

**April 10, 2012
Medway Planning and Economic Development Board
Medway Senior Center
76 Oakland Avenue
Medway, MA 02053**

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

Member Tucker arrived at 7:41 pm.

ABSENT WITHOUT NOTICE:

ALSO PRESENT: Susan Affleck-Childs, Planning and Economic Development Coordinator
Amy Sutherland, Meeting Recording Secretary
Dave Pellegrini, Tetra Tech Rizzo

The Chairman opened the meeting at 7:12 pm.

There were no Citizen Comments.

Minutes March 13, 2012:

On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from the March 13, 2012 meeting with the addition to page three as written from a transcription from the audio tape.

Lawrence Waste Services Site Plan - Public Hearing Continuation:

The Public Hearing on Lawrence Waste Services was opened at 7:20 pm.

Jim and Keith Lawrence were present along with Peter Lavoie of Guerriere and Halnon.

The Chairman communicated that applicant Jim Lawrence had stopped by his office (Rodenhiser Plumbing) and they had a brief conversation about how many containers will be on site.

The Board is in receipt of a letter from Jim Lawrence dated April 3, 2012 regarding the number of containers which will be stored at Lawrence Waste Services. **(See Attached)**

The Board is also in receipt of a memo from Tetra Tech Rizzo with a revised date of March 29, 2012. **(See Attached)**

The applicant responded to the comment about the proposed security gate and indicated it will be steel.

The applicant has also added soil boundary details to the drainage plans. Peter Lavoie noted that they could store 450 containers on site. 90% of them would be small front load containers with the remainder consisting of 15 & 30 cubic yard open top containers.

It was suggested that the 4-3-12 letter from Lawrence Waste Service be forwarded to Dennis Crowley from the Board of Selectmen. Susy will take care of this.

Peter Lavoie indicated that the Conservation Commission had given an Order of Conditions and approved the plan. Lawrence Waste Services is waiting to get the site plan decision and will need to wait for the 20 day appeal period to run.

Susy asked them to provide a copy of the Order of Conditions.

Peter Lavoie indicated that they have finalized addressing the review comments from Tetra Tech Rizzo. A new set of revised plans dated March 27, 2012 had been submitted.

Dave Pellegrini indicated that he has reviewed the most recent plans with the revision date of March 27, 2012. He is satisfied that Lawrence Waste Services has addressed the issues.

On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to close the hearing.

Susy Affleck-Childs explained that the plan of action is to write the decision and it will be ready for the Board to discuss and sign at the next meeting which is scheduled for April 24, 2012.

Susy Affleck-Childs would like the Board to think about how or it wants to handle construction oversight. She asked if Guerriere & Halnon will be on site during the construction process.

Peter Lavoie indicated that he will be on site to do the as-built plans.

Susy Affleck-Childs asked again if they will be on site for construction.

Peter Lavoie indicated that they will not be on site at all times.

Susy Affleck-Childs recommends that the applicant have its engineer prepare a monthly construction status report. We want to make sure that things are constructed according to plan.

It is the preference to have Guerriere & Halnon on site when the infrastructure is put in.

The draft decision will be sent to Lawrence Waste to review before the April 24th meeting.

Design Review Committee Resignation:

The Board is in receipt of an email dated March 19, 2012 from Dan Hooper regarding his resignation from Design Review Committee. **(See Attached)**

On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept with regret the resignation of Dan Hooper from the Design Review Committee.

The Board thanks him for his service.

The Design Review Committee does have another interested individual who has been attending meetings and may be ready to come on board in a couple of months.

Construction Report – Tetra Tech Rizzo

Franklin Creek:

The Board is in receipt of a memorandum from Tetra Tech Rizzo related to the Franklin Creek subdivision punch list. This is dated April 6, 2012. **(See Attached)**

The memo noted that the grade in the area south of the roadway should be raised to the top of the Cape Cod Berm. There was a photograph of the area. Pavement sealant should be placed at each of the core locations to prevent water from infiltrating.

This memo has not yet been provided to Marko Vajentic, the Franklin Creek developer.

There was discussion that fill should be added behind the berm. This is the whole height of the berm and it needs to be smoothed out. This will need to be seeded.

The Franklin Creek residents supplied a plan which indicated that the grade is too low behind the curb. **(See Attached)**. It was provided on April 6, 2012.

NOTE - Member Tucker arrived at 7:41 pm.

Dave Pellegri will check with the Department of Public Works about the water gates.

Susy recommended reworking the punch list from Tetra Tech after speaking with DPS. It was suggested that Dave specify exact street station locations and the length of the area to be remedied.

McDonald vs. Planning Board Status Report:

The Board is in receipt of an email dated March 26, 2012 from Town Counsel Barbara Saint Andre regarding the McDonald case. **(See Attached)**

On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to accept Counsel's recommendation in regards to the dismissal of the lawsuit.

Member Rogers wanted clarity about what the phrase "with prejudice means".

Susy reported that she had asked Town Counsel about Chan's question. Town Counsel indicated that it means the proponent cannot file another lawsuit. This is a dead issue.

Minutes March 21, 2012:

On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from the March 21, 2012 meeting as presented. (Member Rodenhiser and Gay did not vote as they were absent from the 3-21-12 meeting.)

Minutes March 27, 2012:

On a motion made by Karyl Spiller-Walsh and seconded by Tom Gay, the Board voted unanimously to accept the minutes from the March 27, 2012 as presented.

A213 Systems Site Plan - Decommissioning Plan Narrative:

Susy Affleck-Childs explained that the meetings the Board had for the A123 System battery energy storage system were public briefings, not an official public hearing. This is because the proposed work constitutes a *minor* site plan instead of a *major* site plan (which does require a full public hearing.) As there was no public hearing per se, the discussion was not actually closed.

The Board reviewed the revised draft decision dated April 5, 2012 for A123 Systems site plan. (See Attached).

The Board is in receipt of a draft decommissioning plan dated April 9, 2012 prepared by GZA GeoEnvironmental. (See Attached).

It was recommended by Dave Pellegrini that the conduits be taken out in its entirety. He also asked if the 35 feet of driveway will be left.

The Board communicated that the DPS would like the driveway in place.

On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the A123 Systems site decision as written with the Conditions as noted and Waivers as specified. (Member Tucker abstained from the vote as he had not been present at the March 13 meeting.)

Committee Reports:

There were no Committee reports.

Other Discussion:

Susy Affleck-Childs noted that it might be worthwhile to have some discussion about what kinds of business does the Board want to encourage and discourage in Medway. We might want to better define the allowed uses in the industrial zoning districts. The Board may want to review the Zoning Bylaw in June. This is a discussion which needs to take place.

Member Rogers communicated that the land at 49 Alder Street (Lawrence Waste) was recently bought for one third of the assessed value. This has forced the Board of Assessors to review the land values in the industrial park and do a reassessment. This will be done by the Board of Assessors. The sales price for 49 Alder Street was substantially different than the assessed value. Of course we don't know the details on how this property sold.

It was noted that the area in the Industrial III zone has fractured ownership and the shape of the lots varies. There are lowlands and wetlands. It is less than ideal. There are some great businesses and some are marginal. Some of the existing businesses in the park are more troublesome than Lawrence Waste/49 Alder Street.

Member Gay responded that what is proposed and what they are doing didn't raise his eyebrows.

Susy Affleck-Childs noted that some of us would like this area to be (*an industrial park with centralized ownership*) but it is not.

Member Rogers responded that we all have dreams and aspirations.

Member Tucker responded that we all want to drive a Ferrari but most of us can't afford it.

25 Summer Street Subdivision Modification – Public Hearing Continuation

Mike Fasolino was present to discuss the proposed modification plan for 25 Summer Street.

Susy Affleck-Childs entered several documents into the record:

- Minutes from the January 24, 2012 PEDB meeting with the Speroni Acres neighbors
- Original Subdivision Decision/Certificate of Action on 25 Summer Street from June 28, 2011
- Letter from Owen Sullivan provided on April 8, 2011 authorizing Mike Fasolino to connect the two lots to the Speroni Acres sewer system.

(All items are Attached.)

Susy Affleck-Childs communicated that she has been speaking with David Faist and Dan O'Driscoll. Dan O'Driscoll came into look at the old Speroni Acres subdivision files to see if there is anything in the file relative to the sewer system. Dan reported that there was nothing in the file. Dave Faist has had luck with the firm CEC which was the original design engineer for Speroni Acres. This information will be given to the Board.

Mike Fasolino has spoken with the original engineer and he has the original plans and will write a letter which will be presented to the Board.

There was some modification to the landscape plan.

Susy Affleck-Childs communicated with the Building Inspector to get clarity on what he looks at during the building permit stage. Bill Fisher, the Board of Health agent, confirmed that when the

Board of Health looks at the system, they focus on the connection from the house to pump and between the pump and storage tank and the mechanics. The design of the overall sewer system throughout the neighborhood is not really what they will do.

Chairman Rodenhiser asked whether normally, they review sewer size.

Dave Pellegrini indicated that typically he would email Tom Holder and see if there are any issues, but typically you do not check sewer pipe capacity.

Susy Affleck-Childs referenced the 3/12/12 email which was provided to the Board from Town Counsel. **(See Attached)**. The email notes that the Board has the authority to require the developer to demonstrate that it can tie into the town sewer system.

It is the opinion of Counsel that the Board is within its jurisdiction to be concerned about the adequacy of the sewer system that is being tied into Town's sewer system.

The Board has also been provided with a copy of the section of the *Medway Subdivision Rules and Regulations* re: sewers. **(See Attached)**. The Section which was referenced was 7.6 Utilities.

The Board also has a copy of text from the Handbook of Massachusetts Land Use and Planning Law Mark Bobrowski. **(See Attached)**. The Section references that a Planning Board may exercise its powers under the subdivision control law to secure adequate provisions for sewerage. The other section which was referenced noted that "the board may reasonably require that the landowner demonstrate "perfected arrangements" for interconnection to the municipal sewer systems."

Susy Affleck-Childs communicated that she believes the Board does have the authority and responsibility to look at this.

It was recommended that Mike secure some further indication in the forms of recorded easements and deeds that would represent that Owen Sullivan owns the sewer easements and authorize Mike Fasolino to connect these two lots.

Susy suggested that the engineer can do a stamped statement that he has evaluated the Speroni Acres sewer system drawings and certified that the capacity was originally designed to handle these two additional lots.

Dave Pellegrini indicated that what we really are looking at is the capacity and ownership.

Mr. Fasolino communicated that he was under the impression that this meeting would be closed and now more info is being requested.

Dave Pellegrini indicated that this issue is not new; the asking for the documentation may be new.

Mr. Fasolino said the consensus from the last meeting was that the Board of Health was going to handle this.

Member Spiller-Walsh indicated she did not agree that the Board of Health was going to handle this.

Member Rogers noted that Owen Sullivan wants to get rid of the whole thing. This is a liability on his part. He should get the legal documents to get rid of this. The board is now asking for something that has not been asked for previously.

The Board asked Susy Affleck-Childs to secure the assistance of Town Counsel to draft a letter to Mr. Fasolino.

Susy Affleck-Childs stated she did not want to pass this down to another board to worry about in the future.

Member Tucker recommends going to Counsel and seeing what is acceptable.

Susy Affleck-Childs suggested getting a certified statement. The previous letter from Owen Sullivan makes no statement as to whether he controls the sewer system/easement.

Member Tucker explained that we need to be clear about what is acceptable. We should only have to do this once. We are finding out new info and we need to make the direction clear.

Mr. Fasolino responded indicating that if he did not subdivide the land and put in only one lot, you people would have no jurisdiction over this at all.

Susy Affleck-Childs responded you are correct. Once it becomes a subdivision it is the responsibility of the Planning Board.

Mr. Fasolino indicated that he has already tied in to this sewer system on another lot further up Summer Street with no problems and without hesitation. There are six or seven stubs destined for houses. Now that there is one more lot, you are telling me I cannot tie in.

Chairman Rodenhiser communicated that we have a responsibility as a Planning Board to address this.

Mr. Fasolino responded that this is not what you said last week.

Member Rogers responded that the previous letter from Owen Sullivan is a little shaky.

Susy Affleck-Childs respond that we took it at face value last spring and now we know a lot more. Mike could make a formal inquiry to the Board of Health.

Mr. Fasolino responded that he did and there was no as-builts for this.

Dave Pellegrini indicated that it should be very easy to determine the ownership of the sewer system/easement. Those stubs are in place already but we need to see who has the right to access.

Member Rogers asks what happens if a resident does not want to fix the blockage.

Member Spiller-Walsh wanted to know if you can own the system without having an easement.

Dave Pellegrini responded that you must have access.

Susy Affleck-Childs ask if Owen Sullivan reserved the sewer easement when he sold those house lots. This is the question.

Susy Affleck-Childs will get a more precise language from town counsel and we can be clear in a letter to Mike Fasolino.

Member Gay communicates that his issues are with the papers which were handed out. The problem is that it talks about septic systems and public sewer systems. This is neither. It also talks about that you have to tie into the public system. This already does. The only question that comes up is can Mike get from the property line to where the stub is on adjacent property. Does he have access legally?

Mr. Fasolino communicates that the stub is right to the property line.

Member Tucker responds that if there is a break it is a neighborhood issue. This is not Mike's responsibility. We need only one piece.

Chairman Rodenhiser responded that we have a responsibility to determine this.

Member Gay agrees that we need determine this. We have jurisdiction to the public but this is private. Re the interconnection to the municipal system, it already does.

Spiller-Walsh notes that Counsel states that the Planning Board does have the authority to ensure that the Subdivision has an adequate system. We do not know this.

Member Gay disagrees with member Karyl Spiller-Walsh. It does have access to some system of adequacy. This is semantics but I disagree with you.

Member Spiller Walsh responds that there is not an understanding that this is an adequate system.

Member Tucker asks Spiller-Walsh what her determination of adequacy is.

Spiller-Walsh responds that the determination of adequacy is that the system needs to work over a number of years.

Susy Affleck-Childs asks how many dwelling units was it designed to accommodate.

Member Rogers has no problem with connecting but there is a problem if a defect happens with the part that the Town owns.

Member Spiller-Walsh responds that the Planning Board must play a part in ensuring that there is an adequate system.

Member Gay notes that this is a slippery slope. The material quoted says "The appeals board has ruled that the Planning Board has no jurisdiction over with health questions with respect to the disposal of sewage that will not be connect to a municipal system." This is the slippery slope since with regards to this subdivision that will not be connected to municipal system. Tom Holder (Medway DPS) has already said that he has no responsibility. The Board of Health has exclusive rights to regulate but may not however require specific information for each lot within the subdivision. Then it talks about public. This is going to a private. This is what Tom is struggling with.

Dave Pellegrini thinks there is a loop-hole in the document.

Member Spiller-Walsh asks if this has been termed a private system by default.

Susy Affleck-Childs draws the board back that to the Rules and Regs which are governed under the Subdivision Control Law.

Chairman Rodenhiser communicates that the Board must follow the Rules and Regulations of the Subdivision Control Law.

Susy Affleck-Childs will work with Counsel and the Chairman on drafting a letter for Mr. Fasolino.

On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted to continue the public hearing for the proposed modified 25 Summer St. Definitive subdivision plan until April 24, 2012 at 7:15 pm.

Adjourn:

On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to adjourn the meeting at 9:00 pm.

Respectfully Submitted,



Amy Sutherland
Meeting Recording Secretary

Edited by,



Susan E. Affleck-Childs

*Minutes of April 10, 2012 Meeting
Medway Planning & Economic Development Board
Approved May 8, 2012*

Planning and Economic Development Coordinator

Lawrence Waste Services

RECEIVED
APR 03 2012

TOWN OF MEDWAY
PLANNING BOARD

April 3, 2012

Mr. Andy Rodenhiser Chairman
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

Dear Andy,

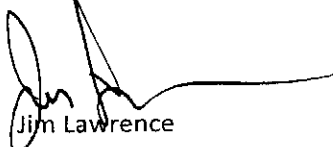
At our meeting last week we discussed how many containers we would store on our property at any given time. As we are building this facility with the intention of consistently growing our business we would start with a lower number and increase as the company grows.

Looking at the property we could store 450 containers 90% of them front load small containers with the remainder consisting of 15 & 30 cubic yard open top containers. We estimate we would use roughly half of that number to keep a good inventory on hand. The inventory would consist of new, refurbished and containers on site waiting to be repaired.

We intend to have a first class neat and clean facility and look forward to being a good neighbor in the industrial park.

If there is anything else you need please do not hesitate to contact me at your convenience.

Yours Truly,



Jim Lawrence
President



RECEIVED
APR 05 2012

February 22, 2012
(Revised March 15, 2012)
(Revised March 29, 2012)

TOWN OF MEDWAY
PLANNING BOARD

Mr. Andy Rodenhiser
Chairman, Planning and Economic Development Board
Medway Town Hall
155 Village Street
Medway, MA 02053

**Re: 49 Alder Street
Site Plan Review
Medway, Massachusetts**

Dear Mr. Rodenhiser:

Tetra Tech (TT) previously performed a review of the proposed Site Plan for the above – mentioned project. The project includes the construction of a 7,400 sf building with paved parking, loading, and laydown areas for the stacking of clean waste containers. The site is primarily wooded currently and the proposed improvements will disturb approximately 35% of the property. The new building will require utility connections including sewer, water, gas, electric, and telecommunications, from Alder Street. The stormwater design will collect runoff from the proposed development in a catch basin to manhole system. Peak flows and recharge will be attenuated by subsurface detention/recharge systems with overflows discharging to the wetlands.

TT previously received of the following materials:

- A plan (Plans) set entitled “Proposed Site Plan for 49 Alder Street in Medway, Massachusetts”, dated January 10, 2012, prepared by Guerrier & Halnon, Inc. (GHI).
- A drainage report (Drainage Report) entitled “Hydrologic & Hydraulic Report, Lot#3-41, 49 Alder Street in Medway, Massachusetts”, dated January 10, 2012, prepared by Guerrier & Halnon, Inc. (GHI).
- Application for Review and Approval of a Major Site Plan Project and Form Q-Request for Waiver from Rules and Regulations, prepared by Guerriere & Halnon, Inc. dated January 17, 2012

Engineering and Architecture Services
One Grant Street
Framingham, MA 01701
Tel 508.903.2000 Fax 508.903.2001



The Plans, Drainage Report and accompanying materials were originally reviewed for conformance with the Town of Medway, Massachusetts Planning Board Rules and Regulation, the MA DEP Storm Water Management Standards (Revised January 2008), Town of Medway Water/Sewer Department Rules and Regulations, and good engineering practice. The following is a list of comments generated during the review of the design documents. Reference to the applicable regulation requirement is given in parentheses following the comments.

On March 13th, 2012, TT received an updated package including a cover letter providing comment responses, plans, drainage report, and a list of waivers addressing our original comments. We have reviewed this package and have updated our comments, as bulleted below the original comment.

On March 27th, 2012, TT received an updated package which included final documents of those items listed in the above paragraph. We have reviewed this latest package and have updated our comments as bulleted below the original and March 15th comments.

The following items were found to be not in conformance with the Rules and Regulations for the Submission and Review of Site Plan (Chapter 200), or requiring additional information:

Article IV-Site Plan Submission (Section 204)

1. The Cover sheet and Lawrence Waste Services plans to be stamped, signed and dated by a Registered Professional Engineer, a Registered Architect, and/or a Registered Landscape Architect or other professional registered in the Commonwealth of Massachusetts. (Ch. 200 §204-4.A)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
2. The applicant should verify that scale 1" = 30' has been approved in advance by the Planning Board. (Ch. 200 §204-4.B)
 - TT 3/15/12 Update: The board shall provide approval.
3. An Existing Landscape Inventory shall be prepared by a Professional Landscape Architect licensed in the Commonwealth of Massachusetts. (Ch. 200 §204-4.C-3)
 - TT 3/15/12 Update: A waiver has been requested for this item and will be tracked through the waiver process.
4. Elevations shall refer to North American Vertical Datum of 1988 (NAVD88). (Ch. 200 §204-4.D)



- TT 3/15/12 Update: This item has been addressed to our satisfaction.
5. Cover sheet shall include Board of Selectmen's Signature Block. (Ch. 200 §204-5.A)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
 6. The applicant should verify with Planning Board if Site Context Sheet shall be provided. (Ch. 200 §204-5.B)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
 7. Dimensions of parking lot line setbacks, access lanes and curb radii. (Ch. 200 §204-5.D-2)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
 8. Drainage and Erosion Plan shall provide methods to dispose of surface water on site including slope. (Ch. 200 §204-5.D-5)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
 9. The applicant should verify that landscape improvements were prepared by a Landscape Architect licensed in the Commonwealth of Massachusetts. (Ch. 200 §204-5.D-7)
 - TT 3/15/12 Update: A waiver has been requested for this item and will be tracked through the waiver process.
 10. The applicant should verify that Color Renderings and Signage Plan shall be provided. (Ch. 200 §204-5.D-9 & 12)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
 11. Horizontal sight distances on the public way(s) at all entrances in both directions should be provided. (Ch. 200 §204-5.D-14)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.



Article V-Development Standards (Section 205)

12. Where no pedestrian ways exist, the applicant shall create pedestrian ways and connections between streets, the proposed development, surrounding neighborhoods, and other surrounding uses providing safe access to the nearest existing pedestrian facility or sidewalk. (Ch. 200 §205-3.D-4)
 - TT 3/15/12 Update: A waiver has been requested for this item and will be tracked through the waiver process.
13. Landscape buffers between the street and parking areas are required. (Ch. 200 §205-9.B-1)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
14. The applicant shall request a waiver for the requirement for replacement trees or comply with the regulations. (Ch. 200 §205-9.E)
 - TT 3/15/12 Update: A waiver has been requested for this item and will be tracked through the waiver process.
15. The applicant should add Standard Utility Trench Detail for other utilities to be provided on site. (Town of Medway's Construction Details CD-24) (Ch. 200 §205-11)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
16. Typical Bend Thrust Block Detail, Water Main Reducer, Plug and Tee Detail should meet or exceed standard Medway detail Concrete Thrust Block Detail, see Town of Medway's Construction Details CD-28. (Ch. 200 §205-11)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.

The following items were found to be not in conformance with the Town of Medway Water/Sewer Department Rules and Regulations, or requiring additional information:

17. There shall be three (3) valves at every roadway intersection. (Article V-Item 5)
 - TT 3/15/12 Update: The response by the applicant's engineer states that "valves have been added to plan at connection to existing water main. Where this is only a 1" service connection, no



valves other than the typical curb box and valve is required. Please disregard the original comment.

18. Six inch pipe must be used to within 10' of the building, at which point standard 4" cast iron or schedule 40 pvc sewer pipe is to be used. (Article VI-Item 1)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
19. Sewer Trench detail should be modified to reflect 6" of ¾ inch crushed stone above and below pipe. (Article VI-Item 3)
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.

The following items were found to be not in conformance with the MA DEP Storm Water Management Standards, or requiring additional information:

20. Existing drainage figure lists Drainage Area 2 to be 0.75 acres. It is written up as 0.38 acres in the drainage report.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
21. Drainage analysis states that three points of analysis were evaluated. Only two are shown on the plans and discussed in the report.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
22. Drainage analysis states that the entire site is located within Hydrologic Soil Group B soils. The drainage figures show the majority of the site is located within Hydrologic Soil Group C soil. The soil boundaries should be more clearly labeled on the plans and shown in the legend.
 - TT 3/15/12 Update: Additional soil boundary detail has been added to the drainage plans however there is still some confusion. There are circled Letters (A,B and C) within each soil boundary that do not reflect the soil group. What do these circled letters represent?
 - TT 3/29/12 Update: The soil boundaries have been clarified on the plans to our satisfaction.
23. Recharge calculations must be verified based on actual soil types.



- TT 3/15/12 Update: A portion of Proposed Area P-1 is located within a "C" soil. Only "B" soils are reflected in the recharge calculations and the Hydro CAD analysis.
 - TT 3/29/12 Update: The calculations and analysis have been revised to reflect the "C" soils.
24. Basin volume output tables should be provided to verify actual recharge volumes at overflow invert elevations. Reviewer has nothing available to verify this number.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
25. Pollutant removal section of the drainage analysis states that a Stormceptor 900 is being provided in Drainage Area 2 only with a pollutant removal efficiency of 80%. The TSS worksheets show a Stormceptor 450 being provided in Drainage Area 2 and Drainage Area 3 with a pollutant removal efficiency of 87%. Too many discrepancies. Drainage report must reflect actual design.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
26. A water quality volume of 1 inch must be provided on site. The applicant is using an infiltration rate based on soil logs of 0.014 feet per minute which equates to over 10 inches per hour. MADEP regulations require a 1 inch water quality volume be provided within an area of rapid infiltration rate which exceeds 2.4 inches per hour.
- TT 3/15/12 Update: The infiltration rate has been adjusted to 0.011486 FPM which equates to the infiltration rate in the Rawls table for an "A" soil of 8.27 in/hr. All infiltration BMP's in this project are located on a "B" soil therefore the infiltration rate from the Rawls table representative of a "B" soil (1.02 in/hr) should be utilized in this analysis.
 - TT 3/29/12 Update: Infiltration rates were taken from direct field observations during the deep hole test pits.
27. Water quality volume calculations must be provided.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.



28. The applicant shall verify whether a Groundwater Protection District is a Zone II or Wellhead Protection Area. We believe it is. If so, we are discharging to a critical area and Specific Infiltration BMP's must be provided with 44% TSS removal from the runoff prior to discharge to the infiltration BMP's.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
29. Applicant states that the Static Method is being used for the design of the infiltration BMP's. See DEP Checklist – Standard 3. Static method requires infiltration rates from the Rawls Tables be used. If in-situ rates are used in the analysis (Hydro CAD report shows this was used), the Dynamic Field Method must be used and 50% of the in-situ rate must be used in your sizing computations.
 - TT 3/15/12 Update: See response to Comment 26.
30. Checklist states that Critical areas for standard 6 are identified in the report. The report states that the drainage system does not discharge to a critical area.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
31. The Hydro CAD model shows all HSG "B" soils are used in the analysis. This is consistent with the description in the write up but not the drainage figures. Verify Soil types.
 - TT 3/15/12 Update: Proposed Area P-1 includes "C" soils. This soil type is not reflected in the analysis or calculations.
 - TT 3/29/12 Update: The Hydrocad model has been modified to reflect the "C" soil to our satisfaction.

The following items were found to be not in conformance with good engineer practice or requiring additional information:

32. The applicant shall provide a scale for the Street and Parcel view on the Cover Sheet.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
33. There is one handicap parking space shown on the Site Plan and does not match the amount proposed on the zoning table on the Cover Sheet.



- TT 3/15/12 Update: This item has been addressed to our satisfaction.
34. Please clarify whether Stall Brook is designated as a River.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
35. What's the intent with the jog in the pavement adjacent to the proposed dumpster?
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
36. The board typically prefers some type of fencing around the proposed dumpster, however given that the site is gated this may not be required. The decision may be based on if the dumpster is visible from the road or adjacent sites. Please clarify whether the dumpster is visible. Additionally, a note on sheet 8 states that "All dumpsters to be on concrete pads and to be properly screened". This conflicts with the drawings.
- TT 3/15/12 Update: The applicant's engineer responded that proposed fencing will be added around dumpster, but the fencing should be added to the plan and labeled with a type and height.
 - TT 3/29/12 Update: The dumpster and associated fencing have been removed from the plans.
37. What type of gate is proposed?
- TT 3/15/12 Update: The applicant's engineer responded stating that the proposed security gate shall be steel. The label on the plan should be modified accordingly.
 - TT 3/29/12 Update: A detail has been added to the plan.
38. Approximately how many containers will be stored on-site? How will the gravel area be utilized?
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
39. How are gates intended to be operated? Are they locked during the day? How will this affect emergency access?

- TT 3/15/12 Update: This item has been addressed to our satisfaction.
40. The width of the access drive on the north side of the building should be labeled.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
41. The proposed "252" contour should be added along the southern property line boundary.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
42. What is the intent of the Proposed Drop Inlet set adjacent to the southern property line? What is the 24" pipe/flared end shown on the adjacent property?
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
43. What is the maximum slope in the grass/landscaped area in the southwest corner of the site?
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
44. There is a "Typ. Concrete Walk-Curb Detail" provided on Sheet 8, however the layout plans do not show a curb around the walk adjacent to the building. Please clarify where the curb will be located.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
45. The "ND" line on Sheet 2 is not included in the legend. Please add that linetype and description to the legend.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
46. According to the legend and plan, there is a proposed fence proposed around the majority of the perimeter of the site. Is this the silt fence? If so, please clarify on plans.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.



47. The fire department shall provide a statement regarding their access ability and the sufficiency of existing hydrant locations.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
48. A detail for a water/sewer crossing should be provided.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
49. The limits of work proposed in the roadway should be shown on the plans including sawcuts, curb replacement, striping, etc. associated with the utility improvements within the public Right of Way.
 - TT 3/15/12 Update: This item has not been shown to our satisfaction. What is of major importance is the items noted above regarding the limits of work within the public Right of Way. This information will be required for the street opening permit, however the PEDB would like to show the improvements accurately on the approved plans also.
 - TT 3/29/12 Update: The limits have been added to the plan. The Department of Public Services shall determine if the sawcut limits are sufficient during their street opening permit process.
50. Clarification should be provided in regard to the restrictions of the drainage easement in front of the site.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.
51. The method of connection for the waterline should be provided.
 - TT 3/15/12 Update: A tapping sleeve label has been added to the plan however based on the size of the service (1"), the standard corporation connection and as shown on the service detail should be sufficient. Please disregard our original comment.
52. The plan calls for a MDC manhole and the detail shows a Gas and Oil Separator. Please coordinate the labels as appropriate.
 - TT 3/15/12 Update: This item has been addressed to our satisfaction.



TETRATECH

53. A note should be added stating that all water mains shall be installed at a minimum depth of 4.5'.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
54. There appears to be stubs for both the water and sewer entering the site. If these are not intended to be used, they should be cut, capped, and abandoned as directed by the Department of Public Works.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.
55. Please identify the limits of clearing. We assume it corresponds with the limits of the work shown.
- TT 3/15/12 Update: This item has been addressed to our satisfaction.

These comments are offered as guides for use during the Town's review. If you have any questions or comments, please feel free to contact us at (508) 903-2000.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David R. Pellegrini'.

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

Susan Affleck-Childs

From: Susy Affleck-Childs [susyac@comcast.net]
Sent: Monday, March 19, 2012 7:48 PM
To: Susan Affleck-Childs
Subject: FW: DRC resignation - dan hooper

From: Dan Hooper [mailto:dan.hooper@verizon.net]
Sent: Monday, March 19, 2012 4:31 PM
To: Buckley Matt; Matt Buckley
Cc: Rodenhiser Andy; Affleck-Childs Susy
Subject: DRC resignation

To Chairman Buckley,

This note is to inform you that I am resigning as an Associate Member of the Design Review Committee effective immediately. I am an active member of 2 other municipal committees and will be focusing increasingly more time to personal matters.

The DRC has evolved into a very effective and worthwhile committee and I expect to stay connected with it through periodic meeting attendance and project "legwork", when needed. Under your leadership Matt, the DRC continues to provide excellent review commentary to sign and site plan applicants, creating a more effective and visually appropriate community for us all. The committee is in good hands.

I look forward to following the positive work of the committee for years to come.

regards,
Dan Hooper

Dan Hooper
Charles River Landesign Group, Inc.
6 Naumkeag St.
Medway, MA 02053

Phone: 508.277.5981

www.charlesriverlandesign.com

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TETRA TECH

MEMORANDUM

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

Fr: Steven Bouley–Tetra Tech

Re: **Franklin Creek
Subdivision Review-Punch List
Medway, MA**

Dt: April 6, 2012

RECEIVED
APR 10 2011

TOWN OF MEDWAY
PLANNING BOARD

At the request of the Medway Planning and Economic Development Board, Tetra Tech performed an inspection of the Franklin Creek Subdivision against the approved Definitive Subdivision Plan for Franklin Creek dated July 22, 2005 revised January 15, 2006, the Certificate of Action dated January 17, 2006 and our previous Punch List Memo dated November 11, 2011. The following items should be completed:

Roadway (Private-Franklin Creek Lane)

1. The grade in the area south of the roadway adjacent to the water quality unit located at approximate STA 0+55 should be raised to the top of the Cape Cod berm. See Photo #1 and #2.
2. Pavement sealant should be placed at each of the core locations to prevent water from infiltrating through the seams created by the coring. Sealant should also be placed at a location in the northwestern portion of the roadway adjacent to Franklin Street. It appears that the area was overlaid during paving with a thin layer of asphalt which is now breaking up. See Photo #3 and #4.

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

P:\21583\08901\DOCS\MEMO-FRANKLIN CREEK PUNCH LIST 2012-04-06.DOC

Engineering and Architecture Services
One Grant Street
Framingham, MA 01701
Tel 508.903.2000 Fax 508.903.2001

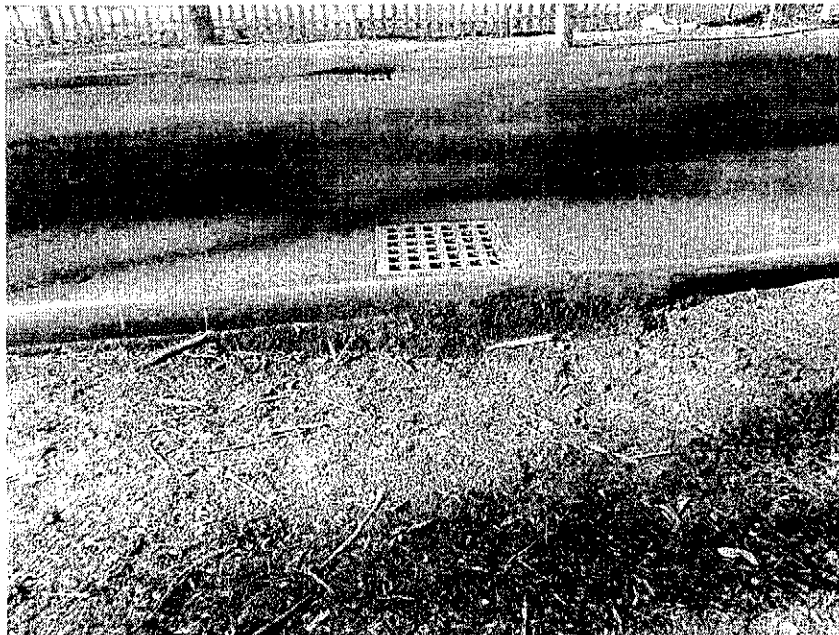


TETRA TECH

Photo #1



Photo #2



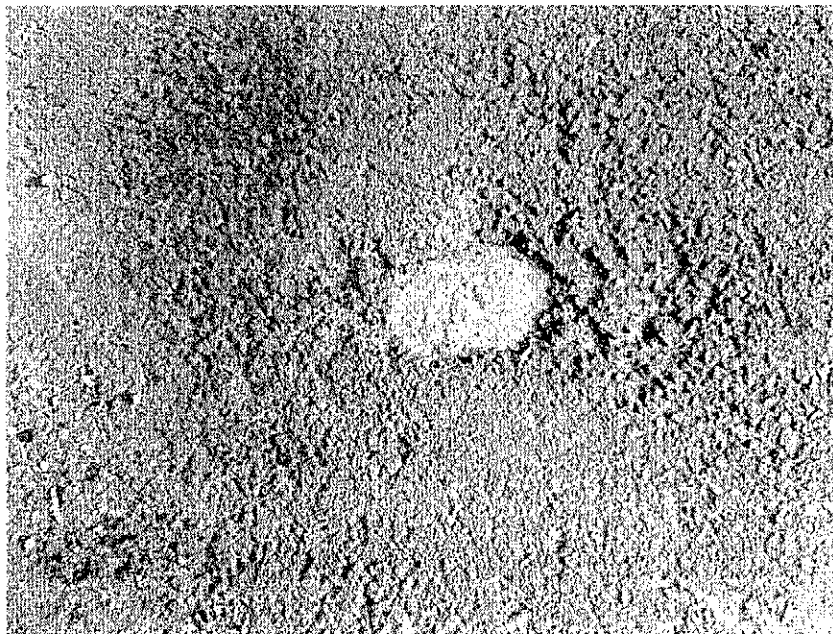


TETRA TECH

Photo #3



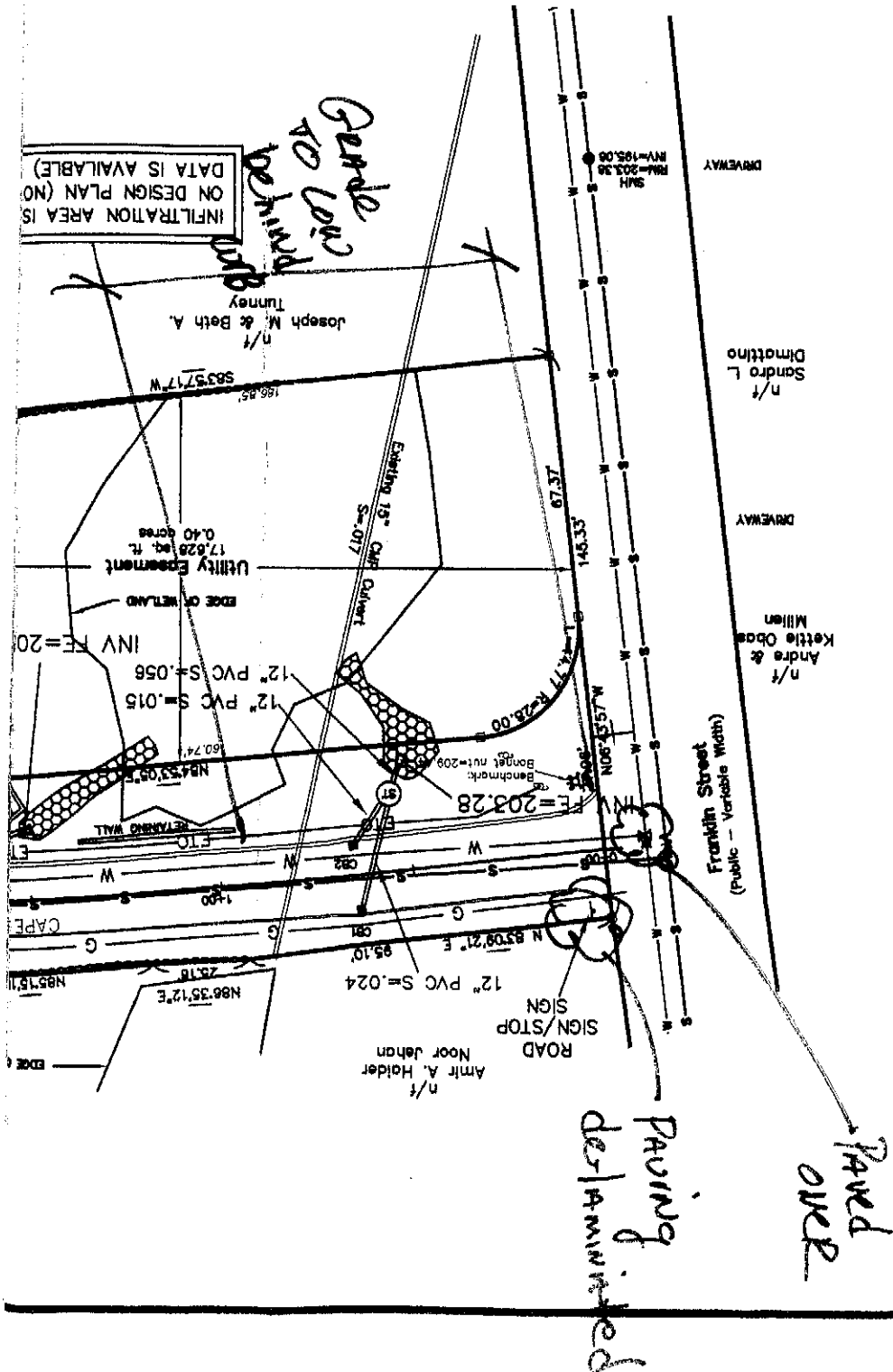
Photo #4



RECEIVED
APR 06 2012

TOWN OF MEDWAY
PLANNING BOARD

from Franklin
Creek Neighbors



Susan Affleck-Childs

From: Barbara Saint Andre [bsaintandre@petrinilaw.com]
Sent: Monday, March 26, 2012 12:06 PM
To: Suzanne Kennedy; Susan Affleck-Childs
Subject: McDonald v. Planning Board
Attachments: mcdonald stip of dismissal.doc; mcdonald escrow.doc

CONFIDENTIAL NOT A PUBLIC RECORD
ATTORNEY CLIENT PRIVILEGE/NOT FOR PUBLIC RELEASE

Suzanne and Susy, attached is a proposed stipulation of dismissal from Ms. McDonald's attorney. She has entered into a purchase and sale agreement for her property, with a closing scheduled for April 12, 2012. The purchaser is not interested in pursuing the lawsuit, and therefore Ms. McDonald has agreed to dismiss this appeal, with prejudice, as soon as the property is sold. Therefore, the potential modification of the special permit is now moot, and the case will simply be dismissed with "no strings attached". Based upon the prior votes of the Board of Selectmen and Planning and Economic Development Board, I believe I have authority to execute the stipulation of dismissal on behalf of the PEDB. If you have any questions, however, please let me, know.

Barbara J. Saint André
Petrini & Associates, P.C.
372 Union Avenue
Framingham, MA 01702
Tel. (508) 665-4310
Fax (508) 665-4313
bsaintandre@petrinilaw.com

<http://www.petrinilaw.com/>

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IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with the requirements imposed by the IRS, Petrini & Associates, P.C. hereby provides notice to the recipient(s) of this e-mail that any U.S. tax advice herein contained in this communication, including any attachments hereto, is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: tjvesq@netzero.net [<mailto:tjvesq@netzero.net>]
Sent: Monday, March 26, 2012 10:38 AM
To: Barbara Saint Andre; PJP@dcdclaw.com
Cc: lmret14@yahoo.com
Subject: neelon lane

I have attached proposed documents pertaining to dismissal of the action upon the pending sale. Please advise so that we can proceed in a timely fashion to accommodate the closing date, and dispose of this matter. Thomas J. Valkevich

53 Year Old Mom Looks 33

The Stunning Results of Her Wrinkle Trick Has Botox Doctors Worried
consumerproducts.com



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

Revised Draft – April 5, 2012

Minor Site Plan Decision
A123 Systems – 34 West Street

You are hereby notified that on April 10, 2012, at a duly called and properly posted meeting, the Medway Planning and Economic Development Board acted on the application of **A123 Systems, Inc. of Westborough, MA for approval of a minor site plan for the installation of one mobile containerized Battery Energy Storage System (BESS)** on a 5,700 square foot portion of the NSTAR Gas and Electric #65 Substation site at 34 West Street. After reviewing the application and information compiled during the public review process, the Board, on a motion by _____, seconded by _____, approved the application with CONDITIONS noted herein and with WAIVERS from the *Site Plan Rules and Regulations*. Those voting in favor were

Robert Tucker abstained from voting as he was absent from the 3-13-2012 meeting when the Board reviewed the project.

SITE INFORMATION - The application pertains to a small portion of the 48.74 acre property at 34 West Street, near the intersection of West and Beech Streets. The parcel is located in the Industrial II zoning district, shown as Medway Assessors Parcel 2-59. The property is owned by Sithe West Medway LLC, a subsidiary of Exelon Corporation with which NSTAR Electric holds a long term lease agreement for its substation.

PROJECT DESCRIPTION/SCOPE OF WORK - A123 Systems proposes to install one mobile containerized BESS on a small portion of the subject parcel. A123 Systems has a 5 year site license with NSTAR for this pilot alternative technology project, which would be NSTAR's first in Massachusetts. The BESS uses advanced Nanophosphate lithium batteries to minimize and levelize changes in NSTAR's electric power system. This demonstration project will study, test and showcase the performance and reliability benefits of using a BESS within a suburban electric grid system for "capacity firming and ramp management." This project is part of the ISO-NE Alternative Technology Regulation (ATR) Pilot Program and is considered a green technology.

As proposed, the BESS will be located in a new fenced in yard adjacent to and south of the existing NSTAR substation building. The BESS container measures 53' long x 8.5' wide x 9.5' high. Auxiliary components to the BESS container include a 2 MW external inverter and various cabinets for a chiller, transformers, meters, etc. Lighting and landscaping are also proposed. When installed, the BESS will appear to be an extension of the existing NSTAR substation. Vehicular access would be provided from West Street via a partially paved, partially crushed stone driveway, 77' long by 16' wide. No personnel will work on site on a regular basis; access is needed only for routine and intermittent maintenance and emergency workers if ever necessary.

The site plan application, site plan drawings and supporting documentation were filed with the Town of Medway on February 13, 2012. The BESS site plan drawings are dated February 7, 2012 and were prepared by Vine Associates, a division of GZA GeoEnvironmental, Inc. Engineers and Scientists of Norwood, MA.

The complete application, proposed site plan, and all associated reports were on file with the Medway Town Clerk and the Planning and Economic Development office at the Medway Town Hall, 155 Village Street, Medway, MA and were available for inspection Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Fridays from 8:00 a.m. to 1:00 p.m. The plans were also posted at the Planning and Economic Development web page at: <http://www.townofmedway.org>.

PROCEDURAL SUMMARY

- January 5, 2012 Medway Building Inspector/Zoning Enforcement Officer John Emidy provides a written determination that the proposed scope of work constitutes a minor site plan project pursuant to the Site Plan section of the Medway Zoning Bylaw.
- February 13, 2012 GZA GeoEnvironmental, on behalf of A123 Systems, submits an application for minor site plan approval to the Medway Planning and Economic Development Board. A meeting of the Medway internal inter-departmental review team met with the applicant and its consultants to review the project and provide information on other needed permits.
- February 23, 2012 Notice of the 3-13-2012 Public Briefing is mailed to abutters within 300' feet of the subject parcel. The Public Briefing Notice was posted with the Medway Town Clerk and at the Planning and Economic Development page on the Town's web site.
- February 23, 2012 Plans circulated to Town staff requesting review comments.
- March 13, 2013 Public Briefing is opened and closed.

INFORMATION PROVIDED:

Application for Minor Site Plan Review dated February 9, 2012

Project Description/Narrative dated February 10, 2012 prepared by GZA GeoEnvironmental, Inc. of Norwood, MA – Michele Simoneaux, Peter Williams, P.E. and Gregg McBride

Stormwater Report – A123 Systems BESS Project, 34 West Street, Medway, prepared by Peter J. Williams, P.E., GZA GeoEnvironmental, Inc.

Request for Waivers from Site Plan Rules & Regulations – prepared by GZA GeoEnvironmental, Inc.

Section 204-3 (A) (7)	Development Impact Statement
Section 204-5 (C) (3)	Inventory of Existing Landscape on Site
Section 204-5 (D) (7)	Landscape Architectural Plan
Section 204-5 (D) (10)	Building Layout/Floor plan

The proposal is shown on plans titled *Battery Energy Storage System (BESS), A123 Systems Inc. NSTAR Station 65 West, 34 West Street, Medway, MA* dated February 7, 2012, prepared by VINE Associates, a division of GZA GeoEnvironmental, Inc. as follows:

Drawing C	Cover
Drawing 1	Site Context Plan
Drawing 2	Existing Conditions Plan
Drawing 3	Proposed Site Plan
Drawing 4	Landscaping, Architectural and Lighting Plan
Drawing 5	Details

TESTIMONY & REVIEW COMMENTS

Applicant & Representatives

- Michele Simoneaux and Peter Williams of GZA GeoEnvironmental, Inc.
- Chris Quaranta, Roger Lin and Jim Frawley of A123 Systems
- Kevin McCune, Richard Anderson, Frank Snyder and Duane Boyce of NSTAR

Review Comments

- Gino Carlucci, PGC Associates, Medway's Consulting Planner – March 8, 2012
- David Pellegrini, Tetra Tech, Medway's Consulting Engineer – March 9, 2012
- John Emidy, Medway Building Commissioner – March 6, 2012 re: compliance with noise standards

ACTION on WAIVER REQUESTS - Approved

Section 204-3 (A) (7)	Development Impact Statement
Section 204-5 (C) (3)	Inventory of Existing Landscape on Site
Section 204-5 (D) (7)	Landscape Architectural Plan
Section 204-5 (D) (10)	Building Layout/Floor plan

CONDITIONS OF APPROVAL

1. **Plan Revisions** – The final plans presented for the Board's endorsement shall include the following revisions:
 - a. A signature box shall be provided on each sheet of the plan set for the endorsement signatures of Planning and Economic Development Board members.
 - b. A Decommissioning Plan including a drawing and narrative acceptable to the Planning and Economic Development Board shall be included in the plan set as Drawing #6 and shall also be listed on the Cover Sheet.
 - c. The landscaping plan shall be revised pursuant to the PGC review letter dated 3/8/2012 – Zoning Comments, Item #3. (Attached)
 - d. Other technical revisions as specified in the Tetra Tech letter dated 3/9/2012. (Attached)
2. **Signage** – Signage on the BESS container will need to secure a permit from the Medway Building Commissioner which shall include a review by the Medway Design Review Committee and a Letter of Recommendation.
3. **Curb Cut for Driveway** – The applicant shall secure a *Street Opening Permit* from the Medway Department of Public Services prior to any site construction/installation.
4. **Plan Endorsement** - Within thirty (30) days after the Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a *Certificate of No Appeal* from the Town Clerk and a final site plan reflecting all required revisions specified herein to the Board to review for compliance with the Board's *Decision*. The Applicant shall provide an original of the site plan in its final form to the Board for signature/endorsement. After endorsement, the Applicant shall provide 6 full copied sets of the endorsed plan documents to the Board plus an electronic file.
5. **Project Completion** - 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 and site work has been completed in strict compliance with the site plan decision and the approved and endorsed site plan.

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 and Economic Development Coordinator

- cc: John Emidy, Building Commissioner
Thomas Holder, DPS Director
Suzanne K. Kennedy, Town Administrator
Michele Simoneaux, GZA GeoEnvironmental, Inc.
Karon Skinner-Catrone, Conservation Agent
Alan Tingley, Police Chief
Paul Trufant, Fire Chief

Decommissioning Plan Narrative
April 6, 2012

The Town of Medway Planning and Economic Development Board approved the Minor Site Plan for the installation of the Battery Energy Storage System (BESS) on April 10, 2012 included Condition 1b of the Approval which required a Decommissioning Plan. This narrative is provided in support of Drawing #6 of the plan set which shows the Decommissioning Plan.

The decommissioning of the site will include:

1. Removal of the primary electric service system including the pad mount transformer, metering package, safety switch, BESS inverter and all associated AC service cables. Electrical equipment removal including the pad-mounted transformer, primary metering and safety switch;
2. Removal of the transformer and safety switch foundations to 6 inches below grade;
3. Removal of the fiberglass pad supporting the primary metering installation;
4. Removal of the chain link fence;
5. Removal of the BESS system which includes:
 - a. The installation and or maintenance of the BESS inverter
 - b. The BESS batteries, trailer and associated interconnections
 - c. Control cabinet and associated interconnections
 - d. Inverter and associated DC or auxiliary power interconnections
 - e. Chiller and associated interconnections
 - f. Auxiliary power main switch and associated connections
 - g. Storage within the fenced in area.
6. Break up and removal of any exposed conduits and supporting equipment slabs or pillars for the above in item 5 to six inches (6") below grade;
7. An application for follow-up work to disconnect and remove the pole mounted transformer and wires associated with the auxiliary power service;
8. Removal of trap rock within the BESS fence line as well as the driveway. Note that the curb cut and associated paved entry apron will be kept in place;
9. Removal or relocation of shrubbery to another on-property location approved by NSTAR and,
10. Regrading and the addition of loam and seed to disturbed areas, as needed.

The language in this document does not supersede any obligations defined previously in the site license or option agreements between A123 and NSTAR.

January 24, 2012
Medway Planning and Economic Development Board
Medway Senior Center – 76 Oakland Street
Medway, MA 02053

BOARD MEMBERS PRESENT: Andy Rodenhiser, Bob Tucker, Tom Gay, and Chan Rogers

ABSENT WITH NOTICE: Karyl Spiller-Walsh

ABSENT WITHOUT NOTICE:

ALSO PRESENT: Susy Affleck Childs, Planning and Economic Development Coordinator
Amy Sutherland, Meeting Recording Secretary
Dave Pellegri, Tetra Tech Rizzo
Barbara Saint Andre, Town Counsel
Thomas Holder, Director Medway DPS
Owen Sullivan, Speroni Acres developer
Lou Caccavaro, attorney for Owen Sullivan
Rick Merrikin, Merrikin Engineering for Owen Sullivan

The Chairman opened the meeting at 7:00 pm.

The Chairman asked for any citizen comments.

Minutes:

January 10, 2012:

On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to accept the minutes from the January 10, 2012 meeting.

Release Subdivision Covenant – 25 Azalea:

On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to approve the release of subdivision covenant for 25 Azalea Drive. (See Attached.)

Speroni Acres Neighborhood Meeting

The Chairman introduced the board members of the Planning and Economic Development Board.

The members of the audience introduced themselves.

The Chairman explained that the Planning and Economic Development Board invited the Speroni Acres neighborhood to the meeting for the purpose of updating the neighbors on where things stand with various aspects of the subdivision and to inform the neighbors of what issues need to be addressed as the possibility of street acceptance is considered.

The topics to be covered for the evening include status of the stormwater drainage, needed repairs, ownership of and responsibility for the force main sewer system in the neighborhood, and steps for the streets to be “accepted” as public ways by the Town.

Dave Pellegrini of Tetra Tech Engineering, the Town’s engineering consultant, explained the drainage history of the site along with explaining current conditions. There were visuals of the site shown. He explained that the approved subdivision plan was signed in 1998. The drainage ponds were highlighted in yellow. There is an easement line in blue. The red line is the sewer line. The green line is the wetland line. Since this time, an as-built plan was presented in 2004. VHB, the Town’s prior consulting engineer, found and concluded that the as-built plan did not represent the actual conditions in the field. Next, the developer hired another engineer and another as-built was prepared. This was provided and shown. The 2009 as-built shows three detention basins. Basin #2 as constructed does not fall within the drainage easement boundary as shown on the definitive subdivision plan.

Dave communicated that he was asked to confirm the location of the detention basins. A survey was done and it was verified that the 2009 as-built is accurate. Dave indicated that he has met with Rick Merrikin of Merrikin Engineering regarding the performance of the basins. The basins appear to be in the same area but are a different shape. He checked to make sure the basins would perform as designed. There were minor modifications of the outlet structures. This was reviewed. Dave agreed with the evaluations.

The calculations for basin #2 are ok. The issue is that it falls outside the easement.

The other basins function and have stabilized with mature growth. The recommended approach is to leave the basins as they are but modify the outlet structure so that the capacity is the same.

One of the residents indicated that he lives next door, and during the heavy storms last March the basins were functioning.

The next part of the presentation was from the Department of Public Services Director, Tom Holder. He communicated that the knowledge he has is limited since he recently came on board with the Town and he is not in a position to discuss the layout. He did read all the materials presented. It is his view that the Town will not take the ownership of the force main system.

Dave Pellegrini indicated that he did review how the system functions and the liquid goes down to a manhole. This is a force main with individual systems. The force main comes down Rustic Road and then becomes a gravity system which goes to Summer St.

Owen Sullivan communicated that he was asked to put a second line in just for others who may want to tie into the system in the future.

The Chairman noted that the second line should be shown on the as-built plan.

Rich Merriken indicated that he will work with the as-built plan preparer to develop an as-built plan that shows everything.

Tom Holder noted that the town will only accept flow from gravity line. This will start from the manhole on Summer Street.

Member Rogers responds that the Water and Sewer Commission has no responsibility for the operational side of the force main system.

Chairman Rodenhiser explained that the Water and Sewers stance was to not allow force mains in the public way.

The residents explained that currently, when there is a break, whoever's property the break happens on, is the one who pays for it.

Chairman Rodenhiser reiterated that by forming an association, this allows the association to deal with problems in a more efficient and fair way.

An abutter responded that he appreciates that the neighbors were notified. He does not want to create an adversarial atmosphere. He wants to know what was the basis for the Department of Public Services to not accept the force main system.

Tom Holder responded that it was not originally intended to be accepted.

The abutter again asked, what is the basis for it not being accepted?

Tom Holder responded that on each deed it specified that there are individual pumps. Another reason is that the force main is on private property. The meeting minutes of the Water/Sewer board indicated that there would be a Homeowner's Association formed and abutters would need to get the approval and join the association. This was always intended to be managed by the homeowners association.

Chairman Rodenhiser further explained that he has tried to get the Water and Sewer Commission to accept a force main system in the 495 industrial park area. It has been a long standing policy of the Town to not allow force main systems.

The abutter wanted to know why establishing a home owners association was not part of the subdivision approval. It is impossible to form an association now. This is not practical.

The Chairman responded that the Planning Board does not cover anything to do with the permitting process for Water and Sewer Commission.

The abutter also wanted to know why two property owners on Summer Street did get approval to join the system.

One resident wanted to know how Fasolino was able to tie into the Town system for his property at 25 Summer Street.

Susy Affleck Childs communicated that when the Planning Board reviewed this, Mr. Fasolino indicated that he secured permission from Owen O'Sullivan to tie in. The information about the ownership of the sewer system was not as clear then as it is now.

Dave Pellegri expressed that the easements are labeled but need to be defined.

Chairman Rodenhiser communicated that the easements are probably owned by Owen O'Sullivan, but they may not be recorded.

Owen O'Sullivan responded that the easements are recorded, and his thought is that they were going to the Town of Medway.

The Chairman communicated that the easements could be deeded to a Homeowners Associations. One of the residents noted that it will be difficult to put together a Homeowners Association at this point.

Lou Caccavaro, the Attorney for Owen O'Sullivan, communicated that it is not difficult to form a Homeowners Association.

An abutter asked if the easements are owned by Owen, would that change the DPW position?

Tom Holder responded that he would be legally bound to maintain the easements if those were given to Town.

Town Counsel indicated that the Town does not have to accept easements.

One of the residents wanted to know would the town have the right to refuse street acceptance.

Town Counsel Barbara Saint Andre responded that yes the town is not required to accept any street.

Another resident asked what happens if a break happens in the middle of the line?

Chairman Rodenhiser responded that if there is a break, the Town has no obligation to do anything. There is still a subdivision bond in place. The insurance company providing the bond cannot get a release until this is approved. The Town has been working on this for three years. There are lots of issues which need to be resolved.

Owen O'Sullivan communicated that he did not build the houses or put the systems in. This was done by different builders. He subdivided the land and sold off house lots. He did not install any of the systems. He did communicate to each builder that they had to leave a stub for each parcel.

One of the residents wanted to know if there was a signed sewer plan.

Member Rogers responded that the Water & Sewer Board would not accept a force main system. The issue came up 2 years ago when an overflow problem happened at Rustic Rd. When the residents of Speroni Acres signed their deed this must have been indicated. He further explained that a Homeowners Association works great in the Commonwealth.

Owen O'Sullivan explained that the design was always to have individual pumps at each house.

Rich Merriken communicated that this is what is called a low head sewer system. The purpose of this type of system is to service only a few houses. This is an E1 pump. This is very common on the Cape and not unusual. He has seen it in Medfield, Walpole and Hopkinton.

Town Counsel Barbara Saint Andre explained the street acceptance process. The first step is making sure that the subdivision is completed. The as-built plan must be prepared and a street acceptance plan presented to Board of Selectmen. The Board of Selectmen will determine if they accept the layout. Then it will be sent to the Planning Board for acceptance at which point it goes to the Town Meeting for a vote of the town. All of the titles and easements will need to be examined. There are 120 days to get all this recorded after the town meeting. If there is no clear title, it could be taken by eminent domain.

Member Tucker noted that basin #2 falls out of the easement and this will need to be rectified.

NOTE – In January 2011, Owen Sullivan filed a subdivision plan modification to reflect the changes that need to occur in the detention ponds. There is a 10 to 15 foot strip needed to maintain this and would involve the property owner granting an easement. The easements will need to be looked at. This impacts only Lot #9.

The Attorney communicated that the work on the modification plan has been completed.

Rich Merriken noted that an easement plan will need to be presented. This will need the consent of the homeowner.

Susy Affleck Childs communicated that the town needs to get the funds from the developer to work on solving some of the issues. The Town cannot proceed without the funds to compensate the Town's various consultants.

One of the residents wanted to know how to get a picture of the sewer system.

Susy Affleck-Childs communicated that all plans are available to the public, but an updated as-built plan is forthcoming.

Engineer, Rich Merriken responded that he will be working to secure an updated as-built plan which will include the sewer.

One of the residents suggested having a follow-up meeting on the easements.

The Planning and Economic Development Board informed the residents that it is their responsibility going forward to check the website for an agenda item which might include the discussion of Speroni Acres. It was further communicated that they may call Susy Affleck-Childs to ask for information.

ZONING BYLAW AMENDMENTS DISCUSSION

ARI Estate Lots:

The Board is in receipt of the revised draft dated 1-23-201. (See attached.) A new item #7 was added. The purpose of the estate lots is to provide, through a special permit, for the reasonable use/development of residential parcels which significantly exceed the minimum lot area required by the Zoning District but which do not have the required minimum frontage. The Planning and Economic Development Board or Zoning Board of Appeals may grant a special permit for development of a single family dwelling on a lot in the ARI district which lacks the minimum frontage by designating it as an estate lot. This designation could be for pre-existing parcels or to newly established parcels.

The Board was in agreement that this would help homeowners with backland. It was recommended that Susy speak with the Board of Assessors to determine how many parcels exist which could use this designation.

The sections #8 & #9 need to be reworked. Tom Gay was not comfortable with the language regarding an estate lot shall not be permitted adjacent to any other estate lot. This would create a situation of who was there first? The Board is not comfortable with this.

This document will be revised and presented again to the Board for review

Adjourn:

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

Future Meetings:

The next meetings scheduled are: Tuesday, January 31st & February 14 2012.

The meeting was adjourned at 9:40 PM.

Respectfully Submitted,


Amy Sutherland
Meeting Recording Secretary

Edited by,

Susan E. Affleck-Childs
Planning and Economic Development Coordinator



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

RECEIVED
JUN 29 2011
TOWN CLERK

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

June 28, 2011

CERTIFICATE OF ACTION
25 SUMMER STREET – A PRIVATE WAY DEFINITIVE SUBDIVISION PLAN
(APPROVED with Waivers and Conditions)

I. DESCRIPTION: The proposed *25 Summer Street Definitive Subdivision Plan* is a 2-lot, 158 foot, permanent private way residential subdivision on a 1.98 acre parcel located at 25 Summer Street in the Agricultural Residential II zoning district. The parcel is owned by Fasolino Home Improvements, Inc. of Medway, MA and is shown on Medway Assessor's Map as Parcel 2B-7. The proposal also includes use of swales and a small stormwater basin for infiltration; and installation of sewer and water to connect to existing systems. The private roadway will be known as Summer Valley Lane.

II. APPLICANT:

Fasolino Home Improvements, Inc.
164 Main Street
Medway, MA 02053

III. PROCEDURAL SUMMARY: With respect to the *25 Summer Street Definitive Subdivision Plan*, the Planning and Economic Development Board hereby certifies that:

1. On January 19, 2011, it received an application for approval of the *25 Summer Street Definitive Subdivision Plan*, dated January 10, 2011 prepared by Faist Engineering of Southbridge, MA. A preliminary subdivision plan was not filed for this project.
2. On February 22, 2011, it circulated the definitive subdivision plan to various Town boards and departments, including the Board of Health, for review and comment. The Board of Health did not provide any written comments.
3. On March 8, 2011, it commenced a public hearing on the plan. The public hearing was duly noticed on February 21, 2011 and March 1, 2011 in the *Milford Daily News*. Abutter notice was sent by certified mail on February 16, 2011. The public hearing was continued to April 12, 2011, May 10, 2011 and May 24, 2011 when it was closed.

IV. PUBLIC HEARING SUMMARY: The public hearing and review of the 25 Summer Street Definitive Subdivision Plan were conducted over the course of four (4) Planning and Economic Development Board meetings during which substantive information was presented and evaluated. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* (dated April 26, 2005) in effect at the time the applicant submitted a definitive subdivision plan to the Town in January 2011. Specified below is a list of application materials, public comments, consultant and town review documents, and supplemental information filed by the Applicant. All information is on file with the Board and is available for public review.

Definitive Subdivision Plan – Faist Engineering, Inc.

January 10, 2011, Revised – April 20, 2011

Drainage Calculations - Faist Engineering, Inc.

January 10, 2011

Revised – April 20, 2011

Waiver Requests

January 14, 2011 letter from Fasolino Home Improvement, Inc.

Revised – April 20, 2011

Town Engineering Consultant Review Letters – Dave R. Pellegrini, P.E., Tetra Tech Rizzo

March 4, 2011

May 4, 2011

Town Planning Consultant Review Letters – Gino Carlucci, AICP, PGC Associates

March 3, 2011

May 5, 2011

Supplemental Information Provided By Applicant

April 8, 2011 letter from Sumner & Milford LLC giving permission to tie into the existing sewer system at Speroni Acres.

Landscape Plan for 25 Summer Street provided by Fasolino Landscape Design and Construction.

Citizen/Resident Letters - None

Citizen/Resident Testimony

Robert Condon, 3 Rustic Road (5-10-11 public hearing)

Professional Review/Testimony

Gino Carlucci, AICP, PGC Associates, Inc.

Dave R. Pellegrini, P.E., Tetra Tech Rizzo

David T. Faist, P.E., Faist Engineering, Inc. for the applicant

Medway Departmental/Board Review Comments

Dave Damico, DPS, via email dated May 18, 2011

V. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS – The Applicant has requested waivers from the following sections of the *Medway Subdivision Rules and Regulations*, dated April 26, 2005.

SECTION 5.7.19 - Proposed layout (including plans and profiles) of street construction, storm drainage and stormwater management facilities, water supply, and sewage disposal system including grades, and the proposed electric, telecommunications, natural gas, cable TV, and spare communications conduit. *NOTE* – The applicant or his representative will be responsible for field locating all utility installations during construction so they can be accurately represented on the as-built plans. This was not done, and a waiver is requested.

FINDINGS - The applicant requests a waiver from showing the electrical, telecommunications and cable TV lines on the plans. Instead the applicant plans to show the underground services on the subdivision as-built plans. Since NS&T will not design the underground utilities until the subdivision plan is approved, the Board grants this waiver subject to the applicant showing the location of the underground utilities on the as-built plan.

SECTION 5.7.20 - Existing roadway profiles of the roadway centerline drawn in fine black solid line and proposed profile of the finished centerline drawn in heavy black solid line will be provided for all proposed streets at a horizontal scale of one inch (1") equals forty feet (40') and vertical scale of one inch (1") equals four feet (4'). At least two (2) benchmarks are to be shown on each plan and profile sheet and proposed grade elevations shall be shown at 50 foot (50') station intervals except on vertical curves where elevations shall be shown at twenty-five foot (25') station intervals. Proposed intersections, sidewalks and probable location of driveways on lots shall be shown. Profiles shall extend across intersections to the outer layout line and to the layout line of the cut-de-sacs. The Board may require additional profile data when grading extends beyond the layout.

FINDINGS - The applicant is proposing a permanent private way/shared driveway. The cross section detail for the driveway is shown on Sheet 5 of 5. Since this is a permanent private way to serve only two lots, the Board finds that the cross-section detail for the shared driveway is sufficient for this project and the waiver is granted.

SECTION 5.7.24 – Location and Species of Proposed Shade Trees - The Definitive Subdivision Plan shall specify which existing trees are to be retained, where new trees are to be planted, planting details, planting schedule, and the maintenance program.

FINDINGS - The applicant requests a waiver from the installation of new street trees on the new roadway. As this is a Permanent private way/shared driveway and since there are existing trees along the Summer Street frontage and since the applicant has proposed a landscaping plan creating a vista in the area where the shared driveway splits off to the two houses, the Board finds that this proposal is an acceptable substitute and the waiver request is granted.

SECTION 5.7.27 – *The proposed location and approval of all street signs and traffic control signs on the proposed street, as well as, with the intersecting streets will be shown. The Town Safety Officer's correspondence will be required prior to endorsement by the Board.*

FINDINGS – The applicant requests a waiver from this regulation because they wish to use Summer Street addresses. However, the addresses of 23 and 27 Summer Street are already in use. The Board finds that there is a need for a separately named roadway to provide suitable addresses for these two house lots. Therefore a street sign will be needed. This waiver request is denied.

SECTION 5.7.28 – *Streetlight Locations – Proposed and existing streetlights shall be shown on the plan. Existing streetlights to be relocated at the expense of the developer shall also be shown on the plan.*

FINDINGS: Since the applicant proposes a private roadway/shared driveway serving 2 houses, the Board finds that no street lighting is needed for this subdivision. Furthermore, there is an existing streetlight on Summer Street about 50 feet south of the shared driveway. The Board grants this waiver request.

SECTION 5.7.31 – *Locations of proposed open space – Proposed park or open space areas suitably located within the subdivision for playground or recreation purposes or for providing light and air in accordance with M.G.L. Chapter 41, Section 81-U.*

FINDINGS – The applicant is not proposing any open space with this subdivision and none is required. The Board finds that there is no need for open space or a park in this 2 lot subdivision so this waiver request is granted.

SECTION 5.7.32 – *Cul-de-sac Island Landscaping – A landscape design plan, prepared by an experienced landscape designer, which shall include a plan view and a list of all plant and inorganic materials. The Board may require use of a professional landscape architect registered in the Commonwealth of Massachusetts.*

FINDINGS – The applicant is not proposing a fully paved cul-de-sac with this subdivision so there is no island. However, the applicant has provided a landscape plan for the area within the cul-de-sac right-of-way. Therefore, the Board grants this waiver request.

SECTION 5.20.2(a) – *Ways and service to be complete before such lot may be built upon.*

FINDINGS – While this is only a 2 lot subdivision with a private way/shared driveway rather than a complete public street, the Board finds that it is in the best interest of the Town to ensure that sufficient infrastructure is in place prior to releasing any lots for house construction. This includes that portion of the roadway within the street right-of-way to be paved with a binder course as well as a functioning drainage system. Therefore, this waiver request is denied.

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

FINDINGS – The Applicant is requesting that the Board to allow for building permits with no occupancy until the completion of the driveway base coat. As stated above, the Board requires that a binder course for the driveway and functioning drainage system be in place prior to the release of lots for house construction purposes. Therefore, this waiver request is denied.

SECTION 6.8 – *Procedure for Street Infrastructure Acceptance.*

FINDINGS – The Applicant proposes that 25 Summer Street will be constructed as a permanent private roadway; the Town will not be accepting this roadway. Therefore, the Board finds that there is no need for a street acceptance process and this waiver request is granted. An as-built plan for the roadway, drainage system and landscaping in accordance with Section 6.7 of the Subdivision Rules and Regulations is still required.

SECTION 7.7.2 p) – *Stormwater Management Procedure. The limits of detention and retention basins and related structures shall not be closer than thirty feet (30') from its lot/parcel line and any right-of-way.*

FINDINGS – The Applicant proposes two (2) interconnected dry detention basins located within the separate Parcel "A", which also includes the shared driveway. Each dry basin is located within 10 feet of the property line of both lots, which will benefit from their construction. Due to the minimal size of the basins as well as the distance from the elevation of the proposed houses, the Board finds that this design is acceptable for this subdivision and the waiver request is granted.

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

FINDINGS - The Applicant proposes utilizing the existing driveway which has a grade between 5-8%. The Board finds that using the existing driveway will reduce the disturbance needed to construct the subdivision and is acceptable since the driveway will serve only one additional house. Therefore, the waiver request is granted.

SECTION 7.9.7g) – *The minimum roadway width for a "Permanent Private Way" is eighteen (18) feet.*

FINDINGS - The Applicant proposes a single shared paved driveway/private roadway that will have fourteen (14) feet paved width within the right-of-way. The Board finds that this proposed paved width is acceptable in that it will serve only two houses and the waiver request is granted.

SECTION 7.10.2 – *Curbs: "Permanent Private Way" is hot mix asphalt Cape Cod berm.*

FINDINGS - The Applicant proposes to utilize a "country drainage" low impact design using roadside dry detention basins. Curbing is not proposed to be used along the edges of the shared driveway. The Board and its consulting engineer have reviewed the proposed drainage design and have found it acceptable. Therefore, this waiver request is granted.

SECTION 7.11.1 – *Driveways shall be at least ten feet (10') wide and shall not exceed twenty-five feet (25') in width and shall have a three-foot (3') radius edge treatment consistent with the specific type of road construction.*

FINDINGS - The Applicant proposes to utilize the existing curb cut that is within the Summer Street right-of-way, similar to the adjacent "Ardmore Circle" private way. The Board finds that since the curb cut already exists and leaving it as is will reduce the impact on the newly reconstructed Summer Street, the design is acceptable and this waiver request is granted.

SECTION 7.11.2 – The construction of driveway openings shall not be within sixty-five feet (65') of the intersection of the centerline of intersecting streets or within fourteen feet (14') feet of a catch basin.

FINDINGS – There is an existing catch basin located within the Summer Street right-of-way that is within 28 feet of the existing driveway curb cut. Since the curb cut and catch basin already exist in the current locations, the Board finds that leaving the curb cut as is will reduce the impact of the subdivision's construction on the newly reconstructed Summer Street. Therefore, this waiver request is consistent with the Subdivision Rules and Regulations (April 26, 2005).

SECTION 7.13.3 – Sidewalks shall be provided along the entire frontage of a subdivision parcel along existing Town ways. In those instances where sidewalk construction is not feasible or practical, the Applicant shall make a payment in lieu of sidewalk construction to the Town of Medway, in an amount determined by the Town's Consulting Engineer. Such funds shall be deposited to a revolving fund to be used to finance the construction of sidewalks and/or other public improvements.

FINDINGS – As there is a newly-constructed sidewalk along the entire Summer Street frontage of the property, no new sidewalk construction is needed nor is a payment in lieu of sidewalk construction appropriate in this instance. Therefore, the Board grants this waiver request.

SECTION 7.17.1 – A fire alarm system shall be installed in accordance with the specifications of and located as directed by the Medway Fire Department or a sum of money paid to the Town equal to the cost of installing a fire alarm system within the subdivision, for use by the Fire Department for capital purchases.

FINDINGS – The Applicant is not proposing to install a fire alarm system as both lots already have frontage on Summer Street. The Board finds that there is no need for a fire alarm system for this 2-lot subdivision. Therefore, this waiver is granted.

SECTION 7.17.2 – Fire hydrants shall not be nearer than twenty-five feet (25') from the intersection of two (2) streets.

FINDINGS – No new fire hydrant is proposed to be installed within this subdivision as there an existing hydrant located within 300 feet of the property on the west side of Summer Street. Therefore, the Board finds that this waiver request is unnecessary and thus is denied.

SECTION 7.19.2 – To enhance the aesthetic quality of the streetscape, deciduous street trees of nursery stock conforming to the standards of the American Association of Nurserymen, shall be planted on each side of each street in a subdivision.

FINDINGS – The Applicant requests a waiver from the installation of new street trees. As this is a shared driveway and a permanent private way and since there are existing trees along the Summer Street frontage and the applicant has proposed a landscaping plan creating a vista in the area where the shared driveway split off to the two houses, the Board finds that this proposal is an acceptable substitute and the waiver request is granted.

SECTION 7.19.4 – Trees approved for planting are: Shademaster Honey and Skyline Locust, Sugar Maple, White, Scarlet, Pin and Northern Red Oak, Bradford and Aristocrat Pears, London Planetree or other species if approved in advance by the Tree Warden. At least three (3) species shall be planted in every subdivision and they shall be staggered so that no one species shall be planted next to a like species.

FINDINGS – Since the Board has granted a waiver request from the requirement to plant street trees, this regulation is not applicable and the waiver request is thus denied.

SECTION 7.20 – Street and Traffic Control Signs and Names

FINDINGS – As plan provides a shared driveway/private roadway, the applicant proposes that the two house lots have Summer Street addresses and therefore has requested a waiver from the street sign requirements. However, the addresses of 25 and 27 Summer Street are already in use. Therefore, the Board finds that there is a need for a separately named roadway to provide suitable addresses for these two house lots; this waiver request is denied.

SECTION 7.21 – Street Lights

FINDINGS – Since the Applicant proposes a private roadway/shared driveway serving only 2 homes, the Board finds that no street lighting is needed for the subdivision. Furthermore, there is an existing street light on Summer Street about 50 feet south of the private roadway/shared driveway. Therefore the Board grants this waiver request.

SECTION 7.21 – Walkways and Bikeways: *It is the policy of the Board to maximize opportunities for pedestrian and bicycle access. Pedestrian walkways or trails and/or bikeways are required to ensure connections between adjacent subdivisions and between the subdivision and nearby schools, playgrounds, parks, shopping areas, public transportation, open spaces and/or other public facilities or community services or for such other reasons as the Board may determine.*

FINDINGS – The Applicant is proposing only one additional house lot. Since the subdivision's 2 lots have frontage on Summer Street which has a brand new sidewalk as well as shoulders to accommodate bicycles, the Board finds that no additional facilities for pedestrians or bicycles are warranted and this waiver request is granted.

SECTION 7.25.1 – Monuments shall be installed along the roadway layout at all points of curvature and angle points. Monumentation shall be provided at easements at each angle point along the easement where the lot line intersects the street right-of-way, and at other points where, in the opinion of the Board, monuments are necessary.

FINDINGS – The Applicant is proposing the shared driveway to remain private and feels the monumentation requirement is not necessary. However, The Board finds that it is important for the right-of-way and the various easements to be clearly identified where maintenance responsibilities will be shared by the owners. Therefore, the Board denies this waiver request.

MITIGATION PLAN

1. The new road will be private in perpetuity, owned and maintained by a homeowner's association, thus relieving the Town of this on-going responsibility and expense.
2. Maintenance and upkeep of the stormwater management facilities will be the responsibility of a homeowner's association, thus relieving the Town of this on-going responsibility and expense.
3. The reduced width of road paving will result in reduced disturbance to the topography and less impact on the site's wetlands and other natural resources.
4. In lieu of constructing a landscaped island in the cul-de-sac right of way, landscaping shall be provided within the roadway layout to the west of the driveway split of Parcel A.
5. The applicant has agreed that both house lots will be used only for single family residences. The applicant will not seek any special permits from the Medway Zoning Board of Appeals for to use the two house lots for 2 family dwellings.

Action on Waiver Findings - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on June 28, 2011, a motion was made by Bob Tucker, seconded by Chan Rogers to approve the above noted Waiver Findings. The motion was approved by a vote of 3 in favor (Tucker, Rogers & Spiller-Walsh) and 0 opposed.

Action on Mitigation Plan - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on June 28, 2011, a motion was made by Bob Tucker, seconded by Chan Rogers to approve the above noted Mitigation Plan. The motion was approved by a vote of 3 in favor (Tucker, Rogers & Spiller-Walsh) and 0 opposed.

Action on Waiver Requests – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on June 28, 2011, a motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh, to act on the Applicant’s request for all of the above noted waivers from the *Subdivision Rules and Regulations* as specified in the Findings for each waiver request. The motion was approved by a vote of 3 in favor (Tucker, Rogers & Spiller-Walsh) and 0 opposed.

VI. DECISION – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on June 28, 2011, a motion was made by Bob Tucker, seconded by Chan Rogers, to approve the **25 Summer Street Private Way Definitive Subdivision Plan**, dated January 10, 2011, last revised, April 20, 2011, prepared by Faist Engineering, 600 Charlton Street, Southbridge, MA, subject to the *Specific and General Conditions* as specified herein and with *Waivers* from the sections of the *Subdivision Rules and Regulations* dated April 26, 2005 as listed above.

The motion was approved by a vote of 3 in favor (Tucker, Rogers & Spiller-Walsh) and 0 opposed.

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

Specific Conditions

1. It is expressly understood that this subdivision is authorized for no more than 2 single-family house lots. As a permanent condition of this plan, no further subdivision will be allowed.
2. The Applicant shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the definitive subdivision plan, to the satisfaction of the Board, within three (3) years of the date of endorsement of the plan.
3. *Ownership of Summer Valley Lane* - It is understood that the private way at 25 Summer Street shall remain private in perpetuity. There is no intention or expectation that the Town of Medway will ever accept the roadway as constructed pursuant to this plan. There shall be established the Summer Valley Road Homeowners Association, to be comprised of the owners of lots 1 and 2 as shown on the 25 Summer Street Definitive Subdivision Plan. The Association shall ultimately own and maintain Parcel A (the private roadway/shared driveway) including snowplowing and sanding, maintain and operate the stormwater detention/infiltration system and related infrastructure, and maintain all landscaping, including the area west of the driveway split.

4. The Applicant shall specifically reserve to itself ownership of the fee in all roadway and easements shown on the subdivision plan in any deeds or other conveyances or transfers of any of the lots. The Applicant shall convey the fee in the roadway and all easements to the Summer Valley Lane Homeowners Association before the Board approves the final bond release or, if there is no bond, then approval of the as-built plan.
5. Prior to endorsement, the 25 Summer Street Definitive Subdivision Plan last dated April 20, 2011 shall be further revised to include the following:
 - a. The final plan revision date on all plan sheets.
 - b. Update list of approved waivers on the cover sheet
 - c. The 25 Summer Street Landscape Plan produced by Fasolino Landscape Design and Construction shall be added to the plan set.
 - d. Removal of the existing northern curb cut and details showing the restoration of sidewalk and curbing along Summer Street.
 - e. Insert the street name for the new private roadway/shared driveway (Summer Valley Lane) on all plan sheets. Show location of street and traffic control signs.
 - f. Note 5 on the Cover Sheet shall be revised to specifically reference a Subdivision Covenant.
 - g. Another note shall be added to the NOTES section on the cover sheet to indicate that present and future owners are also subject to a *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the 25 Summer Street Subdivision*.
6. Prior to endorsement, the Applicant shall provide copies of the recorded deed verifying the Applicant's ownership of all properties comprising the 25 Summer Street Subdivision. The Board may refer such documentation to the Board of Assessors for review and confirmation.
7. Prior to endorsement, the plan shall be revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town's Consulting Engineer and the Board before the Board will endorse the definitive subdivision plan.
8. *The Summer Valley Lane Homeowners Association* - Prior to endorsement, the Applicant shall provide a proposed Articles of Association or Incorporation establishing the Summer Valley Lane Homeowners' Association to be reviewed and approved by the Board and Town Counsel. At a minimum, the document shall include provisions for membership by the owners of Lots 1 and 2, management responsibilities, procedures for voting and fee assessment, and for the ownership and financial responsibility for the on-going maintenance, upkeep and repair of the shared driveway, landscaping and the stormwater management system.

9. *Declaration of Protective Covenants & Restrictions and Private Roadway Maintenance Agreement Governing the 25 Summer Street Subdivision* – The future owners of lots 1 and 2 are subject to the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the 25 Summer Street Subdivision* to be executed and recorded with the definitive subdivision plan. Prior to endorsement, the Applicant shall provide a proposed *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the 25 Summer Street Subdivision* to be reviewed and approved by Town Counsel and the Planning Board. At a minimum, the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the 25 Summer Street Subdivision* shall include language regarding the property owners' responsibility through a homeowners' association for the upkeep, repair, and on-going maintenance of the roadway including snowplowing and sanding, landscaping and the operation and maintenance of the stormwater management system.
10. *Lot Deeds* – Prior to endorsement, the Applicant shall provide the Board with copies of the proposed deed to convey or transfer each subdivision lot for review, comment, amendment and approval by Town Counsel. Each deed shall state that the Applicant shall reserve to itself ownership of the fee in the roadway and easements shown on the subdivision plan. Each deed shall refer to any and all easements shown on the plan for that particular lot. The deed text shall include descriptive language specifying all easements, boundary delineations, specific usages and purpose. Each deed shall clearly state that Summer Valley Lane as shown on the 25 Summer Street Definitive Plan is a permanent private way, not ever to be owned by the Town of Medway. The deed shall refer to and be accompanied by a Lot Sketch Plan to be recorded with each deed. The Lot Sketch Plan shall also depict all easements and *Selective Cutting Zone*. The deed shall refer to the *Declaration of Protective Covenants & Restrictions and Private Roadway Maintenance Agreement Governing the 25 Summer Street Subdivision*.
11. *Road Deed & Easements* – Prior to endorsement, the Applicant shall provide the Board with a copy of the proposed deed to convey the Parcel A (the private roadway/shared driveway) and all easements shown on the plan to the Summer Valley Lane Homeowners Association, for review, comment, amendment and approval by Town Counsel.
12. *Document/Plan Recording* - Within thirty (30) days of recording the endorsed definitive subdivision plan, the Subdivision Covenant, the Declaration of Protective Covenants and Restrictions and Private Roadway agreement Governing the 25 Summer Street subdivision, any articles of association establishing the Summer Valley Lane Homeowners Association, with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred
13. *Maintenance Responsibility During Construction* - The Applicant shall provide for snow plowing, sanding and full maintenance of the shared driveway and all related stormwater management infrastructure throughout the entire construction process until the roadway is conveyed to the Summer Valley Lane Homeowners Association.

14. The Applicant shall abandon the existing driveway opening onto Summer Street and reconstruct the opening as follows to match the existing Summer Street sidewalk conditions and materials: saw cut the gutter even with the curb and saw cut the section of sidewalk. Raise the granite curbing on either side of the opening. Install new granite curbing at the opening. Repave the sidewalk. Seal all seams after work is complete. The Applicant shall obtain a street opening permit from the Medway Department of Public Services for this work and pay all applicable fees and deposits.
15. The 2 houses in the subdivision will have their sewer tied into the pipeline system that was installed by the developer of the adjacent Speroni Acres subdivision. This is a privately-owned pipeline system intended to be owned, operated and maintained by a homeowners association, not the Town of Medway. The applicant has represented that the system was designed for a tie-in from his property and that he has rights to such a tie-in. Therefore, the applicant is wholly responsible for ensuring that any such rights are valid. Furthermore, the applicant's obligations regarding any costs or responsibilities pertaining to such tie-in as well as ongoing operation and maintenance of the pipeline system are a private matter between the applicant and the owner of that system. The transmittal of the wastewater to and its treatment at the Charles River Water Pollution Control District plant shall be charged by the Town in the same manner as any property which sends its wastewater into that system.

General Conditions

16. *Expiration of Appeal Period* - Prior to endorsement, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk's office.
17. *Payment of Balance of Fees/Taxes* - Prior to endorsement, the Applicant shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations or fees due the Town of Medway pertaining to these properties. The Applicant shall also provide proof from the Medway Town Treasurer/Collector that all real estate taxes are current for all property included in this subdivision
18. *Establishment of Bond Account* - Prior to endorsement, the Applicant shall establish a statement savings account (*with the Town of Medway*) at an area financial institution with which the Applicant is placing a cash bond.
19. *Subdivision Covenant* - Prior to endorsement, the Applicant shall sign a *Subdivision Covenant*, on a form acceptable to the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services as specified in the approved subdivision plan. Reference to the *Subdivision Covenant* shall be noted on the cover sheet of the Definitive Subdivision Plan. The *Covenant* shall specify that the roadway and all relevant infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within three (3) years of the date of plan endorsement.

20. *Subdivision Bond* – At such time as the Applicant wishes to secure a building permit for any lot within the subdivision, the security provided by the *Subdivision Covenant* shall be replaced by a cash Subdivision Bond. Prior to the Board’s approval of the *Release of Covenant* for the first building lot, the Applicant shall deposit certified funds in the already established bank account with the Town of Medway in an amount equal to 100% of the amount that would be required for the Town of Medway to complete construction improvements and infrastructure maintenance if the Applicant failed to do so. The bond amount shall be approved by the Board based on an estimate provided by the Town’s Consulting Engineer.

21. *Order of Conditions* - Prior to endorsement, the Applicant shall provide the Board with a copy of any and all “*Order of Conditions*” as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the Definitive Plan that may be required under the “*Order of Conditions*” shall be presented to the Board by the Applicant, for review and approval as a modification to the Definitive Subdivision Plan. The Board reserves the right to negotiate with the issuing authority any mutually acceptable modifications to the “*Order of Conditions*” that may be deemed appropriate by the Board and the Town’s Consulting Engineer. After the public hearing and acceptance of the modifications to the plan, the Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty (20) day appeal period must be received from the Town Clerk’s office before the Board endorses the plan modification.

Additionally, upon issuance of any “*Order of Conditions*” requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

22. *Construction Observation* – Inspection of roadway and infrastructure construction by the Town’s Consulting Engineer is required. Prior to plan endorsement, the Applicant shall pay a construction observation fee to the Town of Medway for such inspections. The amount shall be determined by the Board based on an estimate provided by the Town’s Consulting Engineer. A construction observation account shall be established with the Board prior to plan endorsement. The Applicant shall provide supplemental payments to the Town of Medway, for reasonable construction inspection services, upon invoice from the Board, until the road construction and stormwater drainage system are completed, municipal services are installed, and the as-built plan has been reviewed and determined to be satisfactory for filing with the Town.

23. Within thirty (30) days of plan endorsement, the Applicant shall provide the Town with a set of the approved plan in 11” x 17” paper format. The Applicant shall also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Applicant shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor’s maps relative to this subdivision.

24. *Proof of Taxes Paid* - Prior to the Board's approval of the *Release of Covenant* for the first building lot, the Applicant shall provide proof from the Medway Town Treasurer/Collector that all real estate taxes and other fees due the Town of Medway are current to that date for all property included in this subdivision.

25. *As-Built Plans* - The Applicant agrees to prepare and provide as-built construction plans prepared in accordance with the approved subdivision plan and with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted, to the satisfaction of the Planning Board. The Applicant shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Applicant shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor's maps relative to this subdivision.

26. *Compliance* - All construction shall be as specified in the approved definitive subdivision plan and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

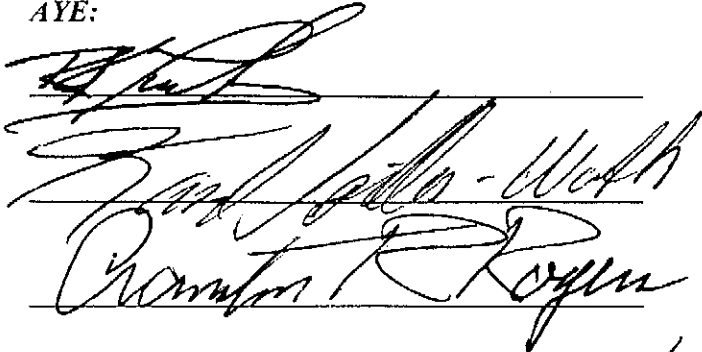
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**25 SUMMER STREET DEFINITIVE SUBDIVISION PLAN
CERTIFICATE OF ACTION**

*Date of Action by the Medway Planning & Economic Development Board
June 28, 2011*

AYE:

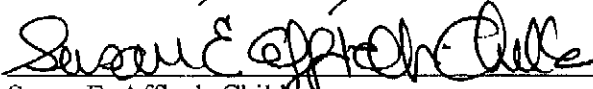
NAY:



Date Signed:

6/28/11

Attest:


Susan E. Affleck-Childs
Planning & Economic Development Coordinator

6-28-2011
Date

- Copies To:** Mike Fasolino, Applicant
David Faist, Faist Engineering, Inc.
Bill Fisher, Health Agent
Tom Holder, Director of Public Services
Suzanne Kennedy, Town Administrator
Will Naser, Principal Assessor
Melanie Phillips, Treasurer/Collector
John Emidy, Inspector of Buildings
Barbara Saint Andre, Town Counsel
Karon Skinner-Catrone, Conservation Agent
Paul Trufant, Fire Chief
Jeffrey Watson, Police Safety Officer
Maryjane White, Town Clerk
Gino Carlucci, PGC Associates
Dave Pellegrini, Tetra Tech Rizzo

Date Filed with the Town Clerk:

RECEIVED
JUN 29 2011
TOWN CLERK

Summer & Milford LLC,

20 Rex Drive Braintree Ma

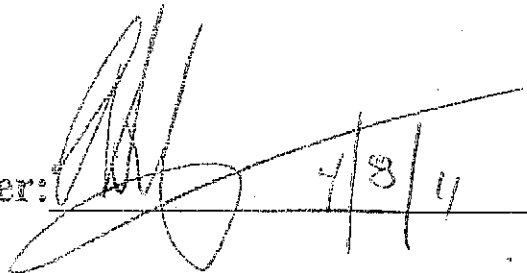
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RECEIVED
APR 08 2011

TOWN OF MEDWAY
PLANNING BOARD

Summer and Milford LLC. gives permission to Michael Brazollino to tie into the existing sewer system at Speroni Acres in Medway Massachusetts. All excavation must be restored back to existing conditions and must stay within all existing easements. All work must follow all state and local rules and regulations.

Owen Sullivan Partner:



4/8/11

Susan Affleck-Childs

From: Barbara Saint Andre [bsaintandre@petrinilaw.com]
Sent: Monday, March 12, 2012 10:09 AM
To: Susan Affleck-Childs
Cc: Andy Rodenhiser; andyrodenhiser@gmail.com; Thomas Holder; Suzanne Kennedy
Subject: 25 summer street subdivision - plan modification

CONFIDENTIAL NOT A PUBLIC RECORD
ATTORNEY CLIENT PRIVILEGE/NOT FOR PUBLIC RELEASE

Susy, I am not sure that I have the most recent version of the PEDB's Subdivision Regulations, but I note that Section 5.21 provides that the definitive plan shall not be endorsed until: "5.21.17 The Applicant has provided verification that title to the premises shown on said plan and appurtenances thereto including any off-site easements and rights of way is in the Applicant's name and free of all encumbrances or that the encumbrances set forth will not preclude any required subdivision improvements." If the applicant has only provided a copy of a deed for the easement, that does not establish that the applicant has an easement free of all encumbrances. A title report would provide more specific information as to the validity of the title.

In my further opinion, the PEDB has the authority to ensure that a subdivision that is planning to use sanitary sewers that will tie in (eventually) to the public sewer system has an adequate system and a means of entering the public sewer. With respect to PEDB regulations ensuring adequate provision for sanitary sewers, see Section 1.3 Purpose; §5.7.19; and §5.16.3 (determination that development does not entail unwarranted hazard to safety, health, and convenience of future residents of the development or of others because of possible environmental degradation). Most clearly on point, Section 7.6.2(d) provides that proper extensions to existing public sewer systems shall be provided and made.

General Laws chapter 41, §81M provides that the Subdivision Control Law is enacted to protect the safety, convenience and welfare of the public, including ensuring sanitary conditions in subdivisions. "The powers of a planning board... shall be exercised with due regard for... securing adequate provisions for water, sewerage, drainage..." G.L. c. 41, §81M. In K. Hovnanian at Taunton v. Planning Board of Taunton, 32 Mass. App. Ct. 480 (1992), the court upheld the planning board's denial of a subdivision where the developer could not show that it would be able to tie in to the town sewer. The subdivision plan showed a tie in to a line on South Walker Street, but the developer had been informed by the sewer department that it could not tie into that line. Taunton had an agreement with the town of Dighton for sewage disposal, but the agreement was silent as to whether a land owner, such as the plaintiff, could tie into the South Walker Street line without the approval of the town of Dighton. The planning board regulations were discussed by the court:

Section 211(2)(C) of art. II provides that, if the applicant proposes to interconnect with the Taunton municipal sewerage system, the definitive plan must be accompanied by (i) a statement by the supervisor of the sewer department "of the conditions on which the city will sewer the subdivision," and (ii) a statement of the supervisor approving the engineering features of the proposed sanitary sewers. To the same effect is art. III, § 315(1), which provides that sanitary sewers shall be designed "to provide connection to municipal sewerage system, as approved by the sewer supervisor." These regulations are reasonable requirements designed to assure an adequate and proper sewerage system for the subdivision.

Id. at 484. The court ruled that the developer had not complied with the regulations and that the regulations were within the scope of the board's authority. "Moreover, the required regulations may impose the reasonable obligation that an applicant show that it "has *perfected arrangements* which will make possible service of the subdivision by the usual utilities ..., " including sewer." (emphasis added) Id. In my opinion the Medway regulations, in particular Section 7.6.2(d) require the developer to demonstrate that it can tie into the town sewer system.

If you have further questions in this regard, do not hesitate to contact me.

Barbara J. Saint André
Petrini & Associates, P.C.
372 Union Avenue
Framingham, MA 01702
Tel. (508) 665-4310
Fax (508) 665-4313

bsaintandre@petrinilaw.com

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From: Susan Affleck-Childs [mailto:sachilds@townofmedway.org]
Sent: Friday, March 09, 2012 3:21 PM
To: Barbara Saint Andre
Cc: Andy Rodenhiser; andyrodenhiser@gmail.com; Thomas Holder
Subject: RE: 25 summer street subdivision - plan modification

Hi Barbara,

I wonder if you have any guidance for me about the PEDB requiring Mike Fasolino to provide documentation that Owen Sullivan has the right to authorize Mike to tie in the two house lots at 25 Summer Street to the Speroni Acres private force main sewer system. It is my intention to be as specific as possible when I communicate with Mike about with what information he needs to give us.

Another question . . . is even asking for this info reasonably within our subdivision authority? If not the PEDB, who has authority to ensure that there is adequate and legally provided sewer service?

Thanks.

Susy

Susan E. Affleck-Childs
Medway Planning and Economic Development Coordinator
155 Village Street
Medway, MA 02053

508-533-3291

saffleckchilds@townofmedway.org

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From: Susan Affleck-Childs
Sent: Thursday, March 01, 2012 2:36 PM

To: 'Barbara Saint Andre'
Subject: RE: 25 summer street subdivision

Hi,

Tuesday, we received the application to modify the plan for 25 Summer Street. I have scheduled a public hearing for March 27th. Per your previous recommendation, I have communicated with the owner (Mike Fasolino) and asked whether there is a mortgage and if so, to secure a sign off.

I have a follow-up question on the 25 Summer Street subdivision regarding their planned hook up to the private sewer system in Speroni Acres. During the initial subdivision plan review of this project last spring, Mike Fasolino provided us with a signed letter from Speroni Acres developer Owen Sullivan authorizing Mike to tie these 2 lots into the Speroni Acres force main. That was acceptable to us at that time.

However, in light of the insights (!?!?) we gained at the recent Speroni Acres neighbors meeting, I want to be more specific on this matter. I believe I should ask for "proof" that Owen Sullivan has the right to grant such permission. I need your help to come up with the language!! I am not sure that Owen Sullivan still owns the force main sewer easements!

Thoughts, oh wise one on how I should frame this communication??

Susy

Susan E. Affleck-Childs
Medway Planning and Economic Development Coordinator
155 Village Street
Medway, MA 02053

508-533-3291

saffleckchilds@townofmedway.org

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Medway Subdivision Rules + Regs -

construction. Control measures can include erection of walls, drains, dams and structures, planting vegetation, trees, shrubs, furnishings, necessary easements, and may specify a method of performing various kinds of work, and the sequence and timing thereof. A timetable outlining anticipated construction activity and associated erosion and sedimentation control measures shall be submitted to the Board. All work shall be subject to periodic inspection by the Board or Board's agents.

7.6 UTILITIES

7.6.1 Excavation - Excavation for structures, including foundation for drains and water pipes, retaining walls and other structures shall be made to the depth as indicated on the Definitive Plan or established by the Board's Agent as field conditions warrant. Any unsuitable material, as determined by an agent of the Board, encountered within the limits of the roadway shall be excavated to its full depth and shall be replaced with a clean granular gravel conforming to the gradation of the roadway subbase.

7.6.2 Installation - All drain, sewer, gas and water pipes, underground utilities, and other structures shall be installed upon the completion of the roadway subgrade and before the placing of the sub-base, gravel base course, sidewalks or pavement. Utilities shall not be located underneath landscaped islands in cul-de-sacs.

a) *Extension of Utilities* - Where adjacent property is not subdivided or where abutting developed lots are not served, or where all the property of the Applicant is not being subdivided at the same time, provision shall be made for the extension of the utility system by continuing the mains the full length of streets and to the exterior limits of the subdivision, and service connections to the property lines of above-mentioned abutting developed lots at such grade and size which will, in the opinion of the Board, permit their proper extension at a later date.

b) *Water Facilities Installation* - Water mains, with hydrants, valves and other fittings, shall be constructed and installed within the subdivision as necessary to provide to all lots therein adequate water supply for domestic and fire protection use. Water facilities must conform to the Medway Water Rules and Regulations, which are under the jurisdiction of the Water and Sewer Department. Proper connections shall be made with existing public water systems. Water lines shall be at least 8-inch diameter cement-lined ductile iron, Class 52 or greater, or as currently required by the Town of Medway Water and Sewer Department and shall be furnished with adequate valves and appurtenances to the specifications of the Town of Medway Water and Sewer Department. Water pipes shall be extended and connected to form a loop type system. Easements across lots shall be used to eliminate dead ends.

c) *Water Supply* - Potable water of quality and quantity acceptable to the Board of Health for domestic use, and for fire protection shall be provided in each subdivision. The Board will not approve a subdivision plan where no municipal water supply is available within a reasonable distance of the subdivision, as determined by the Board, unless adequate groundwater supply is available at the sites in the opinion of the Board acting with the advice of the Board of Health.

d) *Sewer* - Sewer manholes, sewer service laterals and other sanitary sewer components shall be constructed and installed within the subdivision as necessary to provide to all lots therein adequate municipal sewer service. Sewer facilities must conform to the Medway Sewer Department Rules and Regulations, which are under the jurisdiction of the Water and Sewer Department. Proper extensions to existing public sewer systems shall be provided and made.

e) *Septic Facilities* – Every lot in the proposed subdivision so located that it cannot be served by a connection to the municipal sewer system shall be provided with septic tank and drain-field satisfactory to the Board of Health and the Commonwealth of Massachusetts Sanitary Code minimum standards as determined by the Board of Health. A note shall be added to all plans as follows: “*No dwelling will be constructed on any lot without first securing from the Board of Health the Disposal Works Construction Permit required by Title 5 of the State Environmental Code.*” Approval of a Definitive Subdivision Plan by the Board does not absolve the applicant of any other requirements of the Board of Health.

f) *Gas* - Gas mains shall be installed if gas connection is available unless said installation is specifically waived by the Board. Gas systems shall meet the specifications of the Gas Company.

g) *Other Utilities* - Within all lots, underground telephone, electric and cable television lines shall be installed underground within rigid conduits approved by the respective utility companies for each specific purpose. The Applicant shall provide design plans from said utilities to the Board and their agent. Utilities located under the sidewalks are strongly discouraged.

h) *Spare Underground Conduit* – A spare communication conduit shall be installed in the same trench with electric, telephone, and cable conduit for future use by the Town of Medway. Conduit shall be three inch (3”) Schedule 40 PVC. The installation shall be clearly shown on all plans and shall conform to the relevant provisions of Section 801 of the Specifications. Conduit shall have a minimum of four inches (4”) of topsoil and sod cover in unpaved areas.

7.7 STORMWATER MANAGEMENT

7.7.1 *General Requirements* - Approval of subdivision plans may be withheld until the Board is provided with complete documentation that the proposed subdivision will not result in any increase in the rate or volume of stormwater runoff from natural or existing conditions, or that adequate provisions will be taken to maintain the volume and rate of runoff at its natural or existing level. The objective of this regulation is to maintain the integrity of existing natural drainage patterns, in order to provide adequate stormwater drainage, prevent flooding, and avoid alteration of existing stream channels.

7.7.2 *Procedure* - The design of the storm drainage system will conform to the following procedure and requirements. This procedure may be modified by the Board to better suit the problems and specific needs of a particular site.

LAWYER USE ONLY

PLANNING LAW

Zoning, Subdivision Control, and Nonzoning Alternatives

Second Edition

Mark Bobrowski

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[D] Traffic

Mass. Gen. L. ch. 41, § 81M states that any plan conforming to the subdivision rules and regulations of the planning board and the recommendations of the board of health must be approved. Thus, the board is not free to disapprove a plan because of traffic impacts to the city or town; the statute does not enable such discretionary powers. In *Mac-Rich Realty Construction v. Planning Board of Southborough*, the court held that “[a]n otherwise proper subdivision plan may not be disapproved on the grounds that the subdivision will adversely affect traffic patterns or municipal services in the community as a whole.”⁹⁵

Nonetheless, the issues of traffic and access adequacy are inextricably linked. In *Canter v. Planning Board of Westborough*,⁹⁶ the court limited the holding of *Mac-Rich*. The earlier decision frowned upon consideration of traffic impacts to the community as a whole. In *Canter*, the court suggested that the review of traffic on ways adjacent to the proposed subdivision was permissible.⁹⁷

This position was confirmed in *North Landers Corp. v. Planning Board of Falmouth*.⁹⁸ The decision hints that any city or town wishing to use traffic as a factor in subdivision decisions should state its requirements in the framework of access adequacy.⁹⁹ Where a subdivision is served by “adequate” roadways but generates too many traffic trips to please the planning board, the board may not exceed its access requirements to deny the plan.¹⁰⁰

§ 17.10 SEWERS AND WASTEWATER DISPOSAL

Mass. Gen. L. ch. 41, § 81M states that a planning board may exercise its powers under the subdivision control law to secure adequate provision for sewerage.

[A] Individual Sewage Disposal Systems

The appeals court has ruled that the planning board has no jurisdiction over “health questions with respect to the disposal of sewage in a subdivision which

⁹⁵ 4 Mass. App. Ct. 79, 84 (1976). This position was reiterated in *North Landers Corp. v. Planning Bd. of Falmouth*, 9 Mass. App. Ct. 193, 197 (1979).

⁹⁶ 4 Mass. App. Ct. 306 (1976).

⁹⁷ The town, unfortunately, had no regulation allowing such review. The court, in dictum, suggested that “[t]he language of § 81M could be read to suggest that developer may be required by appropriate planning board regulations to take into account deficiencies in ‘adjacent public ways, and the concept of ‘adequate access’ must include”

ASPECTS OF SUBDIVISION CONTROL

will not be connected to a municipal sewer.¹⁰¹ The board of health has exclusive authority to regulate such matters. The board of health may not, however, at the stage of definitive plan review, require specific information for every proposed lot within the subdivision.

[T]he board of health would be acting prematurely and unreasonably if it were to take any action with respect to [the state sanitary code] other than requiring the planning board to endorse a condition on the definitive plan to the effect that no dwelling shall be built on any lot without first securing from the board of health the disposal works construction permit required by the code.¹⁰²

[B] Connection to Sewer Systems

The board of health or the planning board (subject to appropriate regulations) has jurisdiction over connection to public sewer systems in the course of subdivision development.¹⁰³

The planning board of a city or town has no authority to impose upon the municipality the obligation to construct sewer lines to service a proposed subdivision.¹⁰⁴ It is also not required to provide for extension of municipal sewer lines through an easement across a proposed subdivision where such extension is not in the public interest.¹⁰⁵ However, the board may reasonably require that the landowner demonstrate "perfected arrangements" for interconnection to the municipal sewer system.¹⁰⁶

§ 17.11 SLOPE

In *DiCarlo v. Planning Board of Wayland*,¹⁰⁷ the appeals court held that a board may properly consider slope in determining whether all lots in a subdivision have the access required by § 81M.¹⁰⁸ The subdivision in question was adjacent to land shown on a previously approved ANR plan that was held in common ownership. Two of the lots shown on the ANR plan could not access the public way providing frontage due to steep slope. The court held that these previously

¹⁰¹ *Fairbairn v. Planning Bd. of Barnstable*, 5 Mass. App. Ct. 171, 177 (1977).

¹⁰² *Id.* at 185.

¹⁰³ *Loring Hills Developers Trust v. Planning Bd. of Salem*, 374 Mass. 343, 346 (1978). See *Independence Park v. Board of Health of Barnstable*, 25 Mass. App. Ct. 489, 490 (1988), for an example of a board of health regulation pertaining to sewer systems.

¹⁰⁴ *Medford v. Fellsmere Realty Co.*, 345 Mass. 477, 481 (1963).

¹⁰⁵ *Carriso v. Planning Bd. of Revere*, 354 Mass. 569, 572 (1968). See, by analogy, the cases