 15 ft. slope easements on each side.

Member Spiller-Walsh responds that the Board has given more than enough time to this and has included a good summation about maintenance in the findings and it was done with clarity about what exists at the site.

Attorney Batog indicates that sidewalks could run all the way up Fisher St.

Member Gay asks Attorney Batog why you would want a boulevard to turn into a cart path.

Attorney Batog responds that this is not a cart path.

Vice Chairman Tucker responds that this has already been discussed. We need new information.

Member Rogers responds that this is an existing condition that you cannot change.

Attorney Batog indicated that this is an issue about the waivers.

Member Spiller-Walsh responds that the Board was advised by Town Counsel that the access road was outside the purview of the presentation and was not for us to consider. That all became mute upon that opinion from counsel.

The Board next discussed the draft decision which was dated October 9, 2012. **(See Attached)**

Susy noted the draft does not include minor changes that have been provided by town counsel.

The focus of the discussion will start with the sidewalk waivers. This was referenced on page 8 of the decision. The estimate for payment in lieu of sidewalk construction is \$5450.00. This is for a length of 166 ft.

Vice Chairman Tucker wants to stay consistent in relation to the contingency relative to sidewalks.

Mr. Rodenhiser communicated that after speaking with his Attorney it was explained that if he has to do offsite improvement, he should construct the sidewalk on the development site. Does the Board object to blue stone versus asphalt?

Vice Chairman Tucker communicated that with the sidewalk will have to meet the ADA requirements.

Mr. Rodenhiser will speak with his engineer about the sidewalks.

Consultant Pellegrini indicated that he could build with stone dust.

Attorney Batog wanted to know if the plan would need to be modified to show the sidewalks in relation to what was presented to the Conservation Commission.

Mr. Rodenhiser noted that he has no problem going to Conservation Commission for a change.

Susy Affleck-Childs recommends that the hearing is kept open to new information which might be presented.

Member Spiller-Walsh noted that adding sidewalks may have an impact on the stormwater management. This is another component. Does this become a double edge sword?

The Board next moved to discuss the fire alarm section of the decision which was referenced on page 9.

Mr. Rodenhiser would like to install early notification which goes directly to the Fire Department. This is a hard wire system.

Susy Affleck-Childs will follow-up with the Fire Department and ask.

The next section discussed was the Other Findings. Town Counsel has indicated that the first three topics are not needed as the decision pertains to the MODIFICATION.



Consultant Carlucci provided suggestions to the Other Findings section of draft Certificate of Action in a communication dated October 7, 2012. **(See Attached)**

The first item is in relation to the road ownership for lower and upper Dover Lane. The Board finds that the ownership and maintenance responsibility for both the existing and extended segmented of Dover Lane should be consolidated into a single entity.

The second item is in relation to the on-going roadway maintenance of lower Dover Lane. The Board discussed that the homeowners association is critical to ensure that sanding and plowing is performed in a timely manner.

The third item is in regards to the stormwater flow off of Dover Lane. The Board would like to see this monitored to ensure that the Fisher Street catch basins continue to function adequately and that there is not an increase in flow to properties across Fisher Street from Dover Lane.

The recommendations from Town Counsel will also be included.

The follow-up items include:

1. Fire Alarm
2. Sidewalks

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to continue the Bay Oaks public hearing until Thursday, October 18, 2012 at 7:00 pm at the Medway Senior Center.**

There will be a special executive session meeting on October 30, 2012 to discuss Oak Grove. Town Counsel will be at the meeting.

Member Karyl Spiller-Walsh was excused at 8:33 pm.

#### **Bay Oaks Subdivision – Construction Services**

The Board is in receipt of a construction estimate from Tetra Tech Rizzo dated September 12, 2012. **(See Attached)**

**On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted to approve the construction estimate for BAY Oaks in the amount of \$5,295.06. Member Rogers was a no vote. Mr. Rodenhiser abstained.**

This vote passes.

Member Rogers noted that we need to be more conscientious about what we charge the applicants. This is absurd. We are being irresponsible.

NOTE – Andy Rodenhiser joined the meeting as a PEDB member when the public hearing on Bay Oaks was concluded for the night.

**Land Gifting Guidelines:**

The Board is in receipt of the revised Land Gifting Guidelines dated October 4, 2012. **(See Attached)**

The Land Gifting Guidelines were reviewed by both Susy Affleck-Childs and Consultant Carlucci. They have included more clarification and details were added.

**On a motion made by Tom Gay and seconded by Chan Rogers, the Board voted unanimously to endorse the land gifting guidelines with the revisions provided and with further comments offered by Jim Wieler.**

**Russ Santoro: Road Entry for Village Estates**

The Board is in receipt of an email from Russ Santoro dated October 4, 2012. **(See Attached)**

Mr. Santoro was present and wanted to inform the Board that he has been in communication with Jim Smith of the Medway Highway Department about the sidewalks on Village Street. Mr. Santoro would like to use concrete curbs at the entry of the street to his subdivision instead of granite curbs as presently approved and wants the Board's permission. This way the curbing would match.

NOTE – This subdivision plan has not yet been endorsed by the Board.

Consultant Pellegrini agrees that this would be a preferred approach

One option is for Russ to just do this and have it show up on the as-built plan as a field change.

Susy noted this could be handled at a board meeting as a minor subdivision modification. This would not have to be a public hearing. But we could issue a memo approving the change.

It was agreed this will be put on as an agenda item for the next mtg.

**Letter to Ralph Costello:**

There was a neighborhood meeting on September 26, 2012 with residents of Goldenrod Drive and Cardinal Circle to discuss street acceptance for the Meadows Subdivision.

Susy reported that Tetra Tech has provided a punch list from a recent inspection.

The Board is in receipt of a draft letter to Ralph Costello from Andy Rodenhiser dated October 3, 2012. **(See Attached)**. It was recommended that there be a date indicated for Mr. Costello to respond back. Susy will revise and send out.

**PEDB Meeting Minutes:**

**September 18, 2012:**

**On a motion made by Karyl Spiller-Walsh and seconded by Bob Tucker, the Planning and Economic Development Board voted unanimously to accept the minutes from August 28, 2012. (Andy Rodenhiser abstained.)**


**September 25, 2012:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Planning and Economic Development Board voted unanimously to accept the minutes from September 11, 2012. (Andy Rodenhiser abstained).**

**Adjourn:**

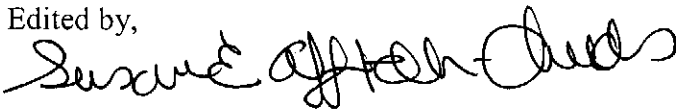
**On a motion made by Tom Gay and seconded by Chan Rogers, the Board voted unanimously to adjourn the meeting at 9:40 pm.**

Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary

Edited by,



Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

COLONIAL ENGINEERING, INC.  
Surveying and Engineering

11 AWL STREET  
MEDWAY, MA. 02053  
(508) 533-1644  
(508) 533-1645 FAX

October 1, 2012

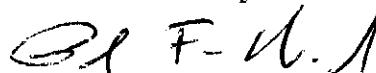
Medway Planning Board  
Medway Town Hall  
155 Village Street  
Medway, Ma. 02053

Re: 34 Broken Tree Road

Dear Board Members,

Our client Mr. Michael Sheehan is subdividing 3.67 acres of land located at 34 Broken Tree Road into one conforming lot with Parcel A, a non buildable lot to be deeded to the abutting owner. If you have any questions please do not hesitate to call.

Sincerely



Paul F. DeSimone GM

LAND SUBDIVISION - FORM A

RECEIVED

OCT 01 2012

TOWN OF MEDWAY  
PLANNING BOARD

Application for Endorsement of Plan  
Believed Not to Require Subdivision Approval (ANR)

Planning & Economic Development Board - Town of Medway, MA

RECEIVED  
OCT 1 2012

INSTRUCTIONS TO APPLICANT/OWNER

This Application is made pursuant to the Medway Planning Board Subdivision Rules and Regulations. Please complete this entire Application. Submit two (2) signed originals of this Application, one (1) copy of the ANR Plan, and one (1) Project Explanation to the Town Clerk who will date stamp the Applications. Provide one (1) original ANR Application date stamped by the Town Clerk, one (1) Project Explanation, eight (8) copies of the ANR Plan, and the appropriate ANR Filing Fee to the Medway Planning & Economic Development office.

The Applicant certifies that the information included in this Application is a true, complete and accurate representation of the facts regarding the property under consideration.

In submitting this application, the Applicant and Property Owner authorize the Planning & Economic Development Board and its agents to access the site during the plan review process.

The Town's Planning Consultant will review the Application, Project Explanation and ANR plan and provide a recommendation to the Planning & Economic Development Board.

You or your duly authorized agent is expected to attend the Board meeting at which the ANR Plan will be considered to answer any questions and/or submit such additional information as the Board may request in connection with this Application. Your absence may result in a delay in its review.

10/1 2012

TO: The Planning & Economic Development Board of the Town of Medway, MA

The undersigned, wishing to record the accompanying plan of property in the Town of Medway and believing that the plan does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits this Application and ANR Plan to the Medway Planning and Economic Development Board and requests its determination and endorsement that the Board's approval under the Subdivision Control Law is not required.

ANR PLAN INFORMATION

Plan Title: PLAN OF LAND MEDWAY, MA.

Prepared by: PAUL J. DESIMONE

P.E. or P.L.S registration #: 30466 Plan Date: SEPT 26, 2012

PROPERTY INFORMATION

ANR Location Address: 34 BROKEN TREE ROAD

The land shown on the plan is shown on Medway Assessor's Map # 16 Parcel # 1

Total Acreage of Land to be Divided: 3.67 ACRES

Subdivision Name (if applicable): N/A

Medway Zoning District Classification: AR-1

Frontage Requirement: 180' Area Requirement: 44,000

Is the road on which this property has its frontage a designated Medway Scenic Road? No

The owner's title to the land that is the subject matter of this application is derived under deed from: ROBERT SHEEHAN & MICHAEL SHEEHAN to MICHAEL SHEEHAN dated MAY 19 1999 and recorded in Norfolk County Registry of Deeds, Book 13459 Page 553 or Land Court Certificate of Title Number \_\_\_\_\_, Land Court Case Number \_\_\_\_\_, registered in the Norfolk County Land Registry District Volume \_\_\_\_\_, Page \_\_\_\_\_.

**APPLICANT INFORMATION**

Applicant's Name: MICHAEL SHEEHAN / MICHAEL CUNAROV  
Applicant's Signature: [Signature]  
Applicant's Address: PO Box 157  
MEDWAY MA  
Applicant's Telephone: 508 667 2713  
Applicant's Email: MIKELWISE@GMAIL.COM

**PROPERTY OWNER INFORMATION (if different than applicant)**

Property Owner Name: Michael Sheehan  
Address: 34 Broken Tree Rd.  
Medway, MA 02053

The Owner hereby appoints \_\_\_\_\_ to act as its Agent for purposes of submitting and processing this Application for endorsement of an ANR Plan.

Date: 9/28/12 \_\_\_\_\_  
Owner's Signature  
Owner's Signature

**PROJECT EXPLANATION**

Provide a cover letter with a detailed explanation of why the land is being divided and what land transaction/reconfiguration will result from the endorsement and recording of this ANR Plan.

**APPROVAL NOT REQUIRED JUSTIFICATION**

The Applicant believes that the Board's approval under the Subdivision Control Law is not required for the following reasons: (Check all that apply.)

- \_\_\_\_\_ 1. The accompanying plan does not show a division of land.
- \_\_\_\_\_ 2. Every lot shown on the plan has frontage as required by the Medway Zoning Bylaw. The frontage required by the Zoning Bylaw is located on \_\_\_\_\_ (name of way(s)), which is:
  - \_\_\_\_\_ a. A public way. Date of street acceptance: \_\_\_\_\_
  - \_\_\_\_\_ b. A way certified by the Town Clerk as being maintained and used as a public way. (Attach Town Clerk's certification)

\_\_\_\_\_ c. A way shown on a definitive subdivision plan entitled \_\_\_\_\_  
that was previously endorsed by the Planning & Economic  
Development Board on \_\_\_\_\_  
and recorded at the Norfolk County Registry of Deeds on \_\_\_\_\_  
Provide detailed recording information.

\_\_\_\_\_ d. A private way in existence on the ground before 1952 when the  
Subdivision Control Law was adopted in the Town of Medway,  
which has, in the opinion of the Planning & Economic  
Development Board, adequate width, suitable grades, and  
adequate construction to provide vehicular access to the lot(s) for  
their intended purpose of \_\_\_\_\_  
and to permit the installation of municipal services to serve the  
lot(s) and any buildings thereon.

✓ 3. The division of land shown on the accompanying plan is not a "subdivision" for  
the following reasons: \_\_\_\_\_  
NO NEW WAYS OR STREETS  
\_\_\_\_\_  
\_\_\_\_\_

**ANR PLAN FILING FEE**  
\$250 plus \$100/lot or parcel for a plan involving three (3) or more lots/parcels  
not to exceed a maximum of \$750  
Please prepare two checks: one for \$80 and one for the balance.  
Each check should be made payable to: Town of Medway  
Fee approved 11-2-05

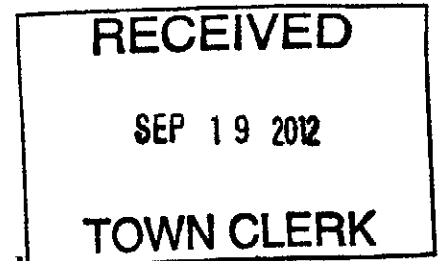
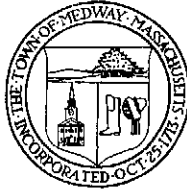
**APPLICATION CHECKLIST - All items must be submitted**

✓	2 signed original ANR applications (FORM A)
✓	8 prints of ANR plan
✓	Project Explanation
✓	Application/Filing Fee

\*\*\*\*\*

Date Form A, ANR Plan, and Project Explanation Received by Planning & Economic  
Development Board: 10-1-2012 

ANR Application/Filing Fee Paid: Amount: \$90 Check # 1558  
\$160 1559



**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*

September 19, 2012

**NOTICE OF PUBLIC HEARING**  
**MODIFICATION to Bay Oaks Definitive Subdivision Plan – 104 Fisher Street**  
**A Permanent Private Way subdivision**  
**Tuesday, October 9, 2012**

In accordance with the provisions of Chapter 41, Section 81A – 81GG, Massachusetts General Laws and the Medway Planning and Economic Development Board's *Rules and Regulations for the Review and Approval of Land Subdivisions*, notice is given that ***the Medway Planning & Economic Development Board will conduct a public hearing on Tuesday, October 9, 2012 at 7:15 p.m. in the Sanford Room of Town Hall, 155 Village Street, Medway, MA to consider modifications to the Bay Oaks Definitive Subdivision Plan.*** The application for approval of the Bay Oaks Definitive Subdivision Plan (*dated May 18, 2012 and prepared by GLM Engineering Consultants of Holliston, MA.*) was filed with the Town of Medway on June 5, 2012. That plan was constructively approved on September 3, 2012.

Owned by Andy Rodenhiser of Medway, MA, the subject parcel is located at 104 Fisher Street [Medway Assessors Map 26 – Parcel 20 (*formerly Medway Assessors Map 4 - Parcel 44A-6A*)]. The 8.78 acre property is located off the east side of Fisher Street in the Agricultural Residential I zoning district.

Pursuant to the constructive approval, the subject property was divided into four residential lots, one containing the existing dwelling at 104 Fisher Street plus 3 lots for new residential to be located on an extension of the existing permanent private way.

The proposed modified *Bay Oaks Definitive Subdivision Plan* is dated May 18, 2012, last revised August 15, 2012 and is on file with the Medway Town Clerk at Medway Town Hall, 155 Village Street, Medway, MA and may be inspected Monday – Thursday from 8:00 a.m. to 4:00 p.m. and Fridays from 8:00 am to 1:00 p.m. It is also available at the Medway Planning and Economic Development office at Town Hall.

The scope of the October 9<sup>th</sup> public hearing will pertain to various plan revisions and refinements which have been proposed and discussed during the initial public hearing process since the application and plan were first filed with the Town in June.

Telephone: 508-533-3291

Fax: 508-341-3287

planningboard@townofmedway.org



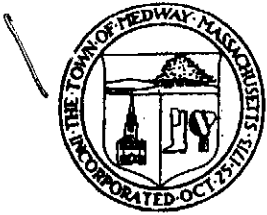
**Bay Oaks Subdivision-  
Sidewalk Estimate**

WORK ACTIVITY	QUANTITY	UNIT	UNIT PRICE	TOTAL	COMMENTS
<b>EARTHWORK</b>					
Unclassified Excavation	46	CY	25.00 \$/CY	1,150	
<b>Subtotal</b>				<b>1,150</b>	
<b>AGGREGATE</b>					
Gravel Borrow	37	CY	30.00 \$/CY	1,110	
<b>Subtotal</b>				<b>1,110</b>	
<b>Hot Mix Asphalt</b>					
3" HMA	20	T	100.00 \$/T	2,000	
<b>Subtotal</b>				<b>2,000</b>	
<b>LANDSCAPING</b>					
Loam Borrow	6	CY	38.00 \$/CY	228	
Seeding	36	SY	1.50 \$/SY	54	
<b>Subtotal</b>				<b>282</b>	
<b>Project Summation</b>				<b>4,542</b>	
<b>Contingency</b>	<b>20%</b>			<b>908</b>	
<b>Site Total</b>				<b>5,450</b>	
<b>Project Total</b>				<b>5,450</b>	

Estimate is based on the sidewalk requirements for a Neighborhood Street including a six (6) foot HMA sidewalk on one side of street (Planning Board Rules and Regulations Chapter 100, Section 7.13.2). The standard town details calls for 12' of gravel below the HMA sidewalk. We assumed that the sidewalk would run on the east side and would not include the driveway areas. The calculated length of the sidewalk for which the calculations above are based is 166 feet. We have assumed ADA ramps could be constructed with hot mix asphalt and are included in the sidewalk cost because there are no required roadway crossings.

Assume two feet of Loam and Seed installed on the side of sidewalk to transition the disturbed areas.

Unit prices are taken from the latest information provided on the Massachusetts Highway Department website. They utilize the MassHighway weighted bid prices (Combined - All Districts) for the time period 9/2011-9/2012.



## MEDWAY TOWN CLERK

155 VILLAGE STREET  
MEDWAY, MASSACHUSETTS 02053  
(508) 533-3204 • FAX: (508) 533-3287  
mwhite@townofmedway.org

### MARYJANE WHITE, CMMC

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK  
JUSTICE OF THE PEACE  
Notary Public

RECEIVED  
SEP 25 2012

TOWN OF MEDWAY  
PLANNING BOARD

REF: Bay Oaks Subdivision, Medway, MA

Owner and Applicant: Andrew Rodenhiser

104 Fisher St, Medway, Ma

### CERTIFICATE OF FAILURE TO ACT

### GENERAL LAWS CHAPTER 41, §81V

The undersigned, being the Town Clerk of the Town of Medway, hereby certifies that on June 5, 2012, an application for Approval of a Definitive Subdivision Plan for a subdivision known as Bay Oaks was submitted by Andrew Rodenhiser to the Medway Planning and Economic Development Board. This application was filed more than 45 days after the filing of a preliminary subdivision plan. No notice of decision was filed by the Planning and Economic Development Board within the statutory period of 90 days, which expired on September 3, 2012. In accordance with General Laws chapter 41, 81U, the application for approval of a definitive subdivision plan is deemed approved due to the failure of the granting authority to take final

**VI. OTHER FINDINGS**

- Road ownership for lower and upper portions of Dover Lane – The Board finds that, for the purposes of efficiency and clarity of responsibility, it makes sense for the ownership and maintenance responsibility for both the existing and extended segments of Dover Lane to be consolidated into a single entity. While the Board recognizes that the co-owner of the existing segment is not a party to this application, it encourages the applicant to seek an agreement for consolidated responsibility for the entire roadway of Dover Lane.
- On-going roadway maintenance of lower Dover Lane – The Board finds that, due to an increase in usage of the existing segment of Dover Lane by at least three additional households, that adequate maintenance of that segment is critical but adequate subject to the homeowners association commitment to ensure that, in particular, sanding and plowing is performed in a timely manner to reduce the potential for conflicts created by the increased usage.
- Stormwater flow off of Dover Lane – The Board finds, after evaluation by its consulting engineer and Town officials, that the management of stormwater flow off the existing segment of Dover Lane is adequate. However, this situation should be monitored to ensure that the Fisher Street catch basins continue to function adequately and that there is not an increase in flow to properties across Fisher Street from Dover Lane.

# GILMORE REES & CARLSON PC

ATTORNEYS AT LAW

DANIEL J. GILMORE (1950 - 2005)

CHRISTOPHER T. CARLSON  
WILLIAM J. REES  
BRUCE J. BETTIGOLE\* †  
PAUL D. BISHOP  
SIDNEY A. SLOBODKIN  
JOSEPH D. KROPP  
GARY M. HOGAN\*  
KATHERINE A. BOTELHO\*  
ROBERT J. MORRILL  
LISA M. RICO\*\* † †

1000 FRANKLIN VILLAGE DRIVE  
FRANKLIN, MA 02038  
(508) 520-2200  
FAX: (508) 520-2217

DEBORAH E. BATOG  
JANE FISHER CARLSON  
KATHERINE R. DORVAL\*  
BUNKER L. HIGHMARK\*\*  
BRIAN T. LIBERIS

\*Also Admitted in RI  
\*\*Also Admitted in CT  
† Also Admitted in NY  
‡ Also Admitted in MD  
† Also Admitted in OH

October 5, 2012

RECEIVED  
OCT 09 2012

Town of Medway  
Planning and Economic Development Board  
Town Hall  
155 Village Street  
Medway, MA 02053

TOWN OF MEDWAY  
PLANNING BOARD

Re: Bay Oaks Definitive Subdivision Plan-104 Fisher Street (the "Project")  
Applicant/Owner: Andrew Rodenhiser (the "Applicant/Owner")

Dear Board Members:

As you are aware from my attendance at Planning Board meetings during the Public Hearing on the above Project, I represent Mrs. Joanne Giovanella, an owner of the property identified on the Town's Assessors' Map 26, Parcel 32 (herein the "Giovanella Property"). The Giovanella Property abuts the Project to the North. In addition to being an abutter to the Project, the Giovanella Property has the benefit of the following appurtenant easement rights, which burden the real property constituting the Project, including the Applicant/Owner's fee interest in the existing permanent private way running from the Project to Fisher Street:

- 1) 60' Right of Way as shown on the Plan recorded with the Norfolk County Registry of Deeds (herein the "Registry") in Plan Book 300, Plan No. 911 of 1982 and reserved in Deed recorded with said Registry in Book 6085, Page 480. NOTE: This Plan identifies Lot 6, which constitutes a portion of the Project, as "NOT A BUILDABLE LOT";
- 2) 50' Right of Way as shown on Plan recorded with said Registry in Plan Book 314, Plan No. 1035 of 1984 as expressly granted by Instrument recorded with said Registry in Book 6489, Page 606. This Right of Way runs from Fisher Street to the Giovanella Property;
- 3) 50' Right of Way as shown on Plan recorded with said Registry in Plan Book 373, Plan No. 1095 of 1988, which Plan is a Definitive Subdivision Plan showing Lots 6A and 6B approved by the Planning Board (herein the "Racicot Subdivision Plan"). This Right of Way runs from the cul-de-sac of the "Private Way" to the Giovanella Property. This Definitive Subdivision Plan was granted subject to a Covenant dated April 16, 1986 and recorded with said Registry in Book 8120, Page 718 (herein the "Covenant"); and

October 5, 2012  
Town of Medway  
Planning and Economic Development Board  
Page Two

- 4) 50' Right of Way as shown on Plan recorded with said Registry in Plan Book 396, Plan No. 874 of 1990, which Approval Not Required Plan purports to be only a re-subdivision of the Racicot Subdivision Plan (herein the "Dean Coop ANR Plan"). The Dean Coop ANR Plan fails to show all Rights of Way, including the Right of Way as located on the Racicot Subdivision Plan. The Dean Coop ANR Plan identifies slope easements on each side of the "Private Way" and identifies the location of the existing driveway and cart path which burden Lot 6A.

In addition to the above appurtenant rights, which carry not only rights of access but the right to install utilities, my client asserts that the Giovanella Property has the benefit of rights in the existing driveway and the cart path, which burden Lot 6A, the site of the Project (as previously set forth in a prior submission to the Board via an e-mail communication with attachments to Susan Affleck-Childs, the Planning and Economic Development Coordinator, dated July 26, 2012).

Although my client is not opposed to the Applicant/Owner's development of his Property, she has the following concerns and issues:

- 1) The Definitive Subdivision Plan should identify all Rights of Way appurtenant to the Giovanella Property.
- 2) The approval of the Definitive Subdivision Plan should be conditioned upon an affirmative duty of the Applicant/Owner and subsequent grantees not to interfere or encroach upon the Rights of Way appurtenant to the Giovanella Property or interfere with the use thereof in connection with the development and construction of the Project and use thereafter.
- 3) The Covenant provides "11. The undersigned agrees that the land shall not be further Subdivided and shall not be further developed than as shown on Plan as two buildable lots." and "12. This agreement shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned. It is the intention of the undersigned and it is hereby understood and agreed that this contract shall constitute a covenant running with the land included in the aforesaid subdivision and shall operate as restrictions upon said land.". Despite the prohibition on further development and statement that the "restrictions" are to run with the land, the Board has taken the position that the Release of Covenant and Conditions dated December 11, 1990 and recorded with said Registry in Book 9088, Page 414 effectively released the restriction, despite the absence of express language releasing "restrictions".

- 4) The existing permanent private way, which provides access from Fisher Street to the Project has only been paved to a width of 18' and has retaining walls situated on each side of the way. The Applicant/Owner owns a fee interest in the existing permanent private way, which has a laid out width of 50' with 15' slope easements on each side. Issues have been raised by my client and others during meetings as to whether the Project has adequate access to Fisher Street. In response thereto, the Board has stated that it is only required to review the Plan before it which is an "extension" of the permanent private way from Fisher Street. Therefore, it is not required to review the adequacy of the existing permanent private way, which is an existing condition. However, the Board's refusal to address the issue of adequacy of access over the existing permanent private way and apparent willingness to waive requirements of a neighborhood road for the Project fails to take into consideration that the Applicant/Owner as a fee owner of it has the ability to provide adequate access from Fisher Street to the Project and comply with the requirements of a neighborhood road. Further, it fails to consider that in addition to the 5 lots which would utilize the existing permanent private way and its extension, the Giovanella Property, which has consistently been taxed by the Town as potential developable land, could be subdivided in the future. If the Giovanella Property is developed in the future, the number of lots would in all likelihood only require construction of a permanent private way, yet will the Board view the project as an extension of existing permanent private way(s) or deny the application due to adequacy of access stemming from its grant of waivers from the requirements of a neighborhood road relative to this Project? The Board's granting of such waivers in the circumstances is not in the public interest nor is it consistent with the intent and purpose of the subdivision control law.
  
- 5) As the owner of the Giovanella Property, which has the benefit of rights on and over "Dover Lane", my client should be a party to any homeowner's agreement pertaining to its use and maintenance. Therefore, any approval of the Subdivision Plan for the Project should be conditioned upon the Applicant/Owner obtaining my client's express consent and approval of any agreement related to "Dover Lane".

I trust this correspondence outlining my client's concerns and issues, as an abutter and holder of rights over Dover Lane and the Applicant/Owner's property, regarding the Project shall be submitted into the record at the Public Hearing scheduled for October 9, 2012.

Very truly yours,



Deborah E. Batog

cc: Mrs. Joanne Giovanella

**VI. OTHER FINDINGS**

- Road ownership for lower and upper portions of Dover Lane – The Board finds that, for the purposes of efficiency and clarity of responsibility, it makes sense for the ownership and maintenance responsibility for both the existing and extended segments of Dover Lane to be consolidated into a single entity. While the Board recognizes that the co-owner of the existing segment is not a party to this application, it encourages the applicant to seek an agreement for consolidated responsibility for the entire roadway of Dover Lane.
- On-going roadway maintenance of lower Dover Lane – The Board finds that, due to an increase in usage of the existing segment of Dover Lane by at least three additional households, that adequate maintenance of that segment is critical but adequate subject to the homeowners association commitment to ensure that, in particular, sanding and plowing is performed in a timely manner to reduce the potential for conflicts created by the increased usage.
- Stormwater flow off of Dover Lane – The Board finds, after evaluation by its consulting engineer and Town officials, that the management of stormwater flow off the existing segment of Dover Lane is adequate. However, this situation should be monitored to ensure that the Fisher Street catch basins continue to function adequately and that there is not an increase in flow to properties across Fisher Street from Dover Lane.



**TETRA TECH**

September 12, 2012

Mr. Robert Tucker, Vice Chairman  
Planning and Economic Development Board  
Town Hall  
155 Village Street  
Medway, Massachusetts

**Re: Construction Administration Services  
Bay Oaks Subdivision  
Fisher Street, Medway, Massachusetts**

Dear Mr. Tucker:

We are pleased to submit this Proposal to The Town of Medway (the Client) for professional engineering services associated with the proposed Bay Oaks Subdivision located on Fisher Street. (the Project) in Medway, Massachusetts. The objective of our services is to provide limited construction administration services on behalf of the Town of Medway.

### **Scope of Services**

We will undertake the following task:

#### **Task 1 Preconstruction Meeting**

- Prepare preconstruction agenda and attend meeting with the applicant, contractor, and appropriate Town of Medway officials;

#### **Task 2 Inspectional Services**

- Inspect construction activities for conformance with the approved plans and good engineering and construction practices. Inspections will be dictated by work schedule, however the attached spreadsheet represents the proposed allocation of our time based on our current understandings;
- Act as a technical liaison between the Owner/Contractor and the Town;
- Provide inspection reports for each site visit to the Client and the designated project Point of Contact;
- Provide monthly invoices to the Client.





**Cost**

Our cost for the above Scope of Services will be on a time and expenses basis in accordance with the Project Fee Schedule. The Construction Inspection Budget is attached, and breaks down the hours anticipated to be spent during the inspections. Please be advised that this estimate is based on our current understanding of the Project needs and is for budget purposes only. Changes to the project scope or schedule beyond that assumed by the engineer could require additional inspections if deemed necessary by the Planning Board. Additionally, the contractor's inefficiency, quality of work, or lack of communication may require additional inspections and compensation by the Owner.

**Schedule**

We are prepared to begin work immediately upon receipt of this executed Proposal. We recognize that timely performance of these services is an important element of this Proposal and will put forth our best effort, consistent with accepted professional practice, to complete the work in a timely manner. We are not responsible for delays in performance caused by circumstances beyond our control or which could not have reasonably been anticipated or prevented.

**General Terms and Conditions**

This Proposal shall be in accordance to the Terms and Conditions signed for the general services agreement between the Town of Medway and Tetra Tech Rizzo. Should it meet with your approval, please sign and return a copy to us for our files. Your signature provides full authorization for us to proceed. We look forward to working with you on this Project.

Very truly yours,

David R. Pellegrini, P.E.  
Senior Project Manager

Sean P. Reardon, P.E.  
Vice President

Date Approved by Medway Planning and Economic Development Board \_\_\_\_\_

Certified by: \_\_\_\_\_ Date \_\_\_\_\_  
Susan E. Affleck-Childs  
Medway Planning and Economic Development Coordinator

**Attachments**

Item No.	Inspection	Site Visits	Hrs/Inspection	Rate	Total
1	Erosion Control	1	3	\$72.00	\$216.00
2	Clear & Grub (Included in Item 1 )			\$72.00	\$0.00
3	Subgrade/Staking	1	2	\$72.00	\$144.00
4	Drainage System	2	3	\$72.00	\$432.00
5	Detention Pond (Included in Item 4 )			\$72.00	\$0.00
6	Roof Recharge Systems	3	2	\$72.00	\$432.00
7	Roadway Gravel	1	4	\$72.00	\$288.00
8	Water System			\$72.00	\$0.00
9	Sewer System			\$72.00	\$0.00
10	Roadway Binder	1	6	\$72.00	\$432.00
11	Curb/Berm (N/A)			\$72.00	\$0.00
12	Private Utilities (N/A)			\$72.00	\$0.00
13	Sidewalk Base/Gravel (N/A)			\$72.00	\$0.00
14	Sidewalk Binder (N/A)			\$72.00	\$0.00
15	Sidewalk Reconstruction			\$72.00	\$0.00
16	Roadway Top	1	6	\$72.00	\$432.00
17	Sidewalk Top (N/A)			\$72.00	\$0.00
18	Frames and Covers/Grates (N/A)			\$72.00	\$0.00
19	Adjust Frames & Covers/Grates (N/A)			\$72.00	\$0.00
20	DMH Inverts (N/A)			\$72.00	\$0.00
21	Bounds	1	2	\$72.00	\$144.00
22	Landscape/Plantings	1	3	\$72.00	\$216.00
23	Roadway Sub-Drain (N/A)			\$72.00	\$0.00
24	Guard Rail/Fencing (N/A)			\$72.00	\$0.00
25	Periodic Inspections (See Note 1)	2	4	\$100.00	\$800.00
26	Bond Estimates	2	3	\$100.00	\$600.00
27	As-Built Plans	1	4	\$100.00	\$400.00
28	Meetings	2	2	\$120.00	\$480.00
29	Admin	2	1	\$50.00	\$100.00
	Subtotal				\$5,116.00
	Expenses			3.5%	\$179.06
	<b>TOTAL</b>				<b>\$5,295.06</b>

Notes:

- 1 Periodic Inspection includes a final inspection and punch list memo provided to the town. It also includes one final inspection to verify that comments from the punch list have been addressed.
- 2 If installation schedule is longer than that assumed by engineer for any item above, or if additional inspections are required due to issues with the contract work, additional compensation may be required.

## Town of Medway LAND GIFTING GUIDELINES

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In the event that a Medway Land Owner comes forward and offers to give, gift, or donate land to the Town, the Town shall use the following guidelines:

Medway *will* consider land acceptance that:

- ♦ is in areas of interest for preservation (i.e., along riverfront/waterfront, identified in Master Plan(s)) or Medway Open Space and Recreation Plan
- ♦ abuts or is adjacent to other ~~town-owned land~~ owned by a government agency or a land trust
- ♦ can be used for public purpose (i.e., right of way, playing field, walking trail, openspace, stormwater management, affordable housing, economic development)
- ♦ is endorsed by future jurisdictional entity (i.e., Conservation Committee, Parks Commission, Affordable Housing Trust)
- ♦ has no associated Town fees, taxes or charges which remain outstanding
- ♦ is a component of a subdivision or special permit decision of the Planning and Economic Development Board or a comprehensive permit decision of the Zoning Board of Appeals

Medway *may not* consider land acceptance that:

- ♦ is ~~an~~ a small isolated parcel with no clear public benefit
- ♦ is primarily wetlands not abutting or adjacent to other public land
- ♦ appears to be gifted simply to reduce tax burden for taxpayer with no benefit to town
- ♦ has a risk of having been contaminated in a manner that would likely post a risk of liability to the Town

These guidelines are intended to assist the Board of Selectmen as they receive land gift requests. Due to the individuality of land parcels, each parcel request would be reviewed independently upon written receipt of offer by land owner.

These guidelines do not apply to the conveyance of land/easements for street acceptance purposes.

## Susan Affleck-Childs

---

**From:** Russ Santoro [russ@advantage.com]  
**Sent:** Thursday, October 04, 2012 3:01 PM  
**To:** Susan Affleck-Childs  
**Subject:** Road Entry

I have been talking with Jim Smith of the Medway Highway Dept. about the sidewalks they were doing on Village Street. We talked about the street entry curbs from Bedelia lane to Village Street and he suggested that we use concrete curbs. They will match what is being put in ,and they stand up better in winter snow plowing. Could I use concrete curbs in the entry instead of granite curbs. I am still in the refinance process to get last paper signed, but want to accommodate the timing of town sidewalk installation, and my obvious street installation. This will also changed the driveway entrance of 272 village street,and so the new sidewalk installed will not be disturbed. Thanks for your help, Russ



TOWN OF MEDWAY  
DEPARTMENT OF PUBLIC SERVICES

TOWN OF MEDWAY  
Planning & Economic Development Board

---

*Entrusted To  
Manage The  
Public  
Infrastructure*

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October 4, 2012

Mr. Ralph Costello  
Unique Homes, Inc.  
503 Main Street  
Medfield, MA 02052

RE: Applegate Farm Subdivision Drainage

Dear Mr. Costello,

We are writing in response to your communication dated May 22, 2012 in which you assert that the Town of Medway is responsible for addressing the "flow of storm water flooding the homes, streets and land at Virginia Road, Ellis Street, Green Valley Road and the soon to be developed land, streets and homes of the Applegate Subdivision", and for compensating you for easement costs through offsetting modifications of the Applegate Farm Subdivision Plan approval. The Town denies that it is liable to you in any manner whatsoever for the storm water drainage, storm water drainage improvements, or easements detailed in your letter.

The conveyance of stormwater through the Applegate Farm subdivision is the responsibility of Unique Homes, not the Town of Medway. The extent of the existing conditions of stormwater discharge onto the Applegate Farm Subdivision property was not fully identified nor addressed in the subdivision plan submittals you provided to the Town of Medway in late 2005. It was your responsibility to fully assess all the stormwater flows onto your property and to propose an adequate drainage design to accommodate those flows. Accordingly, the stormwater flows need to be addressed by you as the developer at this time.

Without waiving any of the Town's rights, and for purposes of settlement only, we also believe we can forge a productive partnership with you. Any actions or statements by Town officials and employees in this regard are for purposes of settlement only, and are not to be construed as an admission of any liability or admissible in any subsequent proceedings.

To date, the Medway Department of Public Services (DPS) has funded work performed by GLM Engineering Consultants, Inc. to model and design a collaborative public and private remedy to accommodate stormwater flows from Virginia Road and Ellis Street across the Applegate Farm Subdivision property to the planned retention basin. This engineering work has cost the DPS approximately \$10,000.00.

HIGHWAY - WATER - SEWER - FLEET - PARKS - FACILITIES - SOLID WASTE

TOWN OFFICES | 155 VILLAGE STREET | MEDWAY, MASSACHUSETTS 02053 | TEL 508-533-3275

Ralph Costello  
October 4, 2012

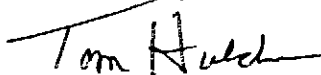
To facilitate the transport of the subject storm flows in Ellis Street, the DPS by way of settlement only would agree to furnish and install materials and perform the associated improvement work within the public right-of-way on Ellis Street similar to that identified in the "Virginia Road Drainage Improvement, Medway, MA" scope of work prepared by GLM Engineering Consultants, Inc, dated February 12, 2012. This work would primarily involve an upgrade to the existing drainage infrastructure to include the installation of catch-basins, a manhole and connecting pipe work as well as all materials required for the installation of systems and roadway repair. It is anticipated that this work will not cost more than \$20,000.00. The DPS is prepared to perform this work upon being notified of a signed formal agreement which clearly identifies the remedial actions expected of both the Town and you as the Developer. The DPS feels the expenditure it has already made to address this matter coupled with the investment in public infrastructure it hereby offers to make more than adequately represents the Town's financial contribution to this project partnership.

Furthermore, the DPS is supportive of relieving some of the public way construction standards previously specified in the approved Applegate Farm subdivision plan. As discussed at a recent Planning and Economic Development Board meeting, Board members have stated informally that they would be receptive to considering a modification to the Applegate Definitive Subdivision Plan that would include:

- the aforementioned changes in the stormwater design
- the addition of a drainage easement on the 4 parcels
- a reduction in the paved width of Applegate Road
- a modification to the curbing standards

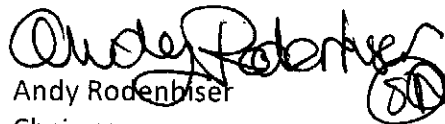
We believe the adjustment of some of the construction standards would reduce your construction costs while still allowing for safe and maintainable public areas. However, as discussed at a recent meeting, the Planning and Economic Development Board members have stated informally that they are not receptive to relieving you of the sidewalk construction requirements on the north side of Coffee Street from the eastern edge of your property to Holliston Street. Please note that the Planning and Economic Development Board may not make any determinations as to any proposed modifications of the Applegate Farm subdivision plan approval until after considering all evidence presented at a duly noticed public hearing. Any statements by Board members as to proposed modifications are informal discussions only and are not binding.

Please inform the DPS at your earliest convenience if you would like to further discuss a mutually satisfactory solution in line with the above and proceed with a modification to the subdivision plan as outlined.



Thomas A. Holder  
Director

Medway Department of Public Services



Andy Rodenbiser  
Chairman

Medway Planning & Economic Development Board

HIGHWAY - WATER - SEWER - FLEET - PARKS - FACILITIES - SOLID WASTE