

**January 14, 2014**  
**Medway Planning and Economic Development Board**  
**155 Village Street**  
**Medway, MA 02053**

<b>Members</b>	<b>Andy Rodenhiser</b>	<b>Bob Tucker</b>	<b>Karyl Spiller-Walsh</b>	<b>Tom Gay</b>	<b>Matt Hayes</b>	<b>Rich Di Iulio</b>
<b>Attendance</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

**ALSO PRESENT:**

Susy Affleck-Childs, Planning and Economic Development Coordinator  
Amy Sutherland, Meeting Recording Secretary

The Vice Chairman opened the meeting at 6:35 pm.

There were no Citizen Comments.

**Cumberland Farms – Site Plan and Special Permit:**

The Board is in receipt of the revised draft decision for Cumberland Farms dated January 10, 2014. This continues to be a working document. **(See Attached)**

Entered into the record was a Mullen Rule Certificate from member Tom Gay for the January 7, 2014 public hearing session. **(See Attached)**.

The applicant does have the revised draft version of the decision. The underlined sections of the decision are the sections which have been refined or added since last discussion. There are some spots sections which are blank which will need to be completed.

Vice Chairman Tucker wanted to first discuss the architectural connectivity of the canopy.

The Building Inspector, John Emidy did supply an email dated December 16, 2013. **(See Attached)**.

It should be entered in to the record that the interpretation of the building inspector was done prior to seeing the interpretation by the architect of record.

The Vice Chairman asked Susy if the Building Inspector has been able to view the letter from Allevato Architects and has he been able to provide a follow-up response.

Susy responded that she did show the letter from Allevato Architects to the Building Inspector, but she was not provided direction from the Board that follow-up from the Building Inspector

was requested. This was not pursued. Susy indicated that she can get follow-up with the Building Inspector if the Board desires.

The Board moved to page 12 of the draft decision which needed further language regarding the length and size of the canopy. Item B gets into the explanation of canopy and store.

Member Spiller-Walsh references page 12 (b) “but to ... recommends that it implies that it was an afterthought to separate the canopy” instead of connecting it. At the beginning of the review process with the Design Review Committee this (the convenience store) was intentionally designed with the canopy. She recommends striking section 9 (2). And also striking section (3) because if it was initially designed to have a corridor or arbor way between the two, it would not have been integrated both visually and physically. This was not how it was designed. It was designed to have it (the convenience store) be architecturally integral with the canopy.

Member Tucker responds that he thinks items one and two within the section referenced by Spiller-Walsh make sense, but he is not sure about three.

The Board is in agreement to strike two and three and delete the word “however” within that section.

The applicant wanted to discuss page 29 (U. Mitigation). It was indicated that the Bains were going to choose the plants that they wanted. Susy would like a list of plants which will be incorporated into the final sheet.

The conditions on page 21 were reviewed.

The Chairman arrived at 7:00 pm

Member Tucker has a concern about item (c) and the audio enhancements to pedestrian crossing signals and especially adjacent to a residential neighborhood. He does not want the audio enhancers to be going off 24/7 and is not convinced that this would be in the best interest of the neighbors.

Member Hayes responded the audio would only go off as part of the normal cycle and only when pushed by pedestrian. It would come on with the walk sign.

Member Tucker is concerned that some kids will go out there at 2:00 am in the morning to make a nuisance of themselves. If I lived there, I would not think very kindly that type of system.

Member Karyl Spiller-Walsh responds she would hate it.

Member Hayes responds that we were going to see if the audio enhancers are part of the Rt. 109 design. He wants to make sure there is consistency with the Rt. 109 project.

Member Rodenhiser responds that he was never in favor of them.



Member Hayes responds he want to keep it as long as we are consistent with Rt. 109.

Member Gay is in agreement with Member Hayes that there needs to be consistency with Rt. 109.

The Board then discussed a condition could be written about the audio referencing that it match with the Rt. 109 design committee as indicated in the 25-75% design plan.

All were in agreement.

**Blasting:**

The Board is in agreement that the first paragraph should note that it conforms to the State requirements.

There was some testimony by the residents about broadening the 250 ft. notification and go to 500 ft.

Consultant Pellegri communicated that it makes him uncomfortable to go beyond the State regulations.

Consultant Carlucci communicated that the preblast survey is protection for the people doing the work. This is protection for the blasting party.

The Board wants to eliminate item number 1 and put in a reference to State Regulations and then eliminate number 4.

The Board is in agreement to have the notification be 500 ft.

**Restrictions on Construction Activities:**

The Board would like the approval of work on legal holidays to come from the building inspector.

**Deliveries:**

The Board would like this changed to read shall occur no earlier than 9:15 am and no later than 10:00 pm.

**Site Maintenance:**

Include language referencing as submitted by the operation and maintenance plan.

**Landscape Maintenance:**

Member Spiller-Walsh referenced the landscape maintenance section and wants the word removal to be added to what landscape items need replacement (or removal).....

**Outdoor Seating:**

The applicant would like a chance to come to the Board if there is a problem with the outdoor seating. The applicant would like language be added to include that the Board may consider the matter at a public meeting.

**Sidewalk & Crosswalks:**

The Board wanted language to note that the applicant shall coordinate with the DPS if required or necessary.

**Eastern Driveway to the site from Milford Street:**

The property owner is the co-applicant and the grant of easement would be from property owner of the Medway Gardens property to Cumberland Farms. The Board wants the name Onilleva Trust LLC removed and replaced with the property owner. There is a concern that this may come back as a LLC and this would cover if the property owner never develops Medway Gardens. It was suggested that the names be taken out and reference the “property owner.” This will also be corrected in item #1.

**Mitigation:**

Susy communicated that the majority of the mitigation was included from the Consultant Mike Hall from Tetra Tech. She wanted direction from the Board about if there were impacts on the traffic, what would the options be? The decision is silent on this.

The Chairman noted that we agreed that this was a behavioral change that needed to be addressed by town officials since the behavior of the crossing guard is causing the queue of cars. The problem exists today and the behavior is still the same.

We have asked the applicant to provide the research on this, but it would be up to the town to figure out how to address it. In item #3 the last sentence should be removed.

The applicant communicated that we did come to agreement about putting up signs for the cut through. The idea was to put the signs in and then if the problem persisted, the study would be done for the mitigation.

There will no pre-construction mitigation done at this point. The traffic management section will need to be revised. Susy will work with Consultant Hall on this section.

The Board will need further time to work on the decision. It was suggested that this be done on January 28, 2014 at 7:30 pm.

**Continuation Hearing:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to continue the hearing for January 28, 2014 at 7:30 pm.**

**Millstone Village ARCUD Special Permit:**

The Chairman opened the public hearing for Millstone Village Adult Retirement Community. (See Attached public hearing notice.)

The subject parcel is a 51 acre site located at the west side of Winthrop Street south of Lovering Street.

The applicant is Elite Home Builders, LLC of Westborough, MA. They have applied to the Planning and Economic Development Board for an Adult Retirement Community special permit. The property is owned by Betty McCall-Vernaglia of Medway.

The Chairman began the hearing by explaining that for the benefit of those present in the audience, please be aware that this meeting is being videotaped and is broadcast live on Medway local cable access.

The Chairman introduced his fellow Board members Karyl Spiller-Walsh, Bob Tucker, Matt Hayes, Tom Gay and Rich Di Iulio.

Also at the table are Gino Carlucci, our planning consultant, Dave Pellegri, our engineering consultant from Tetra Tech, Susy Affleck-Childs, Medway's Planning and Economic Development Coordinator and Amy Sutherland, our meeting recording secretary.

The public notice requirements for this project have been satisfied. The official legal notice for this public hearing was posted at the Medway Town Clerk's office on December 19, 2013 and to the Board's web page office on December 20<sup>th</sup>. On December 26, 2014 a notice was sent by certified sent mail to all owners of property located within 300 feet of the development site. The legal advertisement for the public hearing was published in the *Milford Daily News* on December 30, 2013 and January 6, 2014.

The Chairman asked for a motion to dispense with a formal reading of the official public hearing notice.

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

The ground rules for how the public hearing will proceed were covered. The applicant will introduce herself and the members of the development team. They will make a brief presentation to describe their proposed project. That presentation will be followed by questions from members of the Planning and Economic Development Board. The applicant will respond to those questions. Our planning consultant, Gino Carlucci, has reviewed the proposal and provided a review letter which the Board and the applicant have already received. Gino will summarize his review comments which the applicant may respond to. Our engineering consultant, Dave Pellegri, has reviewed the proposal and provided a review letter which the Board and the applicant have already received. Dave will summarize his review comments which the applicant may respond to. Next, the public will have its opportunity to speak. If you wish to comment or ask a question, please raise your hand and the chairman will recognize all speakers and responders. When called upon, please stand, state your name and address so our recording secretary can have accurate information for the record. You may offer comments, ask questions, or read a prepared statement. If you have a prepared statement, please provide a copy to Amy.

The applicant may respond to those questions. After all citizens attending the public hearing have been given the opportunity to speak, we will then move to any Town staff and representatives of other Town boards or committees. They should also state their name and which department or committee they represent. They may offer comments, ask questions and make suggestions for improvements. The applicant may respond to those comments. Any written communications we have received from Town staff or other boards will be entered into the public hearing record. To date, we have received comments from the Director of the Department of Public Services, the Conservation Agent, and the chairman of the Design Review Committee. After that, we will return to Board members for additional comments and further discussion. Before we conclude the public hearing for the night, we will summarize a list of concerns and additional information that the Board wants the applicant to provide. Based on the information gathered and the comments we receive tonight, we will determine our next steps. Most likely, we will continue the public hearing to a future date and time that we will announce at the end of the meeting. We will also likely schedule a site visit to become more familiar with the property. You need to know that we do NOT re-notify the abutters regarding the next public hearing date. So please make note of the date and time that will be announced. Susy will post a public hearing continuation notice with the Town Clerk and on the Town's web site. You may call the Town's Planning and Economic Development office at any time to check on the date and time.

Rob Truax from GLM Engineering began the presentation by explaining that this project will consist of 80 units in 53 buildings of age restricted condominium dwellings. Eight of the townhouse units will be considered low or moderate income units. This project was approved back in 2007 but was withdrawn without prejudice on July 12, 2010. The submittal has the same architectural plans and site layout with the exception of providing a community building. This project is on 51 acres. The project will be serviced by the town sewage and water system. The site access and egress will be from Winthrop Street. The site will also have 20 acres of open space.

There will be parking and garages for every unit. There is parallel parking throughout the site. There is additional parking where the recreational building will be built. The renderings of the building were shown. The footprints are the same. The houses are 60 ft. from the road and meet the requirement. The old renderings had the houses setback, but the new submittal has the homes closer.

Susy would like to get the color renderings in electronic format to get those on the website. The engineer will email those to Susy.

**Documents entered into the Record:**

- Letter from Design Review Committee letter dated January 10, 2014 (See Attached)
- Consultant Letter Tetra Tech dated January 10, 2014 (See Attached)
- A letter from GLM Engineering Consultants dated November 12, 2013 (See Attached)
- A letter from Medway Conservation Commission dated January 9, 2014 (See Attached)
- An email from DPS Director Tom Holder dated January 8, 2014 (See Attached)
- PGC Associates review letter dated January 8, 2014 (See Attached)
- Special Permit Application dated October 15, 2013 (See Attached)

- A waiver list which was dated 11-21-13. (See Attached)

The applicant just finished a project called The Orchards in Westborough.

The sewer tie in will be at Winthrop Street. This will loop through the project. There is gas and electric. There will be an underground system. The soil in this development is very good. There will be one drainage basin in front. The applicant has a valid Order of Conditions but will need to go to the Conservation Commission. The site is surrounded by wetland areas. The applicant was able to maintain the buffers as required by the town throughout the site.

Member Spiller-Walsh informed the board that the Design Review Committee has already looked at the architecture vistas and the gardens. This is a really nice concept and a good presentation. One thing that has been overlooked is as the units on Winthrop came forward and lost space, there was a natural buffer which was a little sparse. She wants to know what will happen now, in regards to the landscape concept plan. The stone wall for walkway is good. It was recommended that a couple of specimen trees be shown. There should be some visibility of units and stonewall so that it is not solid trees. There should also be landscaping near the detention basin area on the left. It should be screened naturally, but not with just a row of arborvitae which are lined up like soldiers.

The applicant responded they will provide a landscape plan to the Board.

Member Tucker wanted to know from Consultant Carlucci if the open space area meets the criteria.

Consultant Carlucci responded that the ARCPUD requirements did not change other than the four step design, the formulas and numbers did not change.

Susy noted that the plan is for the applicant to retain ownership of the open space and not provide it to the town. This will need a protective covenant to retain it as open space. It must provide access to the public. This is a requirement. The intent will be to have access at the western edge and to connect to open space on adjacent property which is Iarussi Way. There will need to be a public easement to make the connection.

Consultant Carlucci indicated that he believes there is already a cart path there.

Member Hayes wanted to make the applicant aware of a few issues noted in the email from DPS. He wanted to know if the applicant will be seeking a permit to secure waste. He also wanted clarity on the sidewalk between Winthrop. He also recommends that the plan show the entire open space.

The Engineer responded that he has no issue with the letter from DPS. There will be a sidewalk connection but not on Winthrop. There will be created trails for open space.

The condition about the sidewalk will need to be checked further by Susy.



Susy indicated that this will function as a condo development and the applicant will have to establish an association. There would need to be easements around the trails. This will need to be addressed.

The discussion moved to the affordable housing units. 10% of the units will be affordable. This will adhere to the requirements. There will be a mix of the affordable units throughout the development.

The Board is in receipt of a memo dated 12/23/13 from Doug Haven from the Affordable Housing Trust. **(See Attached)**

Doug Haven was present to speak about the affordable housing. He explained that the planning board does have discretion for where those units are. For example, if it is more energy efficient to have those units in the middle of the development, the board can see that this happens. There would need to be a letter of recommendation.

The applicant wants these to be the middle units in the triplexes.

DHDC indicated that there needs to be some level of market analysis done to see that there is a need for the over 55. There has been some perception that this has trouble selling out.

The Engineer informed all that the Department of Housing and Community Development allows a % of the units to be a variety of ages but with no children. It was 20%, so 16 of those units could be under age restrictions. There will be a letter coming from Steve.

Susy indicated that the under age restriction would not comply with the bylaw and it would need to go to the Zoning Board of Appeals for a variance.

The market analysis needs to be done by the applicant and the Board wants to see this during the public hearing. This could be submitted as evidence during the public hearing.

Consultant Carlucci referenced his memo dated January 8, 2014. The community center does not exceed the 10% of the gross area of the residential units. It does comply. The landscape plan was the original and does not include trail or community center so it will need to be updated. He also suggested that the finding for two types of senior housing is no longer required.

The Chairman wanted to know if someone was to have a party of 100, would there be adequate parking.

The Engineer indicated that there would be 23 spaces in the vicinity of the party.

Consultant Pellegri wanted the handicap parking noted at the community center.

A new O & M will be provided.



**Resident - 2 Clover Lane:**

The resident is concerned about the drainage. He is recently included on the flood plan map. His other concern is with the traffic coming out of Clover. The neighborhood includes many children.

The Engineer noted that there is no increase in water. The water will be mitigated and recharged in the ground. There is a flood plan and there was remapping. The system will not effect and it will not increase the capacity.

In regards to the traffic, there was a traffic report done with the initial plan. This was done in 2007 and the applicant can provide it to the Board.

**Fire Chief Jeff Lynch:**

Fire Chief Lynch wanted it noted, that he is not speaking in opposition of this project, but typically senior people are his best customers and the work volume for the Fire Department will go up. It will not be a burden. The workload will increase from 3 to 5%. He has not looked at the plan in depth and would like to review the bigger plans and will provide comment.

Consultant Pellegrini was asked that the turning radius be determined as a minimum for the review process. The test would be to take the ladder truck and run it through there. The cul-de-sac did not have dimensions on this so he would need confirmation.

In the past, a waiver request for a diameter of 90 ft. had been granted.

**Other Comments**

Council on Aging Director Missy Dziejek thinks this is an excellent idea and it will impact the senior center with increases numbers which is great. She just hopes these units are affordable.

The applicant indicated the price range of the units would be from triplex to singles \$399,000 - \$500,000.

**Design Review Chairman:**

Chairman Buckley would like to see the proposed sign design and the full landscape plan and the color palette for the siding.

The applicant will be going back to the Design Review Committee. The tentative dates are February 3<sup>rd</sup> or 17<sup>th</sup>.

Karyl Spiller-Walsh had a question about the strip of land behind the cut out on Winthrop. She asked what were the applicant's thoughts and comments about what this would be.

The Engineer noted that the trail will be going there. This will be shown in the existing landscape plan.

Susy noted that she wants to check on the old scenic road permit if there was an extension. She also will need to convene the Town's street naming committee.

Doug Haven has a concern that the regulatory agreement be started for certain units built at a certain price. This needs to be in place prior to building. It is a requirement.

Susy will find out what the requirements are in relation to the regulatory agreement.

The Board will be continuing the hearing and will need any new materials by February 11<sup>th</sup> if the next meeting is to take place on February 25, 2014.

**Continuation Hearing:**

**On a motion made by Matt Hayes and seconded by Tom Gay, the Board voted unanimously to continue the hearing for Millstone Village Development for February 25, 2014.**

**EDC Consultant:**

EDC Consultant Rob Hubbard came to the meeting to introduce himself to the Board. The scopes of services were provided to the Board. **(See Attached)**

Mr. Hubbard explained that he is figuring out what happened in the recent past with Oak Grove. He is also looking at the zoning bylaw and regulations which would effect the Oak Grove parcel. A small portion was designated as 43 B. Developers like expedited permitting. We need to see if this is appropriate for this large use area. The Board will need to have discussions about changing the zoning in this area. The BSC report laid out four conceptual approaches and two preferred approaches. There needs to be consensus from Boards what the preferred plan to move forward. The idea is to have a redevelopment authority which would move forward with an urban renewal plan. He explained that we can base our plan on what BSC has already done. This will save money. This is a starting spot. He would recommend the preferred conceptual plan A which does not include the out parcels. He would like to look at the BSC information. Outparcels are within the Oak Grove study areas. For example, Mr. Williams parcel would be an out parcel.

The Board of Selectmen needs to move forward with a redevelopment authority.

The advantages of redevelopment would be that they do not need to follow the 30 B procurement law. It also allow for the ability to take property by imminent domain.

The Board would also like to look at form based code.

The Board will set up a workshop meeting with Mr. Hubbard date to discuss this further. It was suggested to wait until the Zoning work is completed, so March 2014 would work best.

**Certificate of Action Amendment to Applegate Farm Definitive Subdivision Plan:**

The Board is in receipt of the revised draft decision dated December 31, 2013 for the Certificate of Action Amendment to Applegate Farm Definitive Subdivision Plan. **(See Attached)**

One of the only issues left to discuss is the sidewalk on the north side of Coffee Street. The Board needs to uphold the prior decision and have it run the full length or provide language for another alternative.

Member Rodenhiser is in favor of sidewalk going all the way down for safety of the neighborhoods even though it does not connect.

Member Gay recommends that it go from Ellis to Applegate only. The DPS Director, Tom Holder indicated that he would not recommend extending the sidewalk since it would add maintenance and expense for little value. This is a classic example of sidewalk to nowhere.

Member Spiller-Walsh agrees with Tom.

Member Hayes disagrees that this sidewalk would have a school and Holliston Street near it. He wants to see it there.

Member Tucker wants it to go from Ellis to Applegate.

The Board is willing to give relief East of Applegate.

Susy informed the Board that there is a condition that the applicant be current with payment on property taxes. The applicant has a payment plan for taxes on other property. There is a condition written in the decision about the existing forbearance agreement.

Member Gay references page 5 (e.) and (f) regarding the tree pruning.

Susy noted that there has been no proof that the applicant has completed the pruning required by the Scenic Road Permit. It was recommended that the applicant be given a deadline or evidence that he has done this. The date of March 2015 could be the deadline date for pruning.

**General Findings:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the general findings for the certificate of action amendment to Applegate Farm Definitive Subdivision Plan as written.**

**Waivers of Subdivision Rules and Regulations:**

**On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to accept the request of waivers of the subdivision rules and regulations for the certificate of action amendment to Applegate Farm Definitive Subdivision Plan as written.**

**Mitigation Plan:**

**On a motion made by Matt Hayes and seconded by Bob Tucker, the Board voted unanimously to accept the mitigation plan for the certificate of action amendment to Applegate Farm Definitive Subdivision Plan as written.**

**Project Evaluation Criteria:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the project evaluation criteria for the certificate of action amendment to Applegate Farm Definitive Subdivision Plan as written.**

**Decision:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the decision as revised for the certificate of action amendment to Applegate Farm Definitive Subdivision Plan as written.**

**Murphy Insurance Site Plan Modification Decision:**

The Board is in receipt of the revised draft decision dated January 9, 2014 for Murphy Insurance Site Plan Modification for 131-133 Milford Street. (See Attached.)

**Waivers:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the waivers for the Murphy Insurance Site Plan.**

**Findings:**

**On a motion made by Karyl Spiller-Walsh and seconded by Bob Tucker, the Board voted unanimously to approve the findings for Murphy Insurance Site Plan.**

**Decision:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the decision for Murphy Insurance Site Plan.**

**Member Tucker left the meeting at 10:00 pm**

**PEDB MEETING MINUTES:**

**November 26, 2013:**

Member Gay asked that the minutes reflect that he was present.

**On a motion made by Matt Hayes and seconded by Tom Gay, the Board voted unanimously to approve the minutes from November 26, 2013 as revised.**

The Board was made aware that there has been a change to how the minutes will be handled. The draft minutes will be emailed to the Board members by Amy, the meeting recording secretary. The look of the minutes may be a little bit different. The revisions will be discussed at the meeting.

Chairman Rodenhiser noted that this is a mandated change. If you have any revisions, email Amy and not Susy.

The Chairman informed the Board that he got an email from Allison Potter requesting that he provide PEDB meeting minutes from 2005. It also noted that the Board Chairman was the keeper of records. Andy noted that he was never made aware of this. The email also notes “usu. . .” and the board did not know what this stands for.

Susy responded that she is not sure that we have the minutes from 2005 on the website but she believes that she has the minutes in the cellar of town hall. She also responded that there is no uniformity of process about how this is done and who is the keeper of the records.

Gino responded that the town clerk in other towns get minutes.

The Board wants clarity on who the keeper of the record is and how we should be doing this.

**December 23, 2013:**

**On a motion made by Karyl Spiller-Walsh and seconded by Matthew Hayes, the Board voted unanimously to approve the minutes from December 23, 2013.**

**Spruce Rd.**

Consultant Pellegri noted that he did a site visit on Spruce Rd. and noted that there was no silt or water coming down driveway.

The Chairman also communicated that he visited the site and took pictures. These were shared with the board. There was no water coming from the subdivision. There was a berm around the adjacent house which was functioning as retention from something that is coming out of the hill. The trees are built up on a berm. The swale was dry. The lowest point of the land was very soft. The PVC pipe goes to the trench. The entire area looks like filled swamp. It looks like Bermuda grass.

Consultant Pellegri will call the resident back with his findings with a telephone call.

Susy mentioned the Mass Department of Energy Resources announced a new grant program of \$50,000 for funding of an energy manager. Consultant Pellegri is working on this application for us. Medway is joining with the Town of Millis.

Consultant Pellegri wanted to inform the board that Charles River Village has five foundations in and the large rocks were removed from site.

Consultant Carlucci informed the board that there will be a SWAP meeting in February. The topic of discussion will be the impacts of the changing flood plain maps.

The Planning and Economic Development Board will hold their zoning workshop meeting on Tuesday, January 21, 2014. The Energy Committee has been invited.

The Chairman informed the board that he spoke with the chairman of the Zoning Board of Appeals about setting up a workshop meeting to discuss reworking some of the granting authority sections within the bylaw.

The next regular meeting date will be Tuesday, January 28, 2014 at 7:00 pm.

**Adjourn Meeting:**

**On a motion made by Karyl Spiller-Walsh and seconded by Matt Hayes, the Board voted unanimously to adjourn the meeting at 10:08 pm.**

Respectfully Submitted,



Amy Sutherland

Recording Secretary



Town of Medway, Massachusetts

CERTIFICATION  
PURSUANT TO G. L. c. 39, SECTION 23D  
OF PARTICIPATION IN A SESSION OF AN  
ADJUDICATORY HEARING  
WHERE THE UNDERSIGNED MEMBER MISSED  
A SINGLE HEARING SESSION

Note: This form can only be used for missing one single public hearing session.  
This cannot be used for missing more than one hearing session.

I, THOMAS GAY (name), hereby certify under the pains and penalties of perjury as follows:

1. I am a member of PLANNING & ECONOMIC DEVELOPMENT BOARD
2. I missed a public hearing session on the matter of LUMBERLAND FARMS

which was held on 1-7-14.

3. I have reviewed all the evidence introduced at the hearing session that I missed which included a review of (initial which one(s) applicable):

- a.  audio recording of the missed hearing session; or
- b.  video recording of the missed hearing session; or
- c.  a transcript of the missed hearing session.

This certification shall become a part of the record of the proceedings in the above matter.

Signed under the pains and penalties of perjury this 14<sup>th</sup> day of JANUARY, 2014

  
Signature of Board Member

Received as part of the record of the above matter:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Position: \_\_\_\_\_



**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*  
*Matthew Hayes, P.E.*  
*Karyl Spiller Walsh*  
*Richard Di Iulio, Associate Member*

REVISED DRAFT - January 10, 2014

**SPECIAL PERMIT AND SITE PLAN DECISION**

**Decision Date:** TTP

**Name/Address of Applicant:** GC of Nest Realand, LLC  
600 East 95th Street  
Indianapolis, IN 46240

**Name/Address of Owner:** Onilleva Realty, LLC  
38 Summer Street  
Medway, MA 02053

**Engineer:** Civil Design Group, LLC  
21 High Street  
North Andover, MA 01845

**Site Plan Dated:** June 28, 2013, last revised October 30, 2013

**Location:** 38 Summer Street and 39 & 41 Milford Street  
Medway, MA

**Assessors' Reference:** Parcels 56-37, 56-38 and 56-39.

**Zoning District:** Commercial V.

Telephone: 508-533-3291 Fax: 508-321-4987  
planningboard@townofmedway.org

with  
comments  
discussed  
1-14-2014

**I. PROJECT DESCRIPTION** – The applicant has sought a special permit and major site plan approval to construct a 4,513 sq. ft. Cumberland Farms convenience store and vehicular fuel dispensing facility with four fueling dispensers (*eight vehicle fueling positions*) through a long-term land lease with property owner Onilleva Properties, LLC of 1.35 acres on the northern portion of the combined 2.44 acres of property located on 3 parcels at 38 Summer Street and 39 and 41 Milford Streets. The proposal includes construction of a canopy structure above the fuel dispensers to provide weather protection and house fire suppression equipment. Site access/egress is to be provided by one curb cut on Summer Street and two curb cuts on Milford Street. The project plans include the construction/installation of stormwater management facilities, extensive landscaping, lighting, outdoor seating, parking and various pedestrian amenities.

Two residential structures currently located at 39 and 41 Milford Street are to be demolished. A portion of the structure presently occupied by Medway Gardens will also be demolished.

The proposed scope of work requires a special permit from the Medway Planning and Economic Development Board pursuant to the *Medway Zoning Bylaw, V. USE REGULATIONS, Sub-Section K, Commercial District V*. The proposed development also constitutes a *Major Site Plan Project* pursuant to the Medway Zoning Bylaw, V. C. 2 and therefore is subject to *Complete Site-Plan Review*.

## II. PROCEDURAL HISTORY

- A. July 12, 2013 – Special permit and site plan application filed with the Medway Planning & Economic Development Board and the Medway Town Clerk
- B. July 17, 2013 – Public hearing notice posted with Town Clerk and posted at the Town of Medway web site
- C. July 18, 2013 – Site plan distributed to Town boards, committees and departments for review and comment.
- D. July 22, 2013 – Public hearing notice mailed to abutters by certified sent mail.
- E. July 29 and August 6, 2013 – Public hearing notice advertised in *Milford Daily News*
- F. August 3, 2013 – Public hearing commenced. The public hearing was continued to August 27, September 17, October 8 & 22, and to November 12, 2013 when the hearing was closed.
- G. August 22, 2013 - Applicant meets with the Design Review Committee as referred by the Planning and Economic Development Board. Additional meetings were held with the Design Review Committee on September 22 and October 17, 2013 and January 6, 2014.

- H. December 17, 2013 - Planning and Economic Development Board voted to reopen the public hearing.
- I. December 20, 2013 - Notice to re-open the public hearing was mailed to abutters by certified sent mail; public hearing notice filed with Medway Town Clerk.
- J. December 24 and 30, 2013 – Public hearing notice advertised in *Milford Daily News*.
- K. January 7, 2014 – The public hearing was reopened, but was continued to January 14, 2014

**NOTE – Before the special permit and site plan applications were submitted to the Board, the following occurred:**

- A. March 18, 2013 - Meeting was held with Medway Internal Development Review Team and the Cumberland Farms applicant and engineer
- B. April 30, 2013 - Informal Pre-Application Meeting was held with the Planning and Economic Development Board
- C. April 22, 2013 - Informal Pre-Application Meeting was held with the Design Review Committee.

All members voting on this decision were present at all sessions of the public hearing or have provided certification pursuant to General Laws c. 39 section 23D.

All matters of record were available for public review in the office of the Planning and Economic Development Board for all items relevant thereto.

### III. INDEX OF DOCUMENTS

#### Application Materials

- Site plan application with addenda dated July 12, 2013
- Special Permit application with addenda dated July 12, 2013
- Site Plan for Cumberland Farms, dated June 28, 2013, prepared by Civil Design Group, North Andover, MA
- Stormwater Management Report for Cumberland Farms, 38 Summer Street, Medway, MA prepared by Civil Design Group of North Andover, MA, dated June 28, 2013
- Traffic Impact and Access Study for Cumberland Farms, Medway, MA by Tighe and Bond of Portsmouth, NH, dated June 14, 2013

#### Town's Consultants Review Letters

- Plan review letter dated August 6, 2013 from Gino Carlucci, PGC Associates
- Plan review letter dated August 20, 2013 from Gino Carlucci, PGC Associates

- Plan review letter dated August 8, 2013 from Dave Pellegri, Tetra Tech
- Traffic Study review letter dated September 11, 2013 from Mike Hall, Tetra Tech
- Revised plan review letter dated October 4, 2013 from Dave Pellegri, Tetra Tech
- Review letter dated November 5, 2013 from Mike Hall, Tetra Tech
- Review letter dated November 6, 2013 from Mike Hall, Tetra Tech
- Review letter dated November 7, 2013 from Mike Hall, Tetra Tech

#### **Supplemental Materials Submitted by the Applicant**

- Blasting booklet from State Fire Marshall's office
- Email communication dated September 10, 2013 from Jason Plourde of Tighe and Bond
- Letter dated September 6, 2013 from Jason Plourde of Tighe and Bond
- Response letter dated September 11, 2013 from Phil Henry of Civil Design Group
- Letter dated September 27, 2013 from Phil Henry of Civil Design Group to DPS Deputy Director David D'Amico
- Letter dated October 3, 2013 from Jason Plourde of Tighe and Bond
- Email dated October 10, 2013 from Phil Henry of Civil Design Group
- Request dated October 15, 2013 for Waivers from the *Site Plan Rules and Regulations*
- Two email communications each dated October 22, 2013 from Jason Plourde of Tighe and Bond
- Proposed shared easement plan dated September 20, 2013 by Civil Design Group
- Proposed Draft Easement document received October 21, 2013.
- Trash Maintenance Plan for Cumberland Farms dated May 5, 2013
- Email communication dated October 25, 2013 from Attorney Peter Paulousky
- Email communication dated October 28, 2013 from Attorney Peter Paulousky
- Proposed Scope of Work for Additional Traffic Analyses dated October 28, 2013 from Jason Plourde of Tighe and Bond
- Letter dated October 31, 2013 from property owner Joe Avellino

- Site Plan for Cumberland Farms, dated June 28, 2013, prepared by Civil Design Group, North Andover, MA – REVISED October 15, 2013
- Supplemental Stormwater documentation
- Email memo dated December 16, 2013 from Medway Building Commissioner/Zoning Enforcement Officer John Emidy
- Letter dated December 18, 2013 from James Owens, RA of Prevato Architects

#### **Written Communications from Town Staff, Boards/Committees**

- Status report memorandum from the Medway Design Review Committee dated August 8, 2013
- Fire Chief Jeff Lynch email communication dated August 19, 2013.
- DPS Deputy Director David D'Amico letter and email communication dated September 26, 2013
- DPS Director Thomas Holder email communication dated October 8, 2013
- Police Safety Officer Sgt. Jeff Watson letter dated October 4, 2013
- Status report memorandum from the Medway Design Review Committee dated October 7, 2013.
- Letter of Recommendation dated November 8, 2013 from the Medway Design Review Committee.

#### **Other Provided Reference Documents**

- Text and map of the Commercial V Zoning District
- Hours of Operations for Medway gas stations and convenience stores (prepared by Medway Planning and Economic Development office) – Dated September 30, 2013
- Cumberland Farms Public Hearing Schedule (multiple versions as revised) – Prepared by Susan Affleck-Childs, Medway Planning and Economic Development Coordinator
- Medway Stormwater Management General Bylaw
- Announcement, notes and audio recording of the October 28, 2013 Public Briefing by Town Staff and Consultants with interested residents/abutters



- Findings and Conditions Worksheet prepared by Susan Affleck-Childs for members of the PEDB

#### IV. TESTIMONY

##### **Professional Consultants' Testimony during Public Hearings**

- Phil Henry, PE, Civil Design Group – Site engineer for the applicant
- David Pellegrini, PE, Tetra Tech – Town of Medway Consulting Engineer
- Michael Hall, PE, Tetra Tech – Town of Medway Consulting Engineer
- Gino Carlucci, AICP, PGC Associates – Town of Medway Consulting Planner
- Peter Paulousky of Doherty, Ciechanowski, Dugan and Cannon – Attorney for the applicant
- Jason Plourde, PE, Tighe and Bond – Traffic engineer for the applicant

##### **Citizen and Abutter Testimony at Public Hearings**

- Jesse and Teigan Bain, 37 Millford Street
- Tracy Stewart, 21 Lovering Street
- Robert Parella (*Paramount Industries*), 42 Millford Street
- Donna Hainey, 6 Little Tree Road
- Paul G. Yorkis, 7 Independence Lane
- Audrey Alexander, 35 Summer Street
- Rod Condon, 3 Rustic Road
- John Flanagan, 42 Little Tree Road
- Resident, 13 Independence Lane
- Noreen Murphy, 13 Tulip Way
- Wes Truscott, 98 Winthrop Street
- Dennis Crowley, 6 Mill Street
- Resident, 11 Freedom Trail
- Tony Biocchi, 141 Winthrop Street
- Resident, 7 Little Tree Road
- Resident, 14 Little Tree Road
- Matt Buckley, 101 Main Street
- Resident, 38 Millford Street
- Resident, 14 Cedar Farms Road
- Resident, 8 Freedom Trail
- Pat Jensen, 13 Waterview Drive

##### **Other Testimony at Public Hearings**

- AJ Barbato - GCCF New England, LLC
- Joe Avellino – Onilleva Properties, LLC
- Matt Buckley – Chairman of the Medway Design Review Committee
- Jeff Lynch – Medway Fire Chief

- David D'Amico - Deputy Director, Medway Department of Public Services
- Ruthann McCarthy – Cumberland Farms District Manager
- Susan Affleck-Childs – Medway Planning and Economic Development Coordinator

#### **Written Communications from Abutters/Residents**

Email from residents Pam Bellino-Rivera and Madelyn Rivera-Bellino, 2 Knollwood Road dated August 13, 2013

Email from resident Tracy Stewart, 21 Lovering Street dated August 28, 2013

Email from resident Sheila Marshall, 65 Summer Street dated September 12, 2013

Email from resident Susan Allesandri, 8 Dean Street dated September 17, 2013

Email from resident Burke Anderson, 15 Rockwood Road dated September 17, 2013

Email from resident Jill Antonellis, 21 Oak Street dated September 17, 2013

Email from residents Jesse and Teigan Bain, 37 Millport Street dated September 17, 2013

Email from resident Chris Bell, 8 Little Tree Road dated September 15, 2013

Email from resident Angela Carney, 163 Summer Street dated September 17, 2013

Email from residents Joanna & Ron Cornwall, 7 Water View Drive dated September 17, 2013

Email from resident Vikas Dhole, 5 Little Tree Road dated September 17, 2013

Email from residents Nicole and Matt Evers, 2 Mishawamun Drive dated September 17, 2013

Email from residents Andrew and Jennifer Evers, 1 Waterview Drive dated September 17, 2013

Email from resident Jodi Ferrari, 2 Freedom Trail dated September 17, 2013

Email from resident John Flanagan, 12 Little Tree Road dated September 17, 2013

Email from resident Tanya Green, 1 Independence Way dated September 17, 2013

Email from resident Karen Grossman, 15 Slooquipp Place dated September 17, 2013

Email from residents Bob and Donna Hainey, 6 Mile Tree Road dated September 17, 2013

Email from resident Andrea Kerr, 67 Waterview Drive dated September 17, 2013

Email from resident Sean Lynch, 1 Little Tree Road dated September 16, 2013

Email from residents Sally and Neil Reynolds, 2 Dawn Road dated September 17, 2013

Email from resident Tracy Stewart, 21 Lovering Street dated August 28, 2013

Email from resident Greg Evers, 1 Causeway Street dated September 18, 2013

Email from resident Greg Redard, 4 Little Tree Road dated September 18, 2013

Email from resident Grace Hoag, 116 Winthrop Street dated September 18, 2013

Email from resident Ronnie Gibson, 19 Stable Way dated October 3, 2013

Citizens Petition submitted October 7, 2013

Email from residents Erin & Bill Hoye, 7 Little Tree Road dated October 8, 2013

Email from resident Jill Antonellis, 21 Oak Street dated October 7, 2013

Email from resident Gay Rotatori, 14 Olde Surrey Lane dated October 7, 2013

Email from resident Sheila Marshall, 65 Summer Street dated October 7, 2013

Email from resident Julie Infanger, 6 Gorwin Drive, dated October 7, 2013

Email from resident Tanya Green, 1 Independence Lane dated October 7, 2013

Email from resident Kevin Mee, 26 Fisher Street dated October 8, 2013

Email from resident Tom Price, 54 Fisher Street dated October 8, 2013

Email from resident Heather Damon, 9 Little Tree Road dated October 8, 2013  
Email from residents Martin and Susan Dietrich, 46 Fisher Street dated October 8, 2013  
Email from resident Nick Sellitto, 28 Hooksett Circle dated October 8, 2013  
Email from resident Mike Dreeske, 1 Pheasant Run Road dated October 9, 2013  
Email from resident Anderson Huang, 6 Quail Drive, dated October 9, 2013  
Email from residents Wayne & Sheila Marshall, 65 Summer Street dated October 10, 2013  
Email from residents Peter and Patricia Jensen, 13 Waterview Drive dated October 14, 2013  
Letter from residents Teigan and Jesse Bain, 37 Milford Street dated October 31, 2013  
Email from resident Linda Tasker, 6 Cedar Farms Road dated November 7, 2013  
Email from resident Manuela Bartfromo, 10 Cedar Farms Road dated November 5, 2013  
Email from residents Shaun and Shannon Montana, 13 Slocumb Place dated November 12, 2013

## V. FINDINGS

**ZONING BYLAW (Site Plan Section) - Does the proposed project constitute a suitable development based on conformance with the purposes of Site Plan Review as specified in the Zoning Bylaw and with the various site development standards and criteria set forth in the Site Plan Rules and Regulations?**

- (1) Are the buildings, uses and site amenities properly located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods?  
*The buildings, uses and site amenities are properly located. The use is allowed by special permit in this location within the Commercial V zoning district. This project is a redevelopment of a portion of the existing Medway Gardens site. The Cumberland Farms development is designed to minimize the grade change from Summer Street. Access to the site is maximized with entrances and exits on both Summer Street and Milford Street. A integrated with the Medway Gardens use by sharing a driveway off of Milford Street. A decorative signage facade is provided on the retaining wall where it is facing Medway Gardens and Summer Street. The approximately 4,500 square foot convenience store building is in scale with other commercial and municipal buildings in the Commercial V zoning district. Therefore, this criterion is met.*
- (2) Are the construction and renovation of buildings and the installation of site amenities thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the Design Guidelines?  
*The building and site design has been reviewed by the Design Review Committee (DRC) in light of the Design Guidelines, and most of the changes recommended by the DRC have been incorporated into the revised building and site design. Some of the changes include reduced signage, changes to the canopy design, extending the water table stonework around the three sides of the building and on the rear retaining wall, changing the colors of the bollards to a neutral color, removing corporate colored banding from*

*the building and canopy, incorporating portions of the natural ledge on the site into the landscaping plan, and upgraded landscaping in general. Therefore, this criterion is met.*

- (3) Are adjacent and neighboring properties protected from nuisance and harmful effects caused by noise, fumes, and the glare of headlights and other light sources generated by uses on the development site?

*As conditioned herein (Condition #\_\_\_), there will be no spillage of light beyond the property boundaries. The access and egress driveways/curb cuts are located at Milford and Summer Streets where they face other commercial properties rather than residential properties, thus minimizing headlight glare. The most significant noise generated from the site will be from gasoline delivery trucks and the times of delivery are restricted per Condition #\_\_\_ to minimize the impact of this noise on the adjoining residential property at 37 Milford Street. In addition, the applicant has agreed to install fencing and landscaping along the property line with the adjacent residential property at 37 Milford Street to provide a buffer to the Cumberland Farms site, as well as some additional shrubs on the property at 37 Milford Street. Therefore, this criterion is met.*

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

*As this is a redevelopment project on a previously developed site, there are minimal natural features remaining on the site. However, there are rock outcroppings. The outcroppings will not be preserved in place but portions will be relocated and integrated into the landscape plan for the site as noted in Condition #\_\_\_ . Therefore, this criterion is met.*

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

*During the course of the public hearing, the location of the underground gasoline storage tanks were moved from the western part of the site to the eastern part of the site to improve the flow and convenience of filling the tanks. The off-street loading facilities have been reviewed by the Town's consulting engineer, the Police Safety Officer and the Fire Chief and no issues have been identified. Visual intrusion is limited by virtue of the tanks being underground (i.e. there are no loading docks). The loading area for delivery of both gasoline and goods to the convenience store is located on the east side of the building, which is the least visible area on the site. Therefore, this criterion is met.*

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

*The facility is served by municipal sewer. A dumpster, properly screened, and located in the least visible area on the site, is provided to handle solid waste generated by the normal operations of the facility. Pursuant to Condition # \_\_\_\_\_, the Town will review the outside upkeep of the site to ensure that refuse is properly managed. Therefore, this criterion is met.*

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

*The plan has been reviewed by Town's Public Safety Officer as well as the Town's Consulting Engineers and Consulting Planner. The access driveways, loading and parking facilities have been found to be adequately designed. Side walks are provided along the entire frontage of the site and pedestrian pathways consisting of walkways and crosswalks are provided within the site and adjacent ADA/AAB compliant parking is provided adjacent to walkways across the front and side of the building and a bike rack is also provided. Therefore, this criterion is met.*

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

*The Fire Chief has reviewed and approved the plans. Access is provided to three sides of the building, and there are three access points to the site. Additionally, the Town's primary fire station is located at the northwest corner of the Route 109/126 intersection and is therefore very close by. Therefore, this criterion is met.*

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

*The applicant's stormwater management plan has been reviewed by the Town's Consulting Engineer as well as by the Department of Public Services. It is in compliance with Massachusetts Department of Environmental Protection Stormwater Management Guidelines. A waiver was necessary from the requirement to recharge groundwater with swales and detention basins due to the existence of ledge at high elevations throughout the site. Due to this physical inability to recharge the stormwater runoff, and due to the lack of available on-site discharge location, a waiver was also necessary to allow for the connection of the Cumberland Farms stormwater system to the Town's stormwater drainage system on Summer Street. The applicant will mitigate the peak rate of stormwater runoff by means of a subsurface detention and treatment system and no downstream impacts from such a connection were found. Therefore, this criterion is met.*

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

The site abuts two state-numbered highways and both are properly designed and constructed to serve the intended use and, as conditioned by \_\_\_\_\_, will provide an adequate level of service in relation to the traffic generated by the development. There are three site drives serving the site – two from Milford Street and one from Summer Street. Following review by the Town's Consulting Engineers and Public Safety Officials, the PEDB finds that these are adequate. The need for providing two driveways onto Milford Street was questioned during the public hearing. Most of the concern was directed at the easternmost Milford Street driveway, which will be also be used by Medway Gardens. While this new driveway has more impact on the abutters to the east than the existing driveway on 39 Milford Street, the PEDB finds that an adequate buffer to the abutters is provided in the form an 8-foot fence and trees and shrubs along a 15-foot planting strip (Condition # \_\_\_\_\_). Also, it was found that the westernmost access drive on Milford Street helps distribute traffic within the site thus facilitating access and circulation. Therefore, this criterion is met

- (11) Have the effects and impacts of the proposed use of land or structures on vehicular and pedestrian traffic, municipal services and utilities, roadways, parking, drainage, environmental quality, water resources, signage, lighting, and community economics, character, values, amenities and appearance been identified and evaluated?

Milford Street (Route 109) and Summer Street (Route 176) are adequate for the proposed use. Municipal services are adequate to serve the proposed facility. The quantity of on-site parking is adequate and exceeds the minimum requirement for the proposed use. Drainage is in compliance with Massachusetts Department of Environmental Protection Stormwater Management Guidelines. The site was designed to minimize impacts on environmental quality and water resources. Signage is subject to review and compliance with the provisions of the Zoning Bylaw; the Zoning Board of Appeals has issued a variance to allow for a taller height and larger sign surface area. Lighting is in compliance with the existing provisions of the Zoning Bylaw as conditioned herein (Condition # \_\_\_\_\_). The building and site design has been approved by the Design Review Committee, which has provided a positive Letter of Recommendation. The facility will have a positive impact on community economics, amenities and appearance. As a permitted use within the C-V zoning district and approved by Town Meeting, this development will not detract from the character and values of the area. Therefore, this criterion is met.

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

The site plan has been reviewed by Town officials and the Town's Consulting Engineers and Consulting Planner. Modifications were suggested and the applicant has responded positively to those comments with a revised plan. The revised plan has been reviewed and the applicant has addressed each of the comments received. Therefore, this criterion is met.

- (13) Have reasonable conditions, limits, safeguards and mitigation measures been established?



*Specific reasonable conditions have been included in Sections \_\_\_ and \_\_\_ of this Site Plan Decision. Therefore, this criterion is met.*

**ZONING BYLAW (Commercial V Zoning District for Local Convenience Retail store with associated gasoline sales)**

- (13) A Local Convenience Retail store with associated gasoline sales is allowed a maximum of 4 pumps.
- In an effort to downsize the scale of the gas canopy, the Board asked the applicant to consider having 3 pumps instead of 4. The applicant presented its case that the geography of the site and the associated site development costs are such that having 4 pumps is necessary to make the project work financially. As the bylaw allows for up to 4 pumps, the Board finds this criterion is met.*

- (14) The convenience store shall be a minimum of 4,000 sq. ft.
- The convenience store is 4,513 square feet so the Board finds this criterion is met.*

(15) Gasoline canopy

- (a) Any canopy over the gasoline pumps shall not exceed 2,200 sq. ft. in area and shall not exceed 60 ft in length unless a greater length is authorized by the Planning and Economic Development Board

*The proposed canopy over the gasoline pumps is 2,200 square feet and its length is 100 feet. The PEDB has authorized the greater length of the canopy as allowed by the Zoning Bylaw for four primary reasons. (1) the arrangement of four pumps in a single row is better for safety, vehicular and pedestrian movement within the site; (2) the shape of the site provides a more efficient use of space if the four pumps are aligned in a single row rather than two tandem sets of pumps; (3) the single row of four pumps provides more convenient access to the pumps by motorists while also facilitating traffic movement within the site; and (4) the applicant is providing extensive landscaping with specimen trees to offset the aesthetic impact of the canopy. The PEDB finds that this criterion is met.*

- (b) The gas canopy shall be either an architecturally integral part of the local convenience store retail building or a separate structure located to the rear or the side of the local convenience store.

*The applicant has chosen to physically separate the convenience store and gasoline canopy for the following reasons: (1) to maximize public safety by enclosing the specialized fire suppression system for the gas pumps within the canopy structure thereby keeping it completely separate from the convenience store building; (2) because of the difficulty in designing a suitable physical connection between the convenience store and*

~~The proposed canopy without disrupting the parking and safe flow of traffic on the site. (X) because such a connection would detract from the handsome appearance of the building's gable on the Milford Street facade of the convenience store.~~

~~When the Board finds that the gas canopy and convenience store are designed to be architecturally integrated through the use of similar materials, colors and details. The two buildings have been designed to be visually unified with each other. The applicant worked diligently with the Medway Design Review Committee over the course of many meetings to refine the position, scale, proportions and aesthetics of the gas canopy and the convenience store building and how they relate to each other. The site's aesthetically pleasing development scheme has been acknowledged. Furthermore, the site's landscaping plan was specifically designed to be integrated with the buildings and their positions on the site. Accordingly, the many elements of the building's architecture and site design are integrated with each other. Therefore, the Board finds that this criterion is met.~~

(c) If the gasoline canopy and convenience store are not architecturally integrated, gasoline canopy structure shall not be located closer to the intersection than any part of the convenience store building.

~~As the Board has made an affirmative Finding for (15) (b) above, this criterion is no longer applicable.~~

(d) The canopy shall not be closer than 50' to any lot used for residential purposes.

~~The eastern edge of the gas canopy is located approximately 105 feet from the western edge of the Bally property line at 37 Milford Street, the closest lot used for residential purposes. Further, the eastern edge of the gas canopy is located approximately 150 feet from the western facade of the Bally home. Therefore the Board finds this criterion is met.~~

**ZONING BYLAW (Special Permits) - The Planning and Economic Development Board must find that the following criteria are met before granting a special permit.**

(16) The use is in harmony with the general purpose and intent of the zoning bylaw

~~The C-V district specifically allows for a Local Convenience Retail store with associated gasoline sales by special permit so the Board finds that this criterion is met.~~

(17) The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district

~~The C-V district is the only Medway zoning district that specifically provides for the combined convenience store/vehicular fuel sales use so it is in an appropriate location and is in character with the zoning district. The proposed building is in scale with other~~

commercial buildings in the district and the building and site details have been reviewed by Town officials including, but not limited to, the Fire Chief and Police Safety Officer, Department of Public Services, and Design Review Committee, as well as the Town's Consulting Engineers (including a traffic engineer) and Consulting Planner to ensure that the use is not detrimental to the neighborhood. Property included in this zoning district and its environs have housed a number of gasoline/automotive service stations in the past. The site's location at the intersection of two state roadways makes it suitable for the proposed use. Finally, the facility provides services to a part of the community where they are not currently available which may slightly reduce cross town traffic to other commercial areas. The Board finds that this criterion is met.

- (18) Adequate and appropriate facilities will be provided for the operation of the proposed use.

The facility is served by municipal sewer and the stormwater runoff will be connected to public infrastructure within Summer Street and managed in compliance with Mass DEP Stormwater standards. A dumpster, properly screened, and located in the least visible area on the site, is provided to handle the solid waste/trash generated by the normal operations of the convenience store and fueling station. The access driveways, loading and parking facilities have been found to be adequately designed. Sidewalks are provided along the entire frontage of the site and pedestrian pathways consisting of walkways across crosswalks are provided within the site. Parking is provided adjacent to walkways across the front and side of the building and a bike rack is also provided. Stormwater is being managed in compliance with Mass DEP Stormwater Regulations. Therefore, the Board finds this criterion is met.

- (19) The proposed use will not be detrimental or otherwise offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewer, refuse materials, visual or other nuisances.

During the hearing, oral and written testimony was provided by Jesse and Teigan Bain, owners of the adjacent eastern residential property at 37 Milford Street in the Agricultural/ Residential II zoning district. Their testimony expressed serious concerns about the impacts of the Cumberland Farms development on the livability of their home. Of particular concern is the relocation of the curb cut/driveway presently serving 39 Milford Street by moving it 65' easterly closer to their property line such that the eastern edge of the new driveway is 15' off their property line. That driveway will serve as one of two driveways for customers to access and egress Cumberland Farms and for deliveries for the continued operation of Medway Gardens to the southwest of the Bain's property.

As conditioned herein (Condition # \_\_\_\_\_), there will be no spillage of light beyond the property boundaries. The most significant noise generated from the site will be from gasoline delivery trucks and the times of delivery are restricted to minimize the impact of this noise. See Condition # \_\_\_\_\_. No smoke will be generated by the convenience store facility. Gasoline fumes must comply with state and federal regulations. The site is served by municipal sewer. A dumpster, properly screened, will handle refuse. As conditioned



(Condition # \_\_\_\_\_), the store's operation plan will require patrolling for and removing refuse and debris that may be found on the grounds. Outdoor displays are also limited by Condition # \_\_\_\_\_ of this approval. Furthermore, the applicant has agreed to install fencing and landscaping on the Bain's property as part of its mitigation plan. Therefore, the Board finds that this criterion is met.

- (20) The proposed use will not cause undue traffic congestion in the immediate area.

Extensive analysis of traffic information has been provided by the applicant's Traffic Engineer and reviewed by the Town's Traffic Engineer. As a result of the traffic analysis and peer review, recommendations for changes in the plan, further pre-construction traffic analyses of existing conditions at Summer Street, located at High School and Milford Street/Little Tree Road and Summer Street/Rustic Road, as well as off-site mitigation of traffic impacts have been made and incorporated. They will serve to minimize any additional traffic congestion generated by the project. Further, Condition # \_\_\_\_\_ provides that an evaluation of the performance of the traffic signal at the intersection of Routes 109/126 will occur to determine if adjustments or upgrades are needed. Therefore, the Board finds this criterion is met.

- (21) The proposed use is consistent with the Medway Master Plan.

One of the goals of the 2009 Medway Master Plan is to encourage additional commercial/industrial development in the community. Preserving community character is another important goal of the Master Plan. The extent of review of and resulting changes in the site plans as a result of the Design Review Committee's review of the project in light of the Medway Design Guide, was a significant component of the review process. The PEDB finds that the project is appropriate to balanced the goals of economic development and the preservation of community character. Therefore the Board finds this criterion is met.

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

- (22) Has internal circulation, queuing and egress been designed such that traffic safety is protected, access to minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?

There are three drives serving the site – two from Milford Street and one from Summer Street. Following review by the Town's Consulting Engineers and Public Safety Officials, the PEDB finds that these are adequate. The single row of gasoline pumps facilitates internal circulation and the three access drives help spread the traffic to minimize internal congestion. The possibility of the Cumberland Farms development causing an increase in cut-through traffic on residential streets Rustic Drive and Little

*Tree Road was discussed during the public hearing. As conditioned herein (Condition # \_\_\_\_\_), the applicant will install signage in the right of way on Milford Street to discourage such cut-through traffic into the neighborhood. The on-site parking spaces are all located such that no backing out onto a public way is necessary. Therefore, the Board finds that this criterion is met.*

- (23) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?

*The design of the convenience store building, gas canopy and site was a major concern of the PEDB. The buildings and site went through several rigorous review sessions with the Design Review Committee and many of its recommendations were incorporated into the revised design of the canopy, signage and landscaping in order to better match the character of the area and the Town. The building size is in scale with other commercial buildings in the C-V zoning district. The landscaping has been designed specifically to soften the view of the gas canopy, and rock plantings are incorporated into the landscape plan in order to highlight one of the natural features of the area. Therefore, the Board finds this criterion is met.*

- (24) Is reasonable use made of building location, grading and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g. waste removal) from public views or from (nearby) premises residentially used and zoned.

*This project is a development of a portion of the Medway Gardens site. The development was designed to minimize the grade change from Summer Street. It is integrated with the adjacent Medway Gardens use by sharing a driveway on Milford Street, and it provides a decorative stone facade on the retaining wall where it is facing Medway Gardens and Summer Street. Parking areas are away from the street. Outside storage is limited by the conditions of this site plan and special permit approval (condition # \_\_\_\_\_). Waste removal is addressed through a dumpster properly located and screened, as well as through an operations plan that requires the regular monitoring and removal of waste on site. The landscaping plan both enhances the visual amenities of the site and helps soften views of the canopy. Extensive landscaping and fencing is planned to provide a substantial buffer with the residentially zoned and used property to the east to reduce the visible impact of the development. The PEDB finds that the buildings, trees and site amenities are properly located. Therefore, the Board finds this criterion is met.*

- (25) Is adequate access to each structure for fire and service equipment provided?

*The building has vehicular access on three sides and the site has 3 access driveways. The Fire Chief has reviewed and approved the plans. Medway's primary fire station is located across the street from the subject site. The canopy above the gasoline pumps incorporates a built-in fire suppression system. Therefore, the Board finds this criterion is met.*

- (26) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?
- a) the volume of cut and fill;
  - b) the number of trees to be removed with particular care taken with mature trees and root systems;
  - c) the visual prominence of man-made elements not necessary for safety;
  - d) the removal of existing stone walls;
  - e) the visibility of building sites from existing streets;
  - f) the impacts on waterways and environmental source areas;
  - g) soil pollution and erosion;
  - h) noise.

*The project is a redevelopment of an existing developed site so environmental impacts are minimal. The volume of cuts and fills is minimized. Few trees will be removed since there are few on the site. Landscaping has been designed to reduce the visual prominence of man-made elements and buildings on the site. No stone walls are being impacted. The drainage plan complies with Massachusetts Stormwater Guidelines and has been reviewed by the Town's Consulting Engineer and Department of Public Services. An erosion control plan will minimize soil pollution and erosion during construction and noise generated by the site is minimal. Blasting on the site during construction will be completed in compliance with State requirements and as further conditioned herein. (Condition # ). Therefore, the Board finds this criterion has been met.*

- (27) Is pedestrian and vehicular safety both on the site and egressing from it maximized?
- The plan has been reviewed by Town Public Safety Officials as well as the Town's Consulting Engineer's and Consulting Planning. The access driveways, loading and parking facilities have been found to be adequately designed. Sidewalks are provided along the entire frontage of the site and pedestrian pathways consisting of walkways and crosswalks are provided within the site. Parking is provided adjacent to walkways across the front and side of the building and a bike rack is also provided. Therefore, the Board finds this criterion has been met.*

- (28) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?
- As an existing developed site, the only visually prominent natural features are the rock outcroppings. The landscape plan has incorporated rock outcroppings to retain a form of this feature on the site. Therefore, this criterion is met.*

- (29) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?



*As conditioned, there will be no off-site glare from the site and the lighting will comply with the lighting section of the Zoning Bylaw. Therefore, the Board finds this criterion is met.*

- (30) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.

*The limit of work is reasonable and as a redevelopment project, the site plan will not cause substantial damage to the environment. Reasonable measures are included to minimize any impacts. Therefore, the Board finds this criterion is met.*

#### Other Findings

- (31) Considerable citizen opposition to the proposal was evidenced by a citizens' petition, numerous emails and testimony at public hearings. Concerns were expressed about the proposed use, the anticipated traffic congestion at the intersection of Routes 109/126 resulting from the development, the scale of the project, impacts of site blasting during construction on nearby properties, and the impact of the development on both livability and property values of nearby residential neighborhood.

- (32) Town Staff and Consultants participated in a meeting held on October 28, 2013 for Medway residents concerned about the proposed Cumberland Farms project.

**VI. VOTE OF THE BOARD** - After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board, at its meeting held on \_\_\_\_\_, on a motion by \_\_\_\_\_, seconded by \_\_\_\_\_, voted to \_\_\_\_\_ via special permit and site plan to GCCF New England, LLC of Indianapolis, IN to construct a Cumberland Farms convenience store and vehicular fuel facility with associated site improvements, drainage, parking and landscaping on a 1.35 acre portion of 38 Summer Street and 39 and 41 Milford Streets in Medway, MA subject to WAIVERs and CONDITIONS as specified herein.

#### Planning & Economic Development Board Member

#### Vote

Thomas Gay  
Matthew Hayes  
Andy Rodenhiser  
Karyl Spiller-Walsh  
Robert Tucker

Member Thomas Gay was absent from the August 13, 2013 public hearing but participated remotely via speakerphone as approved by PEDB Chairman Andy Rodenhiser.

Member Robert Tucker was absent from the October 8, 2013 public hearing but provided a *Mullins Rule* certification which was entered into the record during the November 12, 2013 public hearing.

Member Thomas Gay was absent from the January 7, 2014 public hearing but provided a *Mullins Rule* certification which was entered into the record during the January 14, 2014 public hearing.

**VII. WAIVERS** - At its \_\_\_\_\_ meeting, the Planning and Economic Development Board, on a motion made by \_\_\_\_\_, seconded by \_\_\_\_\_, voted to \_\_\_\_\_ waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended December 3, 2002*. The Planning and Economic Development Board's action and reasons for granting each waiver are listed below. All waivers are subject to the *Special and General Conditions of Approval*, which follow this section. The motion was \_\_\_\_\_ by a vote of \_\_\_\_\_ in favor (\_\_\_\_) and \_\_\_\_\_ against (\_\_\_\_).

**A. SUBMITTAL REQUIREMENTS/PLAN CONTENTS**

1. **204-5 (C) 3. A. Existing Landscape Inventory** shall be prepared by a Professional Landscape Architect licensed in the Commonwealth of Massachusetts. This inventory shall include a "mapped" overview of existing landscape features and structures at a general inventory of major plant species including the specific identification of existing trees with a diameter of one (1) foot or greater at four (4) feet above grade.

**EXPLANATION** - The proposal involves redevelopment of an existing site which includes multiple residential and commercial buildings which are shown on the existing conditions sheet. There are a few noteworthy landscape features on the site that will be retained. The submitted landscape plan is extensive and includes the addition of more than fifty new trees and three hundred-fifty new shrubs and ground cover.

**BOARD ACTION** - The Board agrees that the requirement for an Existing Landscape Inventory is not warranted for this particular project and the waiver is granted.

**B. CONSTRUCTION STANDARDS – Site Plan Rules and Regulations**

1. **205-3 (C-1)** – The slope of the paved entrance way shall not exceed two percent (2%) for the first 25 feet measured perpendicular from the front property line.

*EXPLANATION – The applicant seeks approval for a 3% slope for the first 25 feet of the paved entranceway off of Route 126/Summer Street. By allowing for a minimally steeper slope, the need for more extensive site blasting is reduced. A steeper slope allows the developed site to be more consistent with the existing topography.*

*BOARD ACTION - The Board concurs that the site can be safely developed without applying the more rigorous slope standard to the access drive off of Route 126. The waiver is granted.*

2. **205-4 (C)** – The applicant must demonstrate that there are not other suitable means to discharge stormwater other than tying into the public drainage system.

*EXPLANATION – The applicant seeks a waiver from this requirement to not discharge stormwater into the public drainage system. Presently, the majority of the current runoff flows untreated into the public drainage system via Summer Street. Stormwater cannot be managed on-site due to the existence of shallow bedrock at high elevations throughout the site. Instead, the applicant will mitigate the peak rate of stormwater runoff by means of a surface detention system and will improve the quality of the stormwater by installing a water quality system to treat the stormwater before connecting to the Town's public drainage system. No downstream impacts from such a connection were found.*

*BOARD ACTION – The Board finds that the applicant has demonstrated that there are no suitable means of recharging stormwater on site. Furthermore, the Board finds that the proposed surface treatment and detention facilities will improve the quality of stormwater without increasing the rate at which it enters the system. The Department of Public Services has verified that the applicant's proposal to connect to the public drainage system meets its criteria.*

*Thus, the untreated stormwater will not have a negative impact on the Town's public stormwater drainage system. The waiver is granted.*

- 205-4 (D)** – Runoff discharge to ground and surface drainage by means of swales and detention areas shall be required.

*EXPLANATION – The applicant seeks a waiver from this regulation because the stormwater cannot be recharged on-site by means of swales and detention areas. The existence of shallow bedrock at high elevations throughout the site is a seriously limiting factor which precludes the construction of on-site swales and detention areas to allow stormwater to recharge on site. Instead the applicant has proposed to connect to the Town's stormwater drainage system in Summer Street. The stormwater plan has been reviewed by the Town's Consulting Engineer and has been found to meet state stormwater guidelines. The Medway Department of Public Services is receptive to the applicant's plan to connect to the Town's system.*

BOARD ACTION - The Board concurs that the applicant has documented that the site's physical features (extensive ledge), limit the applicant's ability to discharge stormwater on site by means of swales and detention areas. Further, the Board finds the applicant has provided a sub-surface detention area. Therefore, the waiver is granted.

**VII. SPECIFIC CONDITIONS** – This approval is subject to the following *Specific Conditions/Limitations*:

A. **Plan Revisions** - Prior to endorsement, the site plan set for Cumberland Farms dated June 28, 2013 last revised October 30, 2013 shall be further revised as follows and submitted to the Planning and Economic Development Board for review and approval.

1. Cover Sheet
  - a. All waivers from the *Site Plan Rules and Regulations* that have been granted as specified herein shall be listed on the cover sheet of the site plan presented for endorsement.
  - b. The cover sheet shall prominently display a final plan revision date.
2. Revise the signature box of each sheet to remove references to the Board of Selectmen and replace with Medway Planning and Economic Development Board.
3. Sheet CFG8 - Landscaping Plan shall be revised to include notes regarding the use of rock outcroppings resulting from site blasting and feature lighting. See Condition 4 herein.
4. A separate sheet titled On-site Mitigation shall be added to the plan set. This sheet shall include:
  - a. the specifications for the speed monitoring signal to be located on the north side of Milford Street east of Summer Street
  - b. the specifications and detailed plan for the installation of landscaping along the western edge of the Bain property at 37 Milford Street

d)  
e)

specifications for audio enhancements to pedestrian crossing signals at the intersection of Route 2, 109 and 126.

the consist with post-top on project as per the 7590 plans



B. **Blasting**

1. At least 30 days before the anticipated date of blasting, the applicant shall notify all property owners, residents and business operators located within 500 feet (250 feet per state regs) of 38 Summer St and 41 Milford Street of the plans for site blasting, and of their opportunity to have a pre-blast survey conducted on their property at no charge. A property owner's signature on the Pre-Post-Blast Inspection Waiver form from the Massachusetts Department of Fire Services serves to waive their right to the pre-blast survey.

2. The applicant shall provide at least 30 days written notice of the scheduling blasting to all property owners and residents within 500 feet of 38 Summer, 39 and 41 Milford Streets.

3. Blasting shall be limited to occur between the hours of 6:00 am and 5:00 pm.

4. Within 72 hours after the blasting is completed, the applicant shall notify all property owners, residents and business operators located within 500 feet of 38 Summer, 39 and 41 Milford Street of the opportunity to file a Mass Department of Fire Services Blasting Damage Complaint Form with the Medway Fire Department within 30 days of the alleged blasting damage incident. The notification shall include a copy of the Blasting Damage Complaint Form.

C. **Restrictions on Construction Activities** - During construction, all local, state and federal rules shall follow regarding noise, vibration, dust and blocking of roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.

1. **Construction Time** - Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement shall commence no earlier than 7 a.m. and shall cease no later than (5, 6 or 7 p.m.) Monday - ~~Friday~~ Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Board of Selectmen.

2. The applicant shall take all measures necessary to ensure that no excessive dust leaves the premises during construction.

3. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for

confirm that the road they are on is covered

Follow structure in addition

INSPECTOR OF BUILDING

vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Applicant shall be responsible for all clean-up of the roadway within twenty-four (24) hours of its occurrence.

4. On a daily basis, the Applicant is responsible for having the contractor (2) clean-up the construction site and the adjacent properties onto which construction debris may fall.
  5. All erosion and siltation control measures shall be installed and observed by the Planning and Economic Development Board's consulting engineer and maintained in good repair throughout the construction period.
  6. **Construction Traffic/Parking** – During construction adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on-site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.
  7. **Noise** - Construction noise shall not exceed the noise standards as specified in the *Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, Paragraph 2. b*.
- D. **Outside Displays and Storage** - The following items shall not be permitted outside the building on the premises or in the right-of-way nor are they considered accessory to the convenience store/vehicular fueling facility uses.
1. Outside displays and storage of materials and products including but not limited to: tires, wheel covers, propane, etc.  
Except for an air machine, other machines or vending type devices for dispensing goods or products such as but not limited to an ice machine or a box kiosk.
  3. Shipping and packaging materials unless stored within the dumpster enclosure.
  4. Promotional/advertising banners/signs, etc.
- E. **Hours of Operation** – The convenience store and vehicular fueling facility shall not be open to the public before 5 am or after 10 pm.
- F. **Deliveries**
1. Fuel and product deliveries may occur ~~any~~ 9:15 am except in the afternoon during the Medway High School dismissal time period from 2:30 – 3:30 pm.
  2. Fuel and product delivery trucks shall access the site only from Summer Street.

MD later  
10pm

shall  
no earlier



G. **Lighting**

1. Lighting shall not exceed the maximum allowed as specified in SECTION V. USE REGULATIONS of the *Medway Zoning Bylaw*, Sub-Section B. Area Standards, Paragraph 7 Exterior Lighting.
2. The exterior surfaces of the perimeter of the gasoline canopy shall not be illuminated.
3. The standard store and gas canopy lighting shall be turned off when premises is closed.
4. The least impactful but sufficient security lighting shall be permitted after the closing hours of the convenience store and fueling facility.
5. The applicant shall notify the Board upon completion of the site lighting installation. After said notification, the Board shall have one year to review illumination. During this review period, the Board reserves the right to requirement adjustment of the number and intensity of the exterior light fixtures if it determines that illumination is not sufficient for security purposes or if spill-over onto adjacent properties is occurring.

reference to the approved plan  
new work plan

H. **Site Maintenance**

1. The applicant shall routinely attend to daily inspections and clearing the outside of the premises of ice and litter.
2. Trash storage shall be completely contained within the trash enclosure area as shown on the plan.

I. **Landscape Maintenance**

1. The site's landscaping shall be maintained in good condition throughout the life of the convenience store and vehicular fueling facility and to the same extent as shown on the endorsed plan or shall be replaced.
2. Within 60 days after two years after the occupancy permit is issued for the convenience store, the Town's Consulting Engineer shall inspect the landscaping to determine what landscape items need replacement and provide a report to the Board which may seek enforcement remedies with the Director of Buildings/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

weather or

- J. **Fire Suppression System** – The fire suppression system for the fueling pumps shall be located completely within the gasoline canopy and shall comply with all applicable federal, state and local regulations.

K. **Outdoor Seating**

1. The allowance for outdoor seating is granted for 6 months after an occupancy permit is issued for the convenience store.
2. Before the conclusion of that period, the Applicant shall contact the Medway Police Safety Officer to evaluate the performance of the outdoor seating area to determine if there are safety/loitering problems related to the outdoor dining area. Should it be determined that a safety problem

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exists due to littering, the Board may direct that the outdoor seating be removed.

L. **Snow Storage and Removal**

1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the zoning bylaw.
2. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises within 24 hours after the conclusion of the storm event.

as may be necessary

M. **Sidewalks and Crosswalks**

1. The applicant shall coordinate with the Medway Department of Public Services regarding easements for sections of public sidewalk along Route 109 which extend onto private property.
2. The applicant shall coordinate with the Medway Department of Public Services to determine maintenance practices and responsibilities for the painted crosswalks located at each of the three site driveways.

N. **Signage**

1. There shall be no outdoor signage or promotional posters displayed in the store windows of the convenience store on the premises.
2. The entrance/egress signs at the site driveways shall not include any corporate names, colors, logos, symbols or icons.
3. The fueling pumps shall not include any corporate names, colors, text, symbols or icons.
4. The gas canopy shall not include any signage, corporate logo or color. The canopy exterior face shall be illuminated.

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**Site Consolidation** – Prior to the issuance of a demolition permit for the structures located on 38 Summer Street, 39 and 41 Milford Street, the Applicant shall present a plan to consolidate the 3 subject parcels to the Board for review and subsequent recording at the Norfolk County Registry of Deeds.

P. **Eastern Driveway to the Site from Milford Street** – The Cumberland Farms site plan shows an area with an access easement located east of the eastern boundary of the designated lease area for the Cumberland Farms project. ~~Onsite~~ ~~Trust~~ C will grant an easement to Cumberland Farms to allow it to use the easement area for its easternmost access and egress drive on Milford Street. The site plan drawing shows a gate to separate the Cumberland Farms driveway area from the ~~Medway Gardens~~ portion of the site. *easement granted by Medway Gardens*

The property #338  
 owned by  
 Summers T

1. The subject easement area shall not be used by ~~Medway Gardens~~ for regular customer traffic.

First  
 left  
 to



2. Prior to issuance of a demolition permit for the structures located on 38 Summer Street, 39 and 41 Milford Street, the applicant shall provide the Board the recorded easement document pertaining to the location and use of the eastern driveway area on the site as shown on the site plan.
3. Cumberland Farms' product and fuel delivery vehicles shall use this easternmost driveway to egress the site.

Q. **Use of premises** – The use of the premises is limited to the convenience store and vehicular fueling facility. No other vehicular services are permitted pursuant to this special permit at this location.

R. **Traffic Management**

1. Supplemental baseline pre-construction traffic analyses
  - a. The applicant shall contract with a traffic consultant to perform the pre-construction traffic analyses (baseline traffic counts, cut-through traffic observations and queue observations) as described in the letter dated October 28, 2013 from Jason Plourde at Tighe and Bond, the applicant's traffic engineer, with the following additional stipulations:
    - 1) The pre-construction traffic analyses shall be completed prior to issuance of a building permit for the convenience store and/or gas canopy by the Medway Inspector of Buildings.
    - 2) The date of the observations on Summer Street at Medway High School shall be performed as specified in the comment letter dated November 20, 2013 from Mike Hake of Tetra Tech, the Town's traffic engineer.
2. Post-construction traffic analyses
  - a. The applicant shall bear the costs associated with the Board's review of the pre-construction traffic analyses by the Board's Consulting Traffic Engineer by providing funds to the project's Construction Account with the Town from which the Board will pay its Consulting Traffic Engineer. The amount shall be determined by the Board based on a cost estimate from its consultant.

2. **Post-construction traffic analyses**

- a. The applicant shall contract with a traffic consultant to perform the post-construction traffic analyses as described in the letter dated October 28, 2013 from Jason Plourde at Tighe and Bond. The post-construction traffic analyses shall be performed approximately 6 months after occupancy of the Cumberland Farms (not including June, July, August and December) to determine what traffic changes have occurred as a result of the Cumberland Farms

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development. The schedule for conducting the traffic counts shall be approved by the Medway Department of Public Services.

- b. The Applicant shall bear the costs associated with the Town's review of that traffic analysis by its Consulting Traffic Engineer by providing funds to the project's Construction Account with the Town from which the Board will pay its Consulting Traffic Engineer. The amount shall be determined by the Board based on a cost estimate from its consultant.

3. Mitigation – Based upon the results of the P&E construction analyses report, adjustments or upgrades may be needed to the operation and timing of the traffic signal and the intersection of Route 109/126, the driveway to Medway High School on Summer Street, and traffic calming measures on Little Tree and Rustic Roads to mitigate the negative impacts of increased traffic generated by the Cumberland Farms operation on the functioning of the intersection, the level of drive-thru traffic in the Speroni Acres subdivision, and the operation of the entrance/egress at Medway High School. WHAT DO WHHH THIS?? HOW to agree to what will be done . . .

4. Prior to construction, the applicant shall install suitable signs in the Town's right of way on the south side of Millford Street to indicate that cut-thru traffic onto Little Tree and Rustic Roads between Millford Street and Summer Street is not permitted. The sign locations are subject to approval of the Medway Department of Public Services.

5. Traffic shall not be allowed to exit left (westbound) out of the two driveways on Millford Street.

6. The applicant shall add audio signals to the pedestrian cross walk signals currently located at the intersection of Routes 109/126 . . . MORE NEEDED HERE????

S. Site Amenities

1. Rock Outcroppings – The site blasting that will occur during construction is expected to result in rock outcroppings. The applicant has agreed to position such rock outcroppings within the landscaped area behind the planned hydrangea. The rock outcroppings as located should be 6 ft. high and 10 ft. wide. The rock outcroppings shall be positioned to the satisfaction of the Design Review Committee.

2. Landscaping – The Town's Consulting Engineer shall inspect the landscaping installation to determine if it complies with the landscaping plan.

3. The umbrellas for the outside seating area shall be fabricated with opaque material.
4. The landscaped area shall include feature landscape lighting that complies with the Exterior Lighting provisions of the Medway Zoning Bylaw (V. B. 7).

**T. Construction Oversight**

1. Construction Account
  - a. Inspection of infrastructure and utility construction, installation of site amenities including landscaping, the review of post construction traffic analyses by the Town's Consulting Engineer, and the review of legal documents by Town Counsel is required. Prior to plan endorsement, the applicant shall establish a construction account with the Planning and Economic Development Board. The funds may be used at the Board's discretion to retain professional outside consultants to perform the following and other tasks: inspect the site during construction installation, identify what site plan work remains to be completed, prepare and estimate, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a Certificate of Site Plan Completion.
  - b. Prior to plan endorsement, the Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer.
  - c. Depending on the scope of professional outside consultant assistance that the Board may need, the Applicant shall provide supplemental payments to the project's construction inspection account, upon invoice from the Board, until the stormwater drainage system is completed, the utilities are installed, the site amenities are installed, the as-built plan is reviewed and all legal documents associated with this development have been reviewed and determined to be satisfactory.
  - d. Any funds remaining in the applicant's construction inspection account after the Certificate of Site Plan Completion is issued shall be returned to the applicant.



2. Planning and Economic Development Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site at any time, for compliance with the endorsed site plan and the provisions of this Decision.
3. The Department of Public Services will conduct inspections for any construction work occurring in the Town's right-of-way in conjunction with the Town of Medway Street Opening/Roadway Access Permit.
4. The applicant shall have a professional engineer, licensed in the Commonwealth of Massachusetts conduct progress inspections of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report on each inspection and provide a copy to the Planning and Economic Development Board within 5 days of inspection.

#### U. Off-site Mitigation

1. To establish a noise complete sound and visual buffer, the applicant has agreed to install a fence on the property of Jesse and Teigan Bain at 37 Milford Street on the inside of the barrier fence that shall be also be installed along the property line. The fence shall have a wood grain texture in the color of natural wood and shall be white vinyl. The shrubbery shall be as specified on the additional plan sheet required per Condition herein.
2. The applicant has agreed to install a solar power electronic driver fence and electric sign on westbound Route 109 east of Route 126. The sign shall be installed prior to Town's issuance of the occupancy permit for Cumberland Farms. Prior to installation, the applicant shall provide the Board, Tetra Tech, Police Department and the Department of Public Services with the plans/specifications for the feedback sign for review and approval.

#### V. Performance Security

1. No occupancy permit shall be granted until the Planning and Economic Development Board has provided a written communication to the Inspector of Buildings/Zoning Enforcement Officer that the project, as constructed, conforms completely and fully to the approved site plan and that any conditions including construction of any required on and off-site improvements, have been satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of

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- 2) Medway, to the Planning and Economic Development Board's satisfaction, to cover the cost of all remaining work.
- The applicant shall propose a form of performance security which shall be of a source and in a form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town Council. The Board may require that the performance guarantee be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:
- a. the date by which the developer shall complete construction
  - b. a statement that the agreement does not expire until released in full by the Planning and Economic Development Board
  - c. procedures for collection in default.
- 3) The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the site infrastructure including installation of stormwater management facilities, utilities, service, pedestrian facilities and all site amenities as specified in the Site Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so.
- 4) The dollar amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The estimate shall reflect the cost for the town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the infrastructure in the event the developer fails to adequately perform such and the cost for the development of as-built plans. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town Consulting Engineer of the cost to complete the work plus a twenty-five percent (25%) contingency.
- 5) Final release of performance security is contingent on project completion.

### VIII. GENERAL CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within sixty (60) days after the Planning and Economic Development Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan reflecting all Conditions and required revisions, if any, to the Planning and Economic Development Board to review for compliance

with the Board's *Decision*. Upon approval, the Applicant shall provide a Mylar set of the revised site plan in its final form to the Planning and Economic Development Board for signature/endorsement. All plan sheets shall be bound together in a complete set.

- B. **Fees** - Prior to plan endorsement by the Planning and Economic Development Board, the Applicant shall pay:
1. the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering, planning or other consultants; and
  2. any construction inspection fee required by the Planning and Economic Development Board; and
  3. any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes and business licenses.

The Applicant's failure to pay these fees in their entirety shall be reason for the Planning and Economic Development Board to withhold plan endorsement.

- C. **Document/Plan Recording** - Within thirty (30) days of recording the decision and the associated site plan, the Applicant or its 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.

- D. **Other Town Permits** – This permit does not preclude the applicant or its assign from its responsibility to obtain, pay and comply with all other required federal, state and Town permits, including but not limited to a Street Opening/Roadway Access Permit from the Department of Public Services, a Common Venues License and Underground Storage Tank Permit from the Board of Selectmen, and Food Establishment and Tobacco Sales permits from the Board of Health.

**Plan Modification**

1. This Approval is subject to all subsequent conditions that may be imposed by other Town boards, agencies or commissions. Any changes to the site plan that may be required by the decisions of other boards, agencies or commissions shall be resubmitted to the Planning and Economic Development Board for review as plan modifications pursuant to SECTION V. C. 10 of the *Medway Zoning Bylaw*.
2. Any work that deviates from the approved plan and decision shall be a violation of the *Medway Zoning Bylaw*, unless the Applicant requests approval of a plan or decision modification pursuant to SECTION V. C. 10 of the *Medway Zoning Bylaw* and such approval is provided in writing to the Planning and Economic Development Board.

3. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed site plan modifications, the Applicant shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific limited aspects of the site, the Planning and Economic Development Board may reduce the scope of the required review and waive part of the filing and review fees.

**F. Plan Compliance**

1. The Applicant shall construct all improvements in compliance with the approved and endorsed plan and any modifications thereto.
2. The Planning and Economic Development Board or its agent(s) shall use all legal options available to it, including referring any violation to the Inspector of Buildings/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
3. The Conditions of Approval are enforceable under Section. V. C. 12 of the *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

**G. Project Completion**

1. Site plan approval shall lapse after one (1) year of the grant thereof if substantial use has not commenced except for good cause. Approved site plans shall be completed by the applicant or its assignees within two (2) years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Planning and Economic Development Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing, hearing and decision.
2. Prior to issuance of a final occupancy permit, the Board shall provide a **Certificate of Site Plan Completion** to the Inspector of Buildings/Zoning Enforcement Officer. The **Certificate** serves as the Planning and Economic Development Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The **Certificate** also serves to release any security/performance guarantee that has been provided to the Town of Medway.

To secure a **Certificate of Site Plan Completion** from the Board, the applicant shall:

- a) provide the Planning and Economic Development Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in strict compliance with the approved and endorsed site plan, and any modifications thereto; and
- b) submit six (6) copies of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Planning and Economic Development Board for review by the Town's Consulting Engineer and the Board's approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the original site plan and any modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.
- c) Be current with the Town of Medway for any taxes/fees associated with these parcels or other property owned by the applicant in the Town of Medway.

H.

**Construction Standards.** All construction shall be completed in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

I.

**Conflicts.** If there is a conflict between the site plan and the Decision's Conditions of Approval, the Decision shall rule. If there is a conflict between this Decision and/or site plan and the *Medway Zoning Bylaw*, the Bylaw shall apply.

IX.

**APPEAL.** Appeals, if any, from this Decision shall be made to the court within twenty (20) days of the date the Decision is filed with the Town Clerk.

After the appeal period has expired, the applicant must obtain a certified notice from the Town Clerk that no appeals have been made and provide such certification to the Planning and Economic Development Board before plan endorsement.

###

\_\_\_\_\_ by the Medway Planning & Economic Development Board:

**AYE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NAY:**

**ATTEST:**

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

- COPIES TO:** Stephanie Bacon, Health Agent  
Patty Baily, Conservation Agent  
Matt Buckley, Design Review Committee  
John Brady, Inspector of Buildings and Zoning Enforcement Officer  
Tom Holder, Department of Public Services  
Dorina Greenwood, Assessor  
Suzanne Kennedy, Town Administrator  
Jeff Lynch, Fire Chief  
Melanie Phillips, Treasurer/Collector  
Jeff Watson, Police Department  
Gino Carlucci, EGC Associates  
David Pellegrini, Tetra Tech  
Peter Paulowski, attorney for the applicant

## **Susan Affleck-Childs**

---

**From:** John F. Emidy  
**Sent:** Monday, December 16, 2013 1:18 PM  
**To:** Susan Affleck-Childs  
**Subject:** RE: Cumberland FARms

Hi Susy,

I have reviewed the wording as referenced in your correspondence. My opinion as stated "an architecturally integral part of the local convenience store building or a separate structure", requires the canopy to be attached to the building. Furthermore, such attachment must be structural and must serve a useful purpose. If this condition cannot be met then the setbacks for a detached canopy must be maintained.

John

---

**From:** Susan Affleck-Childs  
**Sent:** Monday, December 16, 2013 9:28 AM  
**To:** John F. Emidy  
**Cc:** Andy Rodenhiser; Andy  
**Subject:** Cumberland FARms

Hi John,

The Commercial V zoning district text (V. K. 1. 1) b. on page 44 reads that the canopy over the gas pumps "shall be either an architecturally integral part of the local convenience store building or a separate structure . . . ."

The PEDB asked me to seek a determination from you as to what constitutes "an architecturally integral part of the local convenience store building". How would you interpret this language??

As the PEDB is deliberating its decision in this matter on Tuesday, December 17<sup>th</sup>, we would appreciate your written guidance asap.

Many thanks.

*Susy*

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

508-533-3291

saffleckchildstowntownofmedway.org

*Please remember when writing or responding, the Massachusetts Secretary of State has determined that e-mail is a public record.*





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

RECEIVED

DEC 19 2013

TOWN CLERK

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Matthew J. Hayes, P.E.*  
*Karyl Spiller-Walsh*  
*Richard Di Iulio, Associate Member*

December 19, 2013

**TOWN OF MEDWAY**  
**PLANNING & ECONOMIC DEVELOPMENT BOARD**  
**NOTICE OF PUBLIC HEARING**  
***Millstone Village - Adult Retirement Community Planned Unit Development (ARCPUD)***  
***Special Permit & Plan***

In accordance with the Medway Zoning Bylaw, SECTION V. Use Regulations, Sub-Section U. Adult Retirement Community Overlay District, the Town of Medway Planning Board Rules and Regulations for the Review and Approval of ARCPUD Plans and Issuance of ARCPUD Special Permits, and the provisions of Massachusetts General Laws, Chapter 40A, Sections 9 & 11, notice is hereby given that the Medway Planning and Economic Development Board will conduct a Public Hearing on **Tuesday, January 14, 2013 at 7:30 p.m. in Sanford Hall at Town Hall, 155 Village Street, Medway, MA**, to consider the application of Elite Home Builders, LLC of Westborough, MA for approval of an Adult Retirement Community Planned Unit Development (ARCPUD) Special Permit and Plan entitled Millstone Village ARCPUD dated October 15, 2013, prepared by GLM Engineering Consultants, Inc. of Holliston, MA..

The applicant proposes to construct an *Adult Retirement Community Planned Unit Development (ARCPUD)* on a 51-acre site located at 129R Lovering Street in the ARI zoning district (*Medway Assessors Map 20 – Parcel 4*). Presently owned by Betty McCall-Vernagli of Medway, MA, the property is located on the west side of Winthrop Street, a Medway Scenic Road, and south of Lovering Street. As proposed, the development will include 80 condominium dwelling units in 53 buildings (35 single-family detached homes and 45 attached townhouses clustered into a mixture of duplexes and triplexes); 3,270 linear feet of privately owned roadway; stormwater drainage facilities; approximately 20.4 acres of dedicated open space to be owned by the Millstone Village Condominium Trust; and a community center for the development's residents. Site access and egress will be from Winthrop Street. Connections

to Town water and sewer are planned. The site is comprised of open pastures, low vegetation and some wooded areas surrounded by wetlands. The proposed dwellings range in size from 1,600 to 2,300 sq. ft. Each residence will have a 2 car garage plus 2 additional driveway spaces. Another 42 on street parking spaces will be provided for visitors and guests. Per the Medway Zoning Bylaw, at least one adult, age 55 or older must reside in each unit. 8 of the dwelling units will be *affordable* in accordance with the Medway Zoning Bylaw.

The Millstone Village ARCPUD Special Permit application and plan are 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 may be inspected Monday through Thursday from 8:00 a.m. to 4:00 p.m. and Fridays from 8:00 a.m. to 1:00 p.m. The documents have also been posted to the Town of Medway web site at <http://www.townofmedway.org>.

Any person or party who is interested or wishes to be heard on this proposal is invited to review the plans, attend the public hearing, and express their views at the designated date, time and place. Written comments are encouraged and may be forwarded to the Medway Planning and Economic Development Board at 155 Village Street, Medway, MA 02053 or emailed to: [medwayplanningboard@townofmedway.org](mailto:medwayplanningboard@townofmedway.org).

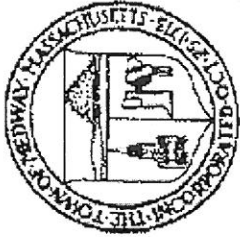
Andy Rodenhiser, Chairman  
Medway Planning and Economic Development Board

To be published in the *Milford Daily News*: Monday, December 30, 2013  
Monday, January 6, 2014

cc: *Planning Boards* - Bellingham, Franklin, Holliston, Milford, Millis and Norfolk

*Medway Town Officials/Departments*

Affordable Housing Committee & Trust  
Board of Selectmen  
Board of Assessors  
Board of Health  
Building Inspector/Zoning Enforcement Officer  
Conservation Commission  
Council on Aging  
Design Review Committee  
Fire Department  
Open Space Committee  
Police Department  
Public Services Department  
Town Administrator  
Tree Warden



Town of Medway  
**DESIGN REVIEW COMMITTEE**  
155 Village Street  
Medway MA 02053  
508-533-3291  
[drc@townofmedway.org](mailto:drc@townofmedway.org)

January 10, 2014

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

RE: DANIELS/MILLSTONE VILLAGE INFORMAL SITE PLAN REVIEW  
WINTHROP STREET

Dear Members of the Medway Planning and Economic Development Board,

The DRC has met with the applicant on December 2nd, 2013 to review the proposed site plan and building designs. Overall, the DRC is very satisfied with the design of the proposed development and had only minor suggestions and requests.

The DRC requested to see drawings of the site entryway sign and adjoining stonewall. Theses aspects were absent from the plan at the time of the presentation but the applicant indicated that they are forthcoming.

The reviewed a varied palate of colors be used for the various buildings. Each of the choices were of a lower color value or intensity. These colors are so light that they will appear to be virtually the same. In order to achieve the desired differentiation between the buildings, which the applicant intends, the DRC recommended colors of greater value to help set them apart.

The overall site is very similar to that which was previously presented. Fewer buildings are now shown and a "community center" has been added. The DRC was very pleased by the style of this building and feels that the darker color shown in the drawing was appropriate for a municipal style building.

I am available to answer any questions and will do my best to attend the public hearing on January 14, 2014.

Sincerely,

Matthew Buckley  
Chairman

**Design Review Committee Members**

Matthew Buckley, *Chairman*  
Julie Fallon, *Vice Chair*

Karyl Spiller-Walsh, *Planning and  
Economic Development Board Liaison*  
Rod MacLeod, *Member*

Rachel Walsh, *Member & Corresponding Secretary*  
Mary Weafer, *Member*





**TETRA TECH**

January 10, 2014

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



**Re: Millstone Village  
ARCPUD Plan Review  
Medway, Massachusetts**

Dear Ms. Affleck-Childs,

Tetra Tech (TT) has performed a review of the proposed Adult Retirement Community Planned Unit Development (ARCPUD) for the above mentioned project. The project includes the construction of a proposed 80 units of age restricted condominium. The project was previously submitted as 'Daniels Village' and approved May 29, 2007. The new applicant basically utilizes the same design with the exception of providing a community building to the project.

TT is in receipt of the following materials:

- A plan (Plans) set entitled "Adult Retirement Community Planned Unit Development, Millstone Village", dated October 15, 2013, prepared by GLM Engineering Consultants, Inc. (GLM).
- A drainage report (Drainage Report) entitled "Drainage Calculations for Millstone Village, Medway, MA", dated October 15, 2013, GLM Engineering Consultants, Inc. (GLM).
- Supplementary Information entitled "Adult Retirement Community Planned Unit Development (ARCPUD) Special Permit Application", dated July 15, 2008; prepared by Town of Medway Planning Board. (MPB)
- A letter (Submittal Letter) entitled "Millsbe Village, Senior Residential Community" dated February 13, 2007, prepared by GLM Engineering Consultants, Inc. (GLM).
- A letter (Submittal Letter) entitled "Special Permit Application, ARCPUD, Millstone Village, Medway, MA" dated November 12, 2013, prepared by GLM Engineering Consultants, Inc. (GLM).

The Plans and Drainage Report were reviewed for conformance with the Town of Medway, Massachusetts Planning Board Regulations, the MA DEP Storm Water Management Standards (Revised January 2008), Town of Medway Water/Sewer Department Rules and Regulations, and good engineering practice. Our review primarily focused on only the elements that have changed since the 2007 submittal package. However, we did provide a

One Grant Street  
Framingham, MA 01702  
Tel 508.903.2000 Fax 508.903.2001



**TETRA TECH**

cursory review of the remainder of the project to attempt to identify any larger design issues. 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.

**Conformance with the MA DEP Storm Water Management Standards**

1. It is our understanding that the original project was approved in 2007 and withdrawn in 2010, and the project is now coming before the Board as a new application. As such it is our opinion that the new project should meet the current MassDEP and Town of Medway Stormwater Regulations, and the submitted application should include the latest stormwater checklist and supporting documentation as required in Volume 3 of the Massachusetts Stormwater Handbook. As adopted in 2008, the revised MassDEP Stormwater Regulations require additional documentation and enforce stricter guidelines and recharge requirements.

**Department of Public Services (DPS) Comments:**

2. Winthrop Street is a roadway that requires Control Density Fill for excavations so this would apply to any proposed water and sewer connections made on Winthrop Street.
3. Water lines appear to be located within sidewalk areas, consideration should be made to locate them within the roadway for ease of future maintenance needs.
4. Verify waiver stating that dwellings are designed to ensure the cellar floor elevations are above the maximum seasonal high water table.
5. Verify with Fire Department, that the roadway widths, sidewalk widths, turning/corner radius, smaller cul-de-sac, are sufficient.
6. DPS strongly recommends the installation and use of the Town standard hydrants to ensure consistency with Town systems and Fire Department operation.
7. The applicant shall coordinate with DPS and the Solid Waste and Recycling vendor to determine if they will pick up at each property or whether a common area will need to be developed for this purpose.
8. The applicant shall coordinate with the Post Office to determine if they will need to deliver mail to individual developments or have a central delivery point.
9. A letter should be sent to the DPS office identifying the proposed water and sewer service demands anticipated. The Town will then forward that information to the Charles River Pollution Control District for their consent of this added flow.

**General Comments:**



**TETRA TECH**

10. The applicant should summarize accessible parking approach throughout the site. At a minimum we would assume accessible parking is required at the community building.
11. A note should be added noting the utilization of transition curbing between sloped and vertical sections.
12. The applicant shall show the limits of pavement cut in Winthrop Street.
13. The applicant shall verify that the Cul-De-Sac dimensions and design comply with the Cul-De-Sac Typical Section detail (Medway Construction Details CD-9 or Sheet No. 18)
14. Vertical Granite Curb does not meet Medway Construction Details CD-12
15. The applicant shall verify that the common parking spaces comply with the town regulations.
16. We recommend that the applicant specify what type of gravel borrow is to be utilized where gravel borrow is included in a detail.
17. We recommend that the 12" gravel borrow below the roadway be replaced with 4" of dense graded crushed stone and 8" of gravel borrow.

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,

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





**TOWN OF MEDWAY**  
**Conservation Commission**  
155 Village Street  
Medway, Massachusetts 02053

David Travalini, Chair  
Ken McKay  
Tony Bilocchi  
Glenn Murphy  
Jennifer Bosselman

## MEMORANDUM

To: Planning & Economic Development Board

cc: Susie Affleck-Childs, Planning Coordinator

From: Patty Barry, Conservation Agent

Re: Medway Conservation Commission  
Millstone Village Permit Review

Date: January 9, 2014

I have reviewed the proposed Millstone Village ARCPUD plans and Town maps and files. According to the Conservation Commission database, an Order of Conditions was issued March 12, 2007 for DEP File# 216-735 to Barberry Homes, Inc. for the construction of the Daniels Village Adult Retirement Community formerly located at Lot 45-1, Map 5 off of Winthrop Street (currently 129 R Lovering Street). Under the MA Permit Extension Act (updated September 18, 2012), this permit will expire March 12, 2014.

In accordance with the MA Wetlands Protection Act (M.G.L. Chapter 131 Section 40), permit extension requests must be submitted 30 days prior to the Order of Conditions expiration date. However, under the Town of Medway General Wetlands Protection Bylaw (Section XXI), extension requests shall be made within 45 days of permit expiration. Note that it is at the discretion of the Conservation Commission whether a permit extension is approved or a new application filing is required.

Additionally, if any change is intended to be made in the work permitted as referenced in the approved plans for DEP File #216-735, the Applicant shall submit a written request to the Commission with plans that reflect the proposed changes. The Commission and/or its Agent will then review said request and plans, and may require the Applicant to submit a request for amendment to the Order of Conditions or a new Notice of Intent application.

Please do not hesitate to contact me at 508.321.4992 or [pbarry@townofmedway.org](mailto:pbarry@townofmedway.org), if you have any questions or comments regarding this Memorandum. *Thank you.*

**RECEIVED**  
1-9-2014



## ENGINEERING CONSULTANTS, INC.

19 EXCHANGE STREET, HOLLISTON, MASSACHUSETTS 01746 - (508)429-1100 - FAX (508)429-7160

REGISTERED CIVIL ENGINEERS AND LAND SURVEYORS

November 12, 2013

Medway Planning Board  
155 Village Street  
Medway, MA 02053

**Re: Special Permit Application**  
**Adult Retirement Community Planned Unit Development**  
**“Millstone Village”, Medway MA**  
**Applicant: Elite Home Builders LLC**

Dear Board Members,

On behalf of our client, Elite Home Builders LLC, we are filing a Special Permit Application to construct an Adult Retirement Community Planned Unit Development (ARCPUD) consisting of 80 units of age restricted condominium dwellings. The project was previously submitted as “Daniels Village” and approved May 29, 2007. The previous project was requested to be withdrawn without prejudice by the owner, Betty McCall-Vernaglia, on July 12, 2010. There is a valid Order of Conditions from the Conservation Commission for the previous project that would be valid for this application. A copy is included herewith for your files.

The proposed project utilizes the same architectural plans and site layout as the previously approved project, with the exception of providing a community building.

The subject property, a 51 acre site, is located between 63 and 81 Winthrop Street on the west side of the street, south of Lovering Street and across from Clove Lane in the ARI zoning district. The property is presently owned by Betty McCall-Vernagli of Medway, MA.

The applicant proposes to construct an age-restricted condominium development on the site, to be known as Millstone Village, consisting of 80 condominium dwelling units in 53 buildings. The proposed project will consist of approximately 3,270 linear feet of privately owned roadway and be serviced by the Town of Medway sewage and water system. Site access and egress will be from Winthrop Street.

The 80 condominiums will be comprised of 45 townhouse type residences constructed in groups of two or three units in 18 buildings and 35 detached single family houses. The condominium units range in size from 1600 to 2300 sq. ft. for a two bedroom unit. Each unit will have a 2 car garage plus 2 additional driveway parking spaces. Another 42 off-

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NOV 13 2013

TOWN OF MEDWAY  
PLANNING BOARD

RESIDENTIAL, COMMERCIAL AND INDUSTRIAL SITE PLANNING AND DESIGN - PUBLIC WORKS ENGINEERING - SEPTIC DESIGNS - HYDROLOGY AND FLOOD CONTROL - TOPOGRAPHIC SURVEYS - SOIL ANALYSIS - MORTGAGE AND LAND SURVEYS AVAILABLE - WILDLIFE AND ENVIRONMENTAL ANALYSIS - WETLAND DELINEATION - TITLE INSURANCE PLANS AND REPORTS - SITE APPRAISALS - TOWN CONSULTATION SERVICES

street parking spaces will be provided for visitors and guests. Eight (8) townhouse units will be considered to be low or moderate income units which will comply with the requirements for inclusion in the Subsidized Housing Inventory prepared by the Department of Housing and Community Development.

The parcel identified on the Millstone Village ARCPUD Plan as Parcel B (20.40 acres) will be dedicated open space owned by the Millstone Village Condominium Trust and protected through a Conservation Restriction granted to the Town of Medway.

Thank you for your consideration in this matter.

Yours truly



Robert S. Truax  
Project Manager/Design Eng.

**PGC ASSOCIATES, INC.**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
gino@pgcassociates.com

January 8, 2014

Mr. Andy Rodenheiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053



Re: Millstone Village ARCPUD special permit application

Dear Mr. Rodenheiser:

I have reviewed the ARCPUD special permit plan submitted by Elite Home Builders, LLC of Westborough. The owner of the property is Betty McCall-Vernagli of Medway. The engineer for the project is GLM Engineering Consultants, Inc. of Holliston. The plans are dated October 15, 2013 (Landscape Plan is original from 2006-2007)).

The plan proposes to construct 80 units, including 35 single-family homes, 9 triplexes (27 units) and 9 duplexes (18 units). The total size of the parcel is 51.01 acres located on the west side of Winthrop Street and south of Lovering Street.

Since the proposal is nearly identical to a previously approved project, I have done a facilitated review focusing on the primary elements or areas of potential concern. I have comments as follows:

**Zoning**

1. Section U.4.a states the purpose and intent of the ARCPUDs. These include providing a range of housing types and facilities responsive to socio-cultural, healthcare and recreational needs of senior residents. It also states that designs should be supportive of New England character with a cohesive center and sense of neighborhood. The design features alleys to keep most of the garages and driveways to the rear of the units as well as a "main "loop" street system with 2 cul-de-sacs and a smaller loop off it, and housing units close to the sidewalk, all of which help foster a sense of neighborhood.
2. Section U.4.b requires a pre-application meeting. Such a meeting was held.
3. At 51.01 acres, the site exceeds the 10-acre minimum (U.4.c.2)
4. A community center (clubhouse) is proposed. Its floor area (about 2400 square feet) does not exceed 10% of the gross floor area of the residential units so it is in compliance (U.4.c.5).

5. The number of units proposed does not exceed the maximum permitted (U.4.c.6). Considering the entire site, 153 units would be the maximum. At 3 units per acre, 91 units would be the maximum allowed on the parcel where development is proposed even without the 20.4 acres of proposed open space.
6. The number of units proposed does not exceed 10% of the total number of dwelling units in the Town of Medway (U.4.c.8). There are currently no units in existence.
7. Section U.4.c.9 requires that 10% of the units be affordable.
8. Section U.4.d includes certain standards for open space within ARCPUD developments. The project provides the bare minimum of 40% open space. It should be noted that a portion of the development site functions as open space though it is not included in the total. It was apparently left out since most of it is wetlands and the open space would exceed the maximum percentage of wetlands allowed if it had been included. At least 50% of the open space is required to be preserved in "its natural pre-development condition unless the Planning Board finds that it is not practical to preserve this amount of natural land due to previous land alteration activities." The open space parcel is already impacted by an electrical easement and a drainage easement so it is not currently in a "natural" condition.
9. Section U.4.e includes certain site development standards.
  - a. Item 3 requires that buildings be setback 20 feet from the road pavement. This is met.
  - b. Item 5 requires buildings to be set back 50 feet from existing public ways. This is met.
  - c. The main roads are 22' wide, meeting the 22' minimum.
10. Section U.4.f lists 15 findings that the Planning Board must make in order to grant a special permit. The findings are normally made at the time of decision. However, I have reviewed them and there does not appear to be any findings that could not be made positively. The one possible exception is U.4.f.2 which requires a finding that the proposal meets the requirement for two types of senior housing. The requirement for including two types of senior housing in an ARCPUD was eliminated but the required finding was apparently not changed. I would suggest that the finding in this case would be that the requirement is no longer applicable because two types are no longer required.

#### ARCPUD Rules and Regulations

11. Section 303-3 through 303-6 specifies the submittal requirements for an ARCPUD special permit. These are primarily procedural requirements and since the project was previously approved, it is presumed that these have been met.

General Comments

12. The Landscape Plan is the original one from 2006-2007. Accordingly, it does not include the proposed community center. It also does not show the trail connection to Winthrop Street. This plan should be updated to reflect these features.

If there are any questions about these comments, please call or e-mail me.

Sincerely,



Gino D. Carlucci, Jr.



## **Susan Affleck-Childs**

---

**From:** Thomas Holder  
**Sent:** Wednesday, January 08, 2014 9:29 AM  
**To:** Susan Affleck-Childs  
**Cc:** David Damico; Pellegri, David  
**Subject:** Millstone Village Development



Hi Susy – Please accept this email as notification of DPS comments relative to its review of the Millstone Village Development proposed design.

The most prominent comment we have is associated with the understanding that this development is intended to be a private community and as such, will be built to include private ways. It is the DPS position that when a development is built to be private, the utilities internal to the property will also be private. This would pertain to the water, sewer and stormdrain systems.

This being said, we still notice a number of things that are worth mentioning for consideration by Tetra Tech and the Board.

1. Winthrop Street is a roadway that requires Control Density Fill for excavations so this would apply to any proposed water and sewer connections made on Winthrop Street.
2. Water lines appear to be located within sidewalk areas, consideration should be made to locate them within the roadway for ease of future maintenance needs.
3. Verify Waiver stating that dwellings are designed to ensure the cellar floor elevations are above the maximum seasonal high water table.
4. Verify with Fire Department, Waiver associated with roadway widths, sidewalk widths, turning/corner radius, smaller cul-de-sac.
5. We strongly recommend the installation and use of the Town standard hydrants to ensure consistency with Town systems and Fire Department operation.
6. We will need to check with Solid Waste and Recycling vendor to determine if they will pick up at each property or whether a common area will need to be developed for this purpose.
7. The same inquiry would be made with the Post Office and mail delivery.
8. As we have with recent developments, I would encourage a letter be sent to the DPS office identifying the proposed water and sewer service demands anticipated. We will then forward that information to the Charles River Pollution Control District for their consent of this added flow.

We will continue to monitor the progression of this project and offer additional comments as they become apparent.

Thanks very much for the opportunity to review this project design.

Tom

Thomas Holder | Director  
Department of Public Services

Town of Medway  
155 Village Street  
Medway, MA 02053

**RECORD COPY**  
**ADULT RETIREMENT COMMUNITY PLANNED UNIT DEVELOPMENT**  
**(ARCPUD) SPECIAL PERMIT APPLICATION**

NOV 18 2013

Medway Planning Board  
155 Village Street, Medway, MA 02053  
508-533-3291

TOWN OF MEDWAY  
PLANNING BOARD

*This application for an ARCPUD Special Permit is made pursuant to the Planning Board Rules and Regulations for Review and Approval of ARCPUD Plans and Issuance of ARCPUD Special Permits (July 17, 2001), the Medway Zoning By-Law, Section V. USE REGULATIONS, Sub-Section T. Adult Retirement Community Overlay District and Massachusetts General Laws, Chapter 40A, Section 9 - Special Permits*

Date: October 15, 2013

The undersigned, being the applicant and the owner of all land included within the proposed ARCPUD shown on the accompanying plan(s) entitled \_\_\_\_\_

Millstone Village, dated October 15, 2013,

and prepared by GLM Engineering Consultants, Inc.

of Holliston MA 01746, herewith submits this application and

ARCPUD Plans for an ARCPUD Special Permit to the Medway Planning Board.

**PROPERTY INFORMATION**

1. Property Location Address 129 R Lovering ST  
Off Winthrop & Lovering Streets
2. Assessor's Information Map: 20 Lot: 4
3. Zoning District: Agricultural - Residential District AR-1
4. The owner's title to the land is derived under a deed from: Bronislaus Siderski  
dated May 12, 2001  
and recorded in Norfolk County Registry of Deeds, Book 15039, Page 282  
or Land Court Certificate of Title # \_\_\_\_\_ registered in  
Norfolk County District Book \_\_\_\_\_, Page \_\_\_\_\_

**CONTACTS**

- 5a) Property Owner: Betty Ann McCall Vernaglia  
Address: 12 Partridge Street  
Medway MA 02053  
Primary Contact: Betty McCall Vernaglia

SV @ swasa.com

5b) Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Applicant (if other than property owner) Elite Home Builders, LLC  
Address: P.O. Box 1205

Westboro MA 01581  
Primary Contact: Steven Venincasa  
Telephone: 508-366-2394 Fax: 508-366-2569  
Cell 560-9440

\_\_\_\_ Please check here if you are the equitable owner (purchaser on a purchase and sales agreement.)

5c) NOTE - If someone other than the property owner or the equitable owner is the Applicant or will be representing the Applicant, then the property owner or equitable owner must designate an Official Representative below:

Official Representative: \_\_\_\_\_  
Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

6. Engineer: GLM Engineering Consultants, Inc.  
Address: 19 Exchange Street  
Holliston MA 01746 Robert Truax @ glmengineering.com  
Primary Contact: Robert Truax  
Telephone: 508-429-1100 Fax: 508-429-7160

7. Architect: \_\_\_\_\_  
Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

8. Surveyor: GLM Engineering Consultants, Inc.  
Address: 19 Exchange Street  
Holliston MA 01746

Primary Contact: Robert Truax  
Telephone: 508-429-1100 Fax: 508-429-7160

9. Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

**OTHER INFORMATION**


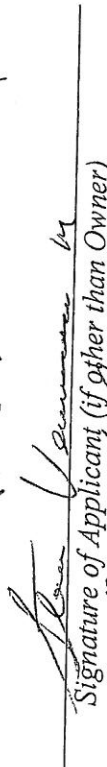

10. Is any portion of the property located on a Scenic Road?  Yes  No

11. Description of easements, option to purchase, purchase and sale agreement, court decision, or other legal restrictions (Attach separate sheets as needed.)

12. Project Narrative (Attach a separate document. This should be a complete description of the ARCPUD project. See Section 303-4 A. (13) for information to be included in Project Narrative.)
13. Is any portion of the site within a flood plain area?  Yes  No  
 If Yes, is it clearly shown on the plan?  Yes  No
14. Is any portion of the site within a wetland resource area?  Yes  No  
 If Yes, is it clearly shown on the plan?  Yes  No

**Please be sure that all questions have been answered fully and completely.**

**SIGNATURES** - I hereby certify, under the pains and penalties of perjury, that the information contained in this application is true and complete to the best of my knowledge and belief. [If applicable, I hereby authorize \_\_\_\_\_ to serve as my Official Representative to represent my interests before the Medway Planning Board with respect to this ARCPUD Special Permit.]

	_____ Signature of Property Owner	11/14/13 Date
	_____ Signature of Applicant (if other than Owner)	11/15/13 Date
	_____ Signature of Official Representative	11/15/13 Date

**SUBMITTAL INSTRUCTIONS**

**Town Clerk:**

- \_\_\_\_\_ One (1) ARCPUD Special Permit Application with original signatures
- \_\_\_\_\_ One (1) set of ARCPUD Plans
- \_\_\_\_\_ One (1) *Street Naming Application* for review of proposed street names by the Street Naming Committee.

**Planning Board:**

- \_\_\_\_\_ One (1) ARCPUD Special Permit Application with original signatures.
- \_\_\_\_\_ Receipt from Town Clerk noting date & time ARCPUD Application was filed
- \_\_\_\_\_ Fourteen (14) sets of ARCPUD Plans
- \_\_\_\_\_ Three (3) copies of storm drainage calculations
- \_\_\_\_\_ One (1) copy of all relevant approvals received to date from other boards
- \_\_\_\_\_ Two (2) sets of layout/floor plans
- \_\_\_\_\_ Two (2 sets) of elevation drawings of building facades from all directions
- \_\_\_\_\_ Project Narrative
- \_\_\_\_\_ A list of abutters within 500 feet of the site's property lines.
- \_\_\_\_\_ Non-refundable ARCPUD Plan Filing Fee (\$ 1,000 plus \$50/unit)
- \_\_\_\_\_ All other submittals required by this application and Section 303-4 of the *ARCPUD Rules and Regulations*



# ENGINEERING CONSULTANTS, INC.

19 EXCHANGE STREET, HOLLISTON, MASSACHUSETTS 01746 - (508)429-1100 - FAX (508)429-7160

REGISTERED CIVIL ENGINEERS AND LAND SURVEYORS

February 13, 2007

Medway Planning Board  
Town Hall  
Medway, MA 02053

RECEIVED  
NOV 13 2013

Re: ~~Scenic Road Application~~ WAVERS  
SPD Daniels Village Millstone Village  
11-21-13 Senior Residential Community

TOWN OF MEDWAY  
PLANNING BOARD

Dear Board Members,

On behalf of our client, the applicant, Barberry Homes Inc., we request the following waivers from the Town of Medway Planning Board Rules and Regulations for the above captioned project:

1. Section 303-2D Standards:  
*Request a waiver from the requirement that existing elevations refer to NAVD of 1988, and allow the elevation reference of NGVD of 1929. This is necessary to allow the FEMA flood elevation along the wetland boundary be specified on the plans.*
2. Section 7.7.4(b) Stormwater Management Construction:  
*Request a waiver to use corrugated plastic drain pipe as specified on the plans in lieu of reinforced concrete. The life expectancy of plastic pipe is greater than concrete and the development will be permanently private.*
3. Section 7.7.4(d) Construction:  
*Request a waiver for installation of an independent drainage system for foundation perimeter drains along the proposed roadway. The proposed dwellings are designed to insure the cellar floor elevations are above the maximum seasonal high water table.*
4. Section 7.9.2(b) Alignment: *Request a waiver allow the minimum centerline radii for Local Streets to be less than the required 150 feet. Proposed Road A - 111 feet, Road B - 136' Road C-75, and Road D - 33 foot. The waivers will allow the layout to align itself with existing site features to be preserved, i.e. wetlands, fields, etc.*
5. Section 7.9.2(d) Alignment: *Request a waiver for a curb radius of 30 feet at proposed intersections. The proposed roundings will allow for trucks enter and exit.*
6. Section 7.9.5(a) Grade: *Request a waiver to allow for a centerline grade less than 2.0 %, proposed minimum centerline grade is 1.5%. This minimizes cuts and fills.*
7. Section 7.9.6(e) Dead End Streets: *Request a waiver to allow the outside pavement diameter to be 90 feet (100 required).*

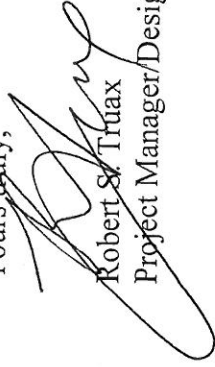
RESIDENTIAL, COMMERCIAL AND INDUSTRIAL SITE PLANNING AND DESIGN - PUBLIC WORKS ENGINEERING - SEPTIC DESIGNS - HYDROLOGY AND FLOOD CONTROL - TOPOGRAPHIC SURVEYS - SOIL ANALYSIS - MORTGAGE AND LAND SURVEYS AVAILABLE - WILDLIFE AND ENVIRONMENTAL ANALYSIS - WETLAND DELINEATION - TITLE INSURANCE PLANS AND REPORTS - SITE APPRAISALS - TOWN CONSULTATION SERVICES



8. Section 7.9.7(g) Roadway Construction: Request a waiver for a pavement width of twenty-two (22) feet. This will reduce impervious surface and conforms with the ARCPUD bylaw.
9. Section 7.10.2 Curbs and Berms: Request a waiver to install Vertical Granite Curb on the roundings and install cape cod berm in lieu of sloped granite edging.
10. Section 7.13.2 Sidewalks: Request a waiver to install five (5) foot wide sidewalks with a five (5) foot wide grass strip.

Thank you for your consideration in this matter.

Yours truly,



Robert S. Truax  
Project Manager/Design Eng.



**Town of Medway**  
**Affordable Housing Committee**  
**Affordable Housing Trust**

**MEMORANDUM**

Date: December 23, 2013  
To: Susan Affleck-Childs  
*Planning and Economic Development Coordinator*  
From: J. Douglas Havens  
*Affordable Housing Trust Fund*  
*Community Housing Coordinator*  
(508)321-4922 - [dhavens@townofmedway.org](mailto:dhavens@townofmedway.org)

Re: Recommendation to amend the calculation of “*In Lieu*” payments, permissible under the *Town of Medway Zoning Bylaw §V(X)(7)(d)*, as an alternative to the “on-site” production of affordable housing units as a condition of special permit

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**Introduction**

Believing that every person is entitled to benefit from the protection, opportunity and other amenities provided through commonwealth, and recognizing that access to such benefit has come to be largely based on residency, the Massachusetts legislature has steadfastly promoted the construction of affordable housing. Embracing this spirit, Medway’s voters approved zoning bylaws requiring developers of multi-unit projects to “include” housing for limited income<sup>1</sup> households as a condition of special permit.

Upon consideration of the outcome<sup>ii</sup> from the recent application of a bylaw provision permitting cash payments to substitute for the on-site production of affordable housing units, the Affordable Housing Committee and the Affordable Housing Trust have voiced concern that the “*In Lieu*” formulation generates un-intended and undesirable outcomes and subsequently should be reviewed and revised.

**The Dynamics of “Inclusionary Zoning”**

With Medway’s adoption of inclusionary zoning principles, real estate developers of residential projects of six or more units are required to construct and market a percentage of units restricted by deed as affordable units. In many cases, increased density limits and other concessions are allowed to mitigate the cost of the affordable units to the developer. Recent amendment of the number of affordable housing units to be provided as a percentage of market-rate units from 15% to 10%, reflect an ongoing sensitivity to the evolving economics of realty development.

The Bylaws are written with the clear intent that the resulting affordable units be similar to their market-rate cousins<sup>iii</sup> in both appearance and location. Recognizing the variability of challenges facing development, alternatives to on-site construction of the affordable units are envisioned.<sup>iv</sup> While there are reasons for a community to allow such options, the difficulty of determining the required equivalency<sup>v</sup> (function, appearance and location) recommends that these alternatives be exceptional. Indeed, I have found no jurisdiction allowing “In Lieu” by right.

#### The Limitations of Current “In Lieu” Formula and Payment Schedule

Medway’s current “in lieu” option fails to satisfy the desired intent of *Subsection X* by providing substitution that delivers inadequate funds for off-site replacement. This not only shortchanges the possibility of generating lost units on a one-for-one basis, but also encourages reduced onsite production by reducing overall project costs for the developer.

The diminution in replacement funding is further aggravated by positing control of the payment schedule in the discretion of the developer<sup>vi</sup>, whereby delay of payment to the last possible moment not only aggravates the loss in present value of obligations but could also threaten final payment altogether.

To enumerate:

1. The method used to determine the sum to be paid “*in lieu*” uses housing values based on past home prices<sup>vii</sup>, prone to inaccuracy commensurate to both income and market volatility.
2. The extent to which payments are extended into the future from the date of valuation compounds the inaccuracy by failing to reflect ongoing changes in housing value and the present value of money.
3. Finally, the formula fails entirely to account for certain “soft” factors:
  - a. those that jeopardize replacement:
    - i. the loss of developer’s economies of scale that could have reduced construction costs;
    - ii. the increased costs and timelines associated with government procurement policies;
  - b. those that benefit the developer
    - i. the savings realized by the elimination of marketing and lottery requirements, and
    - ii. the increase in value to the remaining market rate units being produced on a lower-density site.

### Principles to Consider for Generating an Alternative “In Lieu” Formula

As demonstrated by a sampling of other municipal policies, payment amounts can be set by factors ranging from a single, code-defined, fixed amount to a sum determined case by case at the Board’s discretion: which, at their extremes, contradict notions of equitable substitution and fair distribution of expense. Subsequently, I suggest the following guidelines:

1. “In Lieu” substitution should be evaluated solely on the basis of special conditions affecting a site and the greater public benefit concurrent with the Town’s affordable housing goals;
2. The substitution must be capable of producing units that comply with Department of Housing and Community Development’s requirements controlling inclusion in the Town’s Subsidized Housing Inventory;
3. Provide clarity and certainty so developers (and financial backers) can understand the process and accurately predict financial consequences;
4. Stress the preference for on-site development, the exceptional aspect of the cash substitution, the conditions allowing such and the nature and degree of discretion the Board has in allowing “in lieu”;
5. Include a premium to offset the “soft” incentives to substitute;
6. Craft the power of the Board to seek best possible outcomes avoiding a sense of having only one nuclear option of all or nothing.;
7. “In Lieu” payments should neither punish nor reward a developer. While payments should reflect dollar for dollar the developer’s cost; at the minimum, cash payments should allow a one-for-one substitution of displaced units;
8. Tie the payment amount directly to the most recent sale price of a project’s market rate units, or projections provided for financing, reduced by a percentage calculated to reflect DHCD-allowed substitutions for premium finishes and appliances;
9. The timing of cash payments should allow affordable construction scheduling in pace with the market-rate units;
10. Guarantee complete payment by tying construction and occupancy permitting to specific performance or by bonding.

## ENDNOTES

<sup>i</sup> *Households earning less than 80% of the Area Median Income, typically: seniors looking to downsize, young adults ready to establish their own households, or workers at local businesses seeking proximity to their jobs*

<sup>ii</sup> Excerpt: Certificate of Action: 5/14/13

**Affordable Housing** – Pursuant to the modified Charles River Village OSRD Special Permit dated April 9, 2013, and in fulfillment of its affordable housing requirements under the Medway Zoning Bylaw (V. X. 3, 4 and 7), the applicant will make a payment of \$322,000 to the Medway Affordable Housing Trust in lieu of constructing two affordable dwelling units on the Charles River Village site. The payment schedule shall be as follows: \$29,291 shall be provided to the Trust at or prior to the closing on the sale of each market rate unit except that the total amount shall be paid in full before the Town issues a building permit for the last dwelling unit.

<sup>iii</sup> **IBID; SECTION II, DEFINITIONS: ... Affordable Housing Unit:** *A dwelling unit that is affordable to and occupied by a low or moderate income household and meets the requirements for inclusion on the Massachusetts Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory. Affordable units are administered by the Medway Housing Authority or its designee and shall remain as affordable units in perpetuity. These units shall have the same construction methods, physical characteristics as, and be intermingled with other units in the subdivision or development. (Added May 13, 2003 and revised June 12, 2006)*

<sup>iv</sup> These being: substitute-site development; donation of land; cash payment “in lieu”.

<sup>v</sup> As stated in the code’s preamble to **Paragraph 7 - Methods of providing affordable housing units:** “...in no event shall the total number or value of (off-site) affordable housing units, land area or cash payments provided be less than the equivalent number or value of affordable housing units required by this sub-section.”

<sup>vi</sup> 9 –(c) In the case of cash payments being made in lieu of providing affordable units, the following methods of payment may be used at the option of the applicant:

- 1) the total amount due shall be paid upon the release of any lots or, in the case of a development other than a subdivision, upon the issuance of the first building permit; or,
- 2) the total amount due shall be divided by the total number of market rate units in the development. The resulting quotient shall be payable at, or prior to, the closing of each market rate unit. or,
- 3) a combination of the above methods as may be approved by the Planning Board.

<sup>vii</sup> **SECTION V. USE REGULATIONS; SUB-SECTION X. AFFORDABLE HOUSING; 2. DEFINITIONS: Equivalent Affordable Housing Unit Value** – *An amount equal to the difference between the median sale price for market rate single family homes sold in Medway during the thirty six (36) months preceding the date of application, as determined by the Medway Board of Assessors based on deeds recorded at the Norfolk Registry of Deeds for arms-length transactions, and the purchase price of a home that is affordable to a qualified purchaser as determined by DHCD, assuming a household size of four, or one person per bedroom plus one additional person with the number of bedrooms being the average number in the development, whichever is less. For developments other than single-family detached structures (e.g. duplexes or multifamily condominiums) the Planning Board may substitute the median sale price of the applicable type of market rate dwelling unit for the median sale price of single family homes in the preceding formula.*



## OAK GROVE PARK SCOPE OF SERVICES

Coordinate the Town's initiatives to facilitate economic development of the Oak Grove Park Mixed Use Project. Work to implement strategies outlined in 2012 Oak Grove Park Feasibility Study. More specifically:

**LAND ASSEMBLY AGREEMENTS** - Pursue Memorandum of Understanding (MOU) as precursors to land assembly agreements between Medway Redevelopment Authority (MRA) and the Williams family, NGRID, known bottle cap lot owners and owners of 'out parcels'. I doubt that common ground will be found with most 'out parcel' owners but it doesn't hurt to reach out. Obviously the MOU's cannot be executed until after appointment of the members of the MRA and would have to be conditioned on adoption of an Urban Renewal Plan. As far as I know the Town of Medway can not enter into negotiated and binding agreements for the purpose of land assembly because of laws regulating procurement. There will be legal expenses associated with drafting the MOU's.

**WIND SHIELD APPRAISALS** - Arrange and coordinate wind shield appraisals of bottle cap lots. (I spoke to an Appraiser that I've worked with in the past to get a preliminary cost estimate for this work. He was reluctant to give me a number without more information and after a site visit because the situation is so unique. He is willing to prepare a formal cost estimate if desired. I expect his number will be between \$12,000 and \$20,000.)

**PERMITTING VIABILITY** - Work with Planning Board, Conservation Commission and Water/Sewer Commission to determine permitting viability of Preferred Conceptual Plan A (No 'out parcel' participation with possible exception of NGRID and limited number of other 'out parcel' owners who might seek to partner with implementing plan). Determine preferred approach to MEPA compliance.

**URBAN RENEWAL PLAN** - Put together an RFQ to procure a consulting firm, help to screen response and to conduct interviews. (If the BOS want to dispense with the RFQ process and initiate work on the Urban Renewal Plan (URP) more quickly, it is possible to engage a planning consultant without going through the procurement process. I estimate preparing the

URP will be approximately \$80,000 because of work done during the preparation of the Oak Grove Park Study and under this scope of services. The \$80,000 would cover only limited printing costs and does not include title work, other legal expenses and appraisal work. Additional savings might result if BSC is reengaged.}

In a what could be a Phase 2 scope of services, assist the selected consulting firm with public engagement, identifying financing options and providing guidance and staff support to Urban Renewal Planning Committee (should include most if not all members of Redevelopment Authority).

**IMPROVE LOCAL ZONING AND REGULATIONS** - Identify local policies, rules, by-laws and regulations that will hinder implementation of Oak Grove Park project and offer creative alternative solutions that will facilitate implementation of Oak Grove Park project. Work with the Planning and Development office to propose and advocate for zoning changes required to implement Oak Grove Park project.

**ORGANIZATIONAL RELATIONSHIPS** - Establish and maintain partnerships and serve as liaison with various public and private, local, state and regional business and economic development organizations/agencies which can help facilitate the planning and implementing the Oak Grove project. Also reach out to private developers who might be interested in partnering with the Town and Redevelopment Authority.

**EDC and MRA** - Attend EDC meetings, present information, brief EDC on the status of Oak Grove project and assist the Committee in making recommendations relative to the Oak Grove project. You should consider including some or all of EDC on Urban Renewal Planning Committee.

Following appointment of MRA members, scheduling organizational meeting and comply with requirements in MGL 121B. Coordinate board development to insure members understand the powers and responsibilities of a redevelopment authority. This could be in Phase 1 or 2 depending on the timing of the appointments.

PUBLIC RELATIONS/MEDIA - Most of the Phase 1 scope of services does not lend itself to public relations events or press releases but where appropriate media relations will be managed.



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

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Matthew J. Hayes, P.E.*  
*Karyl Spillars-Walsh*  
*Richard Di Iulio, Associate Member*

REVISED DRAFT – December 31, 2013

**CERTIFICATE OF ACTION**  
**AMENDMENT to APPEGATE FARM DEFINITIVE SUBDIVISION PLAN**  
— ( \_\_\_\_\_ with Waivers and Conditions)

**I. BACKGROUND** - At a duly called and properly posted meeting of the Medway Planning Board held on June 22, 2006, the Board approved a Certificate of Action for the *Applegate Farm Definitive Subdivision Plan*, prepared by GLM Engineering, Inc. dated December 1, 2005, last revised April 25, 2006 subject to the *Specific and General Conditions* as specified in the Certificate of Action and with *Waivers* from the April 26, 2005 *Subdivision Rules and Regulations* as follows: 7.9.2 e); 7.9.5 c); 7.13.3; 7.19.5; 5.7.28; and 7.21.

The above noted plan was revised January 12, 2007 pursuant to the conditions of the Certificate of Action and was endorsed by the Planning Board on January 30, 2007. The endorsed Applegate Farm definitive subdivision plan was recorded at the Norfolk County Registry of Deeds on February 22, 2007 as Pages 53-56 in Plan Book 565 of 2007.

**II. SUMMARY OF PREVIOUSLY APPROVED SUBDIVISION** – The above noted *Applegate Farm Definitive Subdivision Plan* includes 12 single-family home lots (*Lots 1B – 12B*), one drainage parcel, and approximately 1695 linear feet of roadway between Ellis and Coffee Street known as Applegate Road. The development site is a 16.9-acre parcel located at the NE corner of Coffee and Ellis Streets in the Agricultural-Residential I zoning district. The original land parcel was owned by Cedar Trail Trust/Ralph Costello, Trustee. The plan also included construction of a stormwater drainage system with a detention pond to comply with Massachusetts DEP stormwater management requirements, disturbance of stone walls and tree removal in the Ellis Street (scenic road) right-of-way, and extension of Town water and sewer. In addition to the 12 single-family house lots, the Applegate development also includes ten adjacent Approval Not Required (ANR) lots on Coffee & Ellis Streets authorized in Aug. 2005.

**III. APPLICANT:** Ralph Costello/Unique Homes, Inc.  
503 Main Street  
Medfield, MA 02054

Telephone: 508-533-3291 Fax: 508-321-4987  
planningboard@townofmedway.org

**IV. MODIFICATION DESCRIPTION:** The proposed subdivision plan amendment addresses a drainage problem at the intersection of Ellis Street and Virginia Road which impacts the Applegate subdivision property. The proposed AMENDED subdivision plan shows changes to the subdivision's stormwater drainage system including the installation of catch basins, manholes and culverts to convey surface water flowing off of Virginia Road within new drainage and access easements to be located on Lot 7, Lot 12B, Lot 9B, and Lot 8B as shown on the plan that are presently owned by the Cedar Trail Trust. That stormwater will flow to a detention area located on Parcel A as shown on the plan (13 Applegate Road). The size of the culverts within Applegate Road and the stormwater drainage basin are increased to accommodate the additional runoff flow and storage volume. The applicant and the Town of Medway Department of Public Services will share the cost and responsibility for the installation work.

To offset the applicant's cost of the changes to the stormwater system, the applicant seeks waivers from the *Subdivision Rules and Regulations* as follows:

- reduction in the width of the interior sidewalks from 6' to 5.5'
- the use of Cape cod berm edging within the subdivision instead of sloped granite curbing
- relief from the requirement to pay the filing and plan review fees for the subdivision plan modification
- relief from the requirement to install an independent drainage system to collect and discharge subsurface runoff from the house foundation drains
- relief from the requirement that a detention pond be located on a separate parcel.

The applicant also seeks relief from Condition 7. e. of the June 22, 2006 Applegate subdivision decision. That condition specified that the final subdivision plan include approximately 960 linear feet of sidewalk along the north side of Coffee Street from the eastern edge of the property to Ellis Street. The applicant wishes to NOT construct that portion of the sidewalk from Applegate Road east to the eastern edge of the Applegate property boundary.

**V. PROCEDURAL SUMMARY:** With respect to proposed modification to the *Applegate Farm Definitive Subdivision Plan*, the Planning and Economic Development Board hereby certifies that:

1. On April 10, 2013, it received an application for approval of the *Amended Definitive Subdivision Plan - Applegate Farm* dated February 20, 2013, prepared by GLM Engineering, Inc. of Holliston, MA. This application was NOT preceded by a preliminary subdivision plan.
- NOTE - It was determined that the application was not complete as the required plan review fee had not been provided. Upon receipt of the plan review fee on May 16, 2013, the application package was determined to be complete.
2. On June 25, 2013, it commenced a public hearing on the plan. The public hearing was duly noticed on June 10 and June 18, 2013 in the *Milford Daily News*. It was filed with the Medway Town Clerk on June 3, 2013. Abutter notice was sent by certified sent mail on June 4, 2013. The public hearing was continued to August 13, August 27, and September 10, 2013 when it was closed. The public hearing continuation notices were filed with the Town Clerk.
3. On August 8, 2013, the Board approved the Applicant's request to extend the deadline for the Board's action to September 15, 2013.



4. On September 10, 2013, the Board approved the Applicant's request to extend the deadline for the Board's action from September 15 to October 15, 2013.
5. On October 8, 2013, the Board approved the Applicant's request to extend the deadline for the Board's action from October 15, 2013 to October 30, 2013.

**VI. PUBLIC HEARING SUMMARY:** The public hearing and review of the proposed modification to the Applegate Farm Definitive Subdivision Plan was conducted over the course of four Planning and n 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.

Specified below is a list of application materials, public comments, consultant and town staff review documents, and supplemental information filed by the Applicant and the Board. All information is on file with the Planning and Economic Development Board and is available for public review. By reference, the *Applegate Farm Definitive Subdivision Plan* endorsed on January 30, 2007 is included as part of the record.

**Public Hearing Notice – June 3, 2013**

**Application Materials**

- Application dated February 20, 2013
- Letter from Rob Truax, GLM Engineering dated February 19, 2013 summarizing the applicant's waiver requests
- Certified Abutters list prepared by the Medway Assessor's office
- AMENDED Applegate Farm Definitive Subdivision Plan – GLM Engineering Consultants, Inc. - February 20, 2013
- AMENDED Stormwater Drainage System for Applegate Farm Subdivision and Virginia Road dated November 8, 2011, prepared by GLM Engineering Consultants, Inc.

**Waiver Requests - February 20, 2013** Waiver Requests prepared by Rob Truax, GLM Engineering Consultants, Inc.

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

- June 20, 2013 Plan Review comments
- August 20, 2013 Plan Review comments
- Construction Report from Tetra Tech dated August 20, 2013
- Memorandum dated August 20, 2013 regarding Tetra Tech construction report from 6/26/2013 which pertained to erosion control and maintenance of stormwater improvements
- Memorandum dated September 20, 2013 re: applicant's request to waive requirement to install independent drainage system to collect and discharge subsurface runoff from foundation perimeter drains

**Medway Departmental/Board Review Comments**

- Testimony of Thomas Holder, Director of the Medway Department of Public Services – June 25, 2013 public hearing
- Email communication with photographs dated September 10, 2013 from Thomas Holder, Director of the Medway Department of Public Services re: proposed sidewalk

**Supplemental Information Provided By Applicant**

- August 13, 2013 letter from Robert Truax, GLM Engineering responding to 6-20-2013 plan review comments of David Pellegri of Tetra Tech
- Construction cost estimates dated February 21, 2012 provided by Maricor Construction Services – submitted during the 8-13-2013 public hearing
- *AMENDED Applegate Farm Definitive Subdivision Plan* – GLM Engineering Consultants, Inc. further revised August 12, 2013

**Citizen/Resident Letters**

Email communication dated June 19, 2013, from Susan and Randy Wood, 23 Coffee Street

**Citizen/Resident Testimony**

Ray McCarthy, 22 Coffee Street      6/25/2013 public hearing  
Robert Ruppert, 11 Virginia Road      6/25/2013 public hearing

**Professional Review/Testimony**

Dave Pellegri, P.E., Tetra Tech.  
Robert S. Truax, Project Manager/Design Engineer, GLM Engineering, Inc.

**Other Testimony**

Ralph Costello, applicant

**Information Provided by Medway Planning and Economic Development office**

- The Board's construction services invoice for the Applegate Farm subdivision from February 2013
- Prior Applegate Farm Definitive Subdivision Plan *Certificate of Action* - June 26, 2006
- Tetra Tech Construction Reports dated 8/9/12, 8/13/12, 8/16/12, and 8/17/12 for Applegate subdivision.
- Mullins Rule Certification for Board Member Matthew Hayes re: August 13, 2013 public hearing
- Scenic Road Work Permit for Applegate Farm Subdivision dated June 8, 2006 with a modification dated March 10, 2010 (*time extension for tree pruning work*) and a further modification dated November 22, 2011 (*pertaining to a curb cut/driveway opening in the fieldstone wall at 69 Ellis Street*).

**VII. GENERAL FINDINGS** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_ a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the General Findings indicated below. The motion was \_\_\_\_\_ by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

- A. During construction of the Applegate Farm subdivision, a corrugated metal culvert was found extending from the west side of Ellis Street onto Lot 7 of the Applegate Farm development. Stormwater flow from this culvert was not accounted for in the original Applegate Farm Subdivision drainage analysis. The applicant then researched the existing drainage situation in this area and found that the existing culvert captures stormwater flow from a portion of Ellis Street where runoff sheets off the side of the road into a grass swale which is directed to the culvert. Stormwater runoff from portions of Virginia Road is directed to two existing leaching catch basins at the intersection of Ellis and Virginia Road. These leaching catch basins have no outlet pipes so when they overflow, water may also enter the adjacent grass swale which again is directed into the corrugated metal culvert and discharges to Lot 7. Due to the lack of outlet pipes, these leaching

structures are susceptible to flooding and therefore can cause safety concerns with icing on Ellis Street.

- B. The proposed amendment to the Applegate Farm Definitive Subdivision Plan provides for substantial enhancements to the stormwater drainage system to accommodate stormwater runoff from Virginia Road onto Ellis Streets (*shown on Sheet 8*) and across to the Applegate subdivision property. The improvements have been reviewed and evaluated by David Pellegri, P.E. of Tetra Tech, the Town's Consulting Engineer and found to comply with the Town's *Subdivision Rules and Regulations*.
- C. The proposed improvements to the drainage system at the intersection of Ellis and Virginia Road will alleviate a troublesome existing condition which is in the Town's best interest to address. The scope of the improvements is supported by the Medway Department of Public Services.
- D. The applicant/developer and the Town of Medway Department of Public Services have agreed in principle to share the cost of constructing the stormwater drainage improvements shown on the proposed amended Applegate Farm Definitive Subdivision Plan. Condition #6 of this Decision requires the preparation and submittal to the Board (*before plan endorsement*) of a signed memorandum of understanding between the Medway Department of Public Services and the applicant specifying each party's responsibilities to complete the needed stormwater management improvements.
- E. The Board finds that the applicant has not provided verification that the required \$12,300 worth of tree pruning on Coffee and Ellis Street has occurred as specified in the Applegate Farm Scenic Road Work Permit dated June 8, 2006 as mitigation for removing one 27' oak tree on Ellis Street in order to construct Applegate Road.
- F. The owner of the properties located at 67 & 69 Ellis and 11 Coffee Street has constructed a stone wall in the Town's right of way on a portion of the properties. As presently positioned, the stone wall is in the way of the planned sidewalk to be installed by the developer along Coffee Street east of Ellis Street.

**VIII. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS** – As part of this application, the Applicant has requested the following additional waivers from the Board's *Subdivision Rules and Regulations*, dated April 26, 2005.

**SECTION 5.2.1:** *"Any person who submits a Definitive Subdivision Plan to the Board for approval shall file with the Board all items required in sections 5.5 and 5.7 and the appropriate Definitive Plan Filing Fee and an advance on the Plan Review Fee . . ."*

**EXPLANATION:** The applicant proposes that the Board waive the filing fee and the plan review fee to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.

**FINDINGS:** Because the Board has found that that the proposed improvements to the drainage system at the intersection of Ellis and Virginia Road are in the Town's best interest, the Board is willing to waive the application filing fee and have the Town forego those revenues. However,

Board also finds that the proposed modification to the stormwater drainage system necessitate the review of the Town's engineering consultant to ensure the modified system is correctly designed. Accordingly, there must be a payment source to compensate the consultant. Therefore, the Board will not waive the plan review fees associated with this plan modification.

**SECTION 7.7.2 (p)** *"Detention and retention basins and underground infiltration systems and any related drainage structures shall be located on separate parcels and shall not be included on individual houses/building lots."*

**EXPLANATION:** The applicant proposes that the Board waive the requirement that the detention pond be completely located on a parcel separate from a building lot.

**FINDINGS:** The additional stormwater runoff from Virginia Road that will flow to the Applegate detention pond on Parcel A (13 Applegate Road) necessitates its enlargement from what was previously approved. With the proposed plan amendment, a small portion of the southern end of the enlarged detention pond will extend onto the very northeasterly portion of the adjacent building lot at 13 Coffee Street. However, the enlarged pond is completely contained within the area shown for the drainage easement on Parcel A and 13 Coffee Street. Strict adherence to this particular Regulation would necessitate reducing the area of the 13 Coffee Street lot in order to enlarge Parcel A so that the detention pond would be located completely on Parcel A. That change would result in 13 Coffee Street not complying with the minimum lot area of 44,000 square feet per the Medway Zoning Bylaw. In light of the investment the developer is making to enhance the drainage system to accommodate stormwater runoff from Virginia Road, the Board finds that compliance with this Regulation would be an excessive and unreasonable consequence to the applicant. Therefore, the Board agrees to grant this waiver request.

**SECTION 7.7.4. d)** *"... An independent drainage system shall be provided to collect and discharge subsurface runoff from the foundation perimeter drain for the houses along the proposed roadway. ..."*

**EXPLANATION:** The applicant proposes that the Board waive the requirement to install independent drainage systems to collect and discharge subsurface runoff from the foundation perimeter drain for the houses along Applegate Road. The estimated cost savings is \$20,000. The reason for the applicant's request is to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.

**FINDINGS:** The building lots for which the applicant seeks a waiver from this Regulation are: 9R, 12B, 11B, 10B 9B and 8B. David Pellegrini, P.E., of Tetra Tech, the Town's consulting engineer has reviewed the applicant's proposal to not install independent drainage systems for the above noted building lots. His 10/10/13 review indicates that the approved definitive plan and the proposed amended Applegate Subdivision Plan include a 2 part NOTE on Sheet 7 as follows:

- I. *Perimeter foundation drains (4") to be outleted to daylight or connected to the 4" main trunkline.*

2. *Final building elevations and locations shall be in compliance with the Town of Mechway Building Regulations. Basement floor elevations to be a min. of two feet above max. seasonable high ground water. Ground water elevation to be verified by certified soil evaluator.*

Consultant Pellegri further notes that the Massachusetts State Building Code requires the "Owner or Applicant shall perform a subsurface soil investigation in accordance with 780 CMR 1802.0 to determine the possibility of the ground water table rising above the proposed elevation of the floor or floors below grade."

Based on the plan notes on Sheet 7 and the requirements of the State Building Code, consultant Pellegri has indicated that "there is adequate assurance that the basement floor elevations will be designed and constructed above the seasonal high ground water elevation, therefore eliminating the need for a foundation drain." "In conclusion, we feel that the drain proposed below the sidewalk to accept the future perimeter drains in the original approved plans is not necessary and can be eliminated from the design." He suggests that the Board may want to incorporate the Note from Sheet 7 into the decision. Therefore, subject to Condition # 9 specified herein, the Board agrees to grant this waiver request.

**SECTION 7.10.2** "Curbing shall be provided the full length of all streets along each side of the roadway. For a Local Street, the type of curbing shall be Sloped Granite Edging (Type S-B).

**EXPLANATION:** The applicant proposes that the Board waive the requirement to install sloped granite curbing along the full length of Applegate Road and to allow the use of Cape Cod Berm instead. The estimated cost savings is \$30,000. The reason for the applicant's request is to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.

**FINDINGS:** In light of the investment the developer is making to enhance the drainage system to accommodate stormwater runoff from Virginia Road, the Board finds that the change to Cape Cod Berm for the curbing within the Applegate subdivision is a reasonable alternative to the sloped granite curbing as specified in the Regulations for a subdivision of this size. Therefore, the Board agrees to grant this waiver.

**SECTION 7.13.2** "Sidewalks shall extend the full length of the street and around the entire perimeter of the cul-de-sac. For a Local Street, the sidewalk shall be six feet on one side – Hot Mix Asphalt with a minimum six and one-half foot grass strip.

**EXPLANATION:** The applicant proposes that the Board waive the requirement to install 6 foot wide sidewalk along the full length of Applegate Road and to allow a 5.5 foot sidewalk instead. The estimated cost savings is \$3,500. The reason for the applicant's request is to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.



**FINDINGS:** In light of the investment the developer is making to enhance the drainage system to accommodate stormwater runoff from Virginia Road, the Board finds that the change in the width of the sidewalk within the Applegate subdivision to 5.5' is a reasonable alternative to the 6' wide sidewalk as specified in the *Regulations*. Therefore, the Board agrees to grant this waiver.

**NOTE** – The previously approved waiver findings and decisions specified in the June 22, 2006 Applegate Farm Definitive Subdivision Plan Certificate of Action remain in effect.

**MITIGATION PLAN** - The proposed AMENDED subdivision plan shows changes to the subdivision's stormwater drainage system including the installation of catch basins, manholes and culverts to convey surface water flowing off of Virginia Road within new drainage and access easements to be located on Lot 7, Lot 12B, Lot 9B, and Lot 8B as shown on the plan that are presently owned by the Cedar Trail Trust. That stormwater will flow to a detention area located on Parcel A as shown on the plan (13 Applegate Road). The size of the culverts within Applegate Road and the stormwater drainage basin are increased to accommodate the additional runoff flow and storage volume.

**NOTE** – The previously approved Waiver Mitigation Plan items 1-4 specified in the June 22, 2006 Applegate Subdivision Certificate of Action remains in effect.

**Action on Waiver Findings** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted Waiver Findings. The motion was \_\_\_\_\_ by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

**Action on Mitigation Plan** - At a duly called and properly posted meeting of the Medway Planning Board held on \_\_\_\_\_, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to approve the above noted Mitigation Plan. The motion was \_\_\_\_\_ by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

**Action on Waiver Request** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_ a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted Waivers from the *Subdivision Rules and Regulations*. The motion was \_\_\_\_\_ by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

**IX. PROJECT EVALUATION CRITERIA** – Before taking action on a proposed amendment to a Definitive Subdivision Plan, the Board shall evaluate the proposed subdivision according to the following criteria as specified in Section 5.16 of the *Subdivision Rules and Regulations*. At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_ a motion was made by \_\_\_\_\_, seconded by \_\_\_\_\_, to \_\_\_\_\_ the Project Evaluation Findings noted below. The motion passed by a \_\_\_\_\_ vote.

5.16.1 Completeness and technical accuracy of all submissions.

*FINDINGS* – The Board finds that the submissions pertaining to the proposed amendment of the Applegate Farm Definitive Subdivision Plan were complete and technically accurate.

5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.

*FINDINGS – As there is no change in the proposed street pattern from that previously approved, the Board finds this criterion is met.*

5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.

*FINDINGS – As there is no change in the development's location from that previously approved, the Board finds this criterion is met.*

5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

*FINDINGS – The scope of the proposed modification does not necessitate the preparation of an environmental impact analysis. The proposed change to the stormwater system has been reviewed by the Town's consulting engineer. The development is subject to an Order of Conditions from the Medway Conservation Commission to protect wetland resources. The Board finds that this criterion is met.*

5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

*FINDINGS – As there is no change in the roadway layout from that previously approved, the Board finds that the roads leading to and from the subdivision are adequate to provide emergency, medical, fire and police protection and safe travel for the neighborhood's projected volume of traffic. Therefore, the Board finds that this criterion is met.*

5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.

*FINDINGS – The proposed change to the stormwater drainage complies with all applicable requirements of the Medway Zoning Bylaw. The Board finds that this criterion is satisfied.*

5.16.7 Consistency with the purposes of the Subdivision Control Law.

*FINDINGS – The proposed change to the stormwater drainage system complies with the applicable Subdivision Rules and Regulations. The Board finds that the project is consistent with the purposes of the Subdivision Control Law.*

X. **DECISION** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_ a motion was made by \_\_\_\_\_

\_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the  
*AMENDED Applegate Farm Definitive Subdivision Plan*, prepared by GLM Engineering, Inc.  
dated December \_\_\_\_\_ subject to the *Specific and General*  
*Conditions* as specified herein and with *Waivers* from the following sections of the *Subdivision*  
*Rules and Regulations* dated April 26, 2005:

**(INSERT LIST APPROVED WAIVERS)**

The motion was \_\_\_\_\_ by a vote of \_\_\_\_\_ in favor ( \_\_\_\_\_ ) and \_\_\_\_\_ opposed ( \_\_\_\_\_ ).

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

Conditions

1. It is expressly understood that this AMENDMENT does not change the number of single-family house lots in the Applegate Farm subdivision from the 12 originally approved. As a permanent condition of this plan, no further subdivision will be allowed.
2. The Applicant shall complete construct the roadway and all related infrastructure including the modified stormwater management system, and install all utilities as shown on the AMENDED definitive subdivision plan, to the satisfaction of the Planning and Economic Development Board within \_\_\_\_\_ years of the date of endorsement of the AMENDED Applegate Farm Definitive Subdivision Plan.
3. The Applicant shall specifically reserve to itself ownership of the fee in Applegate Road and all 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 roadways and all easements to the Town of Medway before the Planning and Economic Development Board approves the final bond release.
4. Prior to the Board's endorsement of the AMENDED plan, the *cover sheet* of the plan set with its last revision date of August 12, 2013 shall be further revised to include the following:
  - a. The final plan revision date
  - b. List of ALL approved waivers
  - c. Updated sheet index
  - d. Reference that all subdivision lots are subject to the *Declaration of Protective Covenants & Restrictions Governing the Applegate Farm Subdivision*.
  - e. Reference that the subdivision lots are subject to a new Subdivision Covenant.
5. Prior to the Board's endorsement of the AMENDED plan, the plan with its last revision date of August 12, 2013 shall be further revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such AMENDED 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 AMENDED definitive subdivision plan.
6. *Ellis Street/Virginia Road Stormwater Work* - Prior to the Board's endorsement of the AMENDED plan, the applicant shall provide a written Memorandum of Understanding signed by the applicant and the Medway Department of Public Services to fully detail the agreed upon

scope of work, construction responsibilities and funding for the supplemental stormwater management infrastructure indicated on the plan

7. *Scenic Road Work Permit*

We need to establish a new deadline by which the tree pruning work shall be completed or evidence provided that the work was already done. If not done by the time they request the first lot release, the value of the tree pruning (\$12,800) should be included in the bond estimate.

8. *Sidewalk Construction*

A. *Coffee Street between Ellis and Holliston Street* – As specified in the original decision dated June 22, 2006, in lieu of constructing approximately 1,280 linear feet of curbed sidewalk along the east side of Ellis Street, the applicant will construct 6 foot (6') wide HMA sidewalk with Type 3 bituminous concrete curbs and all associated handicap access requirements in the Town's right of way on the north side of Coffee Street between Ellis and Holliston Streets, approximately eight hundred feet (800'). Construction shall be coordinated with, to the satisfaction of, and inspected by the Medway Department of Public Services pursuant to its Sidewalk Construction /Reconstruction Specifications dated November 9, 2004. Sidewalk construction shall be completed before the 10<sup>th</sup> building permit is issued or 4 years from the date of endorsement of the plan modification, whichever is later.

B. *Coffee Street between Ellis Street and the eastern boundary of the Applegate development parcel*. The Board hereby approves/does not approve the applicant's request to be relieved of the previously required condition included in the June 22, 2006 Certificate of Action to install sidewalk on the north side of Coffee Street between Ellis Street and the easterly boundary of the Applegate development site.

IF APPROVED . . . . Therefore, the sidewalk construction plan as originally shown on Sheet 20 of the original Applegate Farm Definitive Subdivision Plan shall be removed from the plan set.

IF NOT APPROVED . . . . Sidewalk construction shall be completed before the 10<sup>th</sup> building permit is issued or 4 years from the date of endorsement of the plan modification whichever is later.

9. *Perimeter Drains*

A. Perimeter foundations drains (4") are to be outleted to daylight or connected to the 4" main trunkline

B. Final building elevations and locations shall be in compliance with the Town of Medway Building Regulations. Basement floor elevations are to be a minimum of two feet above maximum seasonable high ground water. Ground water elevations are to be verified by a certified soil evaluator.

10. *Document/Plan Recording* - Within thirty (30) days of recording the AMENDED endorsed definitive subdivision plan, the Certificate of Action and the updated *Subdivision Covenant* 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

11. *Performance Security*

A. *Subdivision Covenant* - Prior to endorsement of the AMENDED plan, the Applicant shall sign a REVISED *Subdivision Covenant*, on a form provided by the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services as specified in the approved subdivision plan. Reference to the new *Subdivision Covenant* shall be noted on the cover sheet of the AMENDED Definitive Subdivision Plan. The *Covenant* shall specify that the roadway and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within \_\_\_\_\_ years after the AMENDED plan is endorsed. The REVISED *Subdivision Covenant* shall apply to Lots 1B – 12B.

B. *Modification of Performance Security* - At such time as the Applicant wishes to secure a building permit for any lot within the subdivision, the security provided by the REVISED *Subdivision Covenant* shall be replaced by one of the types of performance guarantees set forth in M.G.L. Ch. 41, Section 81U, which method or combination of methods may be selected and from time to time varied by the applicant, in sufficient amount, source and form acceptable to the Planning and Economic Development Board, the Medway Treasurer/Collector and Town Counsel.

The performance guarantee shall be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:

- 1) the date by which the developer shall complete construction;
- 2) a statement that the agreement does not expire until released in full by the Planning and Economic Development Board; and
- 3) procedures for collection upon default.

The security amount shall be approved by the Planning and Economic Development Board and shall be based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The amount of the performance guarantee shall be equal to 100% of the Town of Medway's cost to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities, all site amenities and infrastructure maintenance that remain unfinished at the time the performance guarantee estimate is prepared. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the roadways and infrastructure in the event the developer fails to adequately perform such and the cost for the development of as-built plans. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a twenty-five percent (25%) contingency.



NOTE: If the required sidewalk work on the north side of Coffee Street from Holliston Street east to the far eastern edge of the Applegate property Holliston and the installation of a fieldstone wall along approximately fifty feet (50') of the property now or formerly owned by Jeffrey and Cassandra Grenon of 16 Coffee Street are not completed by the time the first lot release is requested, the value of that construction work shall be included in calculating the bond amount.

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- C. *Adjustment of Performance Guarantee Amount* – At the developer's written request, the amount of the performance guarantee may be adjusted from time to time over the course of the construction project by vote of the Planning and Economic Development Board upon the partial completion of the roadways and infrastructure improvements. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the Definitive Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the MassHighway Department. The estimate shall also include the cost to maintain the roadways, stormwater management system and other infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus a twenty-five percent (25%) contingency.

- D. *Final Release of Performance Security* - Final release of performance security is contingent on project completion and street acceptance.

12. *Lot Deeds* – Prior to endorsement of the AMENDED plan, the Applicant shall provide the Board with amended deeds for Lot 7, Lot 12B, Lot 9B, and Lot 8B indicating that these lots are subject to the new utility and access easement. The document shall be reviewed and approved by Town Counsel.

Each lot deed shall state that the Applicant shall reserve to itself ownership of the fee in the roadway and easements shown on the AMENDED definitive subdivision plan. Each deed shall refer to any and all easements shown on the AMENDED plan for that particular lot. The deed text shall include descriptive language specifying all easements, boundary delineations, specific usages and purpose. 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 the *Selective Cutting Zone*. The deed shall refer to the *Declaration of Protective Covenants & Restrictions Governing the Applegate Farm Subdivision*.

13. *Easements* – Prior to endorsement of the AMENDED plan, the Applicant shall provide the Board with a copy of a proposed REVISED document to convey the easements shown on the AMENDED plan to the Town of Medway. The document shall be reviewed and approved by Town Counsel prior to plan endorsement.

14. Within thirty (30) days of endorsement of the AMENDED plan, the Applicant shall provide the Town with a set of the endorsed approved AMENDED plan in 24" x 36" and 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).

15. *Expiration of Appeal Period* - Prior to endorsement of the AMENDED plan, the Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk's office.
16. *Payment of Balance of Fees* - Prior to endorsement of the AMENDED plan, the Applicant shall pay the balance of any outstanding plan review services by any outside consultants retained by the Board ~~and any other outstanding expenses, obligations or fees due the Town of Medway by the applicant. The Applicant shall also be current with the Medway Town Treasurer/Collector for all real estate taxes on property owned by the applicant or associated entities.~~
17. *Proof of Taxes Paid* - Prior to the Board's approval of a full or partial *Release of Covenant* for the building lots, the Applicant shall be current with the existing forbearance agreement with the Medway Town Treasurer/Collector dated March 4, 2011 for real estate taxes and other fees due the Town of Medway for all property owned by the applicant or associated entities in Medway.
18. *Applicability of Conditions of Prior Certificate of Action* - Conditions #3, 5, 9, 10, 17, 24, 27, and 28 as specified in the original Certificate of Action dated June 22, 2006 shall continue to be in effect and shall apply to the amended Applegate Farm Definitive Subdivision Plan.

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**AMENDED APPLGATE FARM DEFINITIVE SUBDIVISION PLAN  
CERTIFICATE OF ACTION**

**Date of Action:** \_\_\_\_\_

**AYE:** \_\_\_\_\_ **NAY:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Date Signed:** \_\_\_\_\_

**Attest:** \_\_\_\_\_ **Date** \_\_\_\_\_  
Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

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

- Copies To:** Stephanie Bacon, Health Agent  
Patty Barry, Conservation Agent  
David D'Amico, DPS Deputy Director  
John Emidy, Building Commissioner  
Donna Greenwood, Assessor  
Thomas Holder, DPS Director  
Jeff Lynch, Fire Chief  
Melanie Phillips, Treasurer/Collector  
Suzanne Kennedy, Town Administrator  
Barbara Saint Andre, Town Counsel  
Jeffrey Watson, Police Safety Officer  
Gino Carlucci, PGC Associates  
Dave Pellegrini, Tetra Tech  
Ralph Costello, Unique Homes  
Rob Truax, GLM Engineering



**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*  
*Matthew Hayes, P.E.*  
*Karyl Spiller-Walsh*  
*Richard Di Iulio, Associate Member*

REVISED DRAFT – January 9, 2014

**SITE PLAN DECISION**  
**Murphy Insurance Site Plan Modification**  
**131-133 Milford Street**

You are hereby notified that on \_\_\_\_\_ at a duly called and properly posted meeting, the Medway Planning and Economic Development Board, after reviewing the application and information compiled during the public review process which commenced on November 26, 2013, (the date of application submittal, voted on a motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_ with \_\_\_\_\_ in favor ( ) and \_\_\_\_\_ against ( ) to \_\_\_\_\_ with conditions as specified herein, the application of Dennis F. Murphy, Jr. of Hudson, MA to modify the previously approved site plan for Murphy Insurance as such pertains to the acquisition of adjacent property at 131 Milford Street.

This Decision includes the following sections:

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

**I. PROJECT LOCATION** - The application pertains to an expansion project for Murphy Insurance which is presently located at 133 Milford Street. The applicant is the buyer on a purchase and sale agreement to acquire the adjacent .25 acre property at 131 Milford Street. Both parcels are located in the Industrial III zoning district and are identified as Parcels \_\_\_\_\_ and \_\_\_\_\_ on Medway Assessor's Map 99. The 131 Milford Street property is presently owned by Mustafa Demir and Reyne Charest Demir of Hudson, MA.

**II. BACKGROUND** – A site plan decision for Murphy Insurance for 133 Milford Street was previously approved by the Medway Planning and Economic Development Board on July 15, 2008. The associated site plan was endorsed by the Board on August 26, 2008.

**III. PROJECT DESCRIPTION/PROPOSED MODIFICATION** - The primary purpose of this site plan modification is to provide additional parking for Murphy Insurance. The project will include demolition of the existing house at 131 Milford Street in order to consolidate that parcel with 133 Milford Street to add parking for 9 vehicles. The applicant plans to use pervious pavement for the parking area. Construction will include on-site sidewalks, lighting and landscaping and the extension/continuation of the public sidewalk along the frontage of 131 Milford Street.

#### IV. PROCEDURAL HISTORY

- A. October 16, 2013 – An application to modify a previously approved site plan was filed with the Medway Planning & Economic Development Board.
- B. November 5, 2013 – Public Hearing notice was filed with the Town Clerk and posted to the Town's web site. The public hearing was advertised in the *Milford Daily News* on November 12 and 19, 2013. Abutters were notified by certified sent mail on November 11, 2013.
- C. November 14, 2013 – The PED office notified Town staff, boards, committees of the application and the planned public hearing for November 26, 2013. The plans were posted to the Town's common drive and were available at the PEDB office for review.
- D. November 26, 2013 – The public hearing was opened and closed on the same date.

#### V. INDEX OF SITE PLAN DOCUMENTS

- A. The application package to modify the previously approved Murphy Insurance Site Plan as submitted on October 16, 2013 included the following documents:
  - *Application to Modify a Previously Approved Site Plan* dated August 2013.
  - *Project Description/Submittal Letter* dated October 15, 2013 from Robert Oliva, of David E. Ross Associates, Inc. (engineer for applicant)
  - *Murphy Insurance Agency – Modification of Approved Site Plan - August 2013 prepared by David E. Ross Associates, Inc. of Ayer, MA ( 5 sheet plan set), REVISED*
  - *Determination Letter* dated July 29, 2013 from Building Commissioner John Emery indicating that the scope of the proposed project constituted a Substantial Modification of a previously approved site plan.
  - *Drainage Report* entitled *Stormwater Analysis for Murphy Insurance Agency, 131 & 133 Milford Street, Medway, MA*, dated October, 2013 prepared by David E. Ross Associates, Inc. of Ayer, MA
  - *Waiver Requests and Letter* dated October 15, 2013 prepared by Robert Oliva, David E. Ross Associates.
  - *Site Plan Decision* for Murphy Insurance agency dated July 15, 2008 – Medway Planning and Economic Development Board.
  - Sheets 4 and 6 of the *Previously Approved Site Plan* endorsed August 26, 2008.
  - *Certified Abutters List*



**VI. TESTIMONY** - In addition to the site plan application materials submitted and provided during the course of the Board's review, the Board received written or verbal testimony as follows:

**Review Letters**

- Review letter dated November 21, 2013 from David Pellegri, P.E., Tetra Tech Engineering, the Town's consulting engineer; updated January 7, 2014
- Review letter dated November 19, 2013 from Gino Carlucci, AICP, PGC Associates, the Town's consulting planner.

**Verbal Testimony**

- Robert Oliva, David E. Ross Associates (for the applicant)
- David Pellegri, P.E., Tetra Tech (for the Town)
- Gino Carlucci, AICP, PGC Associates (for the Town)
- Attorney Paul Giannetti of Giannetti & Hastings (for the applicant)

**VII. WAIVERS** – At its \_\_\_\_\_ meeting, the Board, on a motion by \_\_\_\_\_ seconded by \_\_\_\_\_ voted its decision on requested waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans*, as amended December 3, 2002. The Board's action and reasons for granting each waiver are listed below. All waivers are subject to the *Special and General Conditions of Approval*, which follow this section.

**A. SUBMITTAL REQUIREMENTS/PLAN CONTENTS**

1. 204-3 (A) 7 – A written *Development Impact Statement* shall be prepared. It shall describe the potential and anticipated impacts of the proposed development, identify all positive and adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. The Development Impact Statement shall address traffic, environmental, community and parking impacts.

*The scope of work for this site plan modification involves the removal of a single structure and the construction of 9 parking spaces with associated site amenities at 131 Milford Street. The nature and low intensity of the existing office use at 133 Milford Street is readily apparent and has become an attractive entryway to Medway. Traffic volume is not expected to increase. The site plan modification can be readily evaluated without the comprehensive impact evaluation called for in the Site Plan Rules and Regulations which was intended for larger scale development projects. **The waiver is granted.***

2. 204-5 (C) 3 – An Existing Landscape Inventory shall be prepared by a Professional Landscape Architect licensed in the Commonwealth of Massachusetts. This inventory shall include a "mapped" overview of existing landscape features and structures and a general inventory of major plant species including the specific identification of existing trees with a diameter of one (1) foot or greater at four (4) feet above grade.

*The Existing Conditions sheet shows the landscaping that was previously installed when the Murphy Insurance building was first constructed at 133 Milford Street in 2009. The proposed construction at 131 Milford Street requires only minor clearing and removal of trees. Trees of significance to either be removed or relocated are shown on the Existing Conditions Sheet. **The waiver is granted.***

- 3 204-5 (D) 7 – A Landscape Architectural Plan shall be prepared by a Landscape Architect licensed in the Commonwealth of Massachusetts. This Plan shall be prepared as an overlay of the existing conditions sheets and shall incorporate, whenever possible, the significant features of the existing site and topography, particularly existing trees with a diameter of one (1) foot or greater at four (4) feet above grade. The Landscape Architectural Plan shall indicate the areas slated for excavation; any woodlands, trees or other existing features or structures to be retained; all new plantings by common and Latin name including their proposed locations and sizes at the time of installation. Plan graphics for tree canopies shall reflect, as closely as possible, the actual canopy dimension of proposed tree plantings at the time of installation with a “lesser” intensity graphic used to represent potential canopy at maturity.

*Sheet 3 of the site plan set includes a Planting Schedule of proposed plantings that are indigenous to this area. The plantings will be spaced around the proposed new parking area. Murphy Insurance has an excellent track record with its handsome and well maintained landscaping at their existing property at 133 Milford Street. The proposed plantings are adequate for their intended purposes for both buffer use and aesthetic value. The waiver is granted.*

**B. CONSTRUCTION STANDARDS – Site Plan Rules and Regulations**

1. 205-9 (C) – Landscaping/Parking Areas. Internal landscape planted divisions (islands and peninsulas) shall be constructed within all parking lots to provide shading and buffering. At least one deciduous tree of a minimum two and one-half (2 1/2) inches caliper in diameter shall be provided for every six (6) parking spaces. Only trees providing shade to the parking area shall be counted as meeting this requirement. This requirement may be waived in lieu of the preservation of existing trees subject to approval by the Planning Board.

*Strict compliance with this regulation is unnecessary due to the small size of the expanded parking lot (9 spaces) and the substantial landscape plan that has been included for perimeter planting of the parking area. Furthermore, one substantial existing tree is to be relocated onsite. This waiver is granted.*

**VIII. FINDINGS** – The Planning & Economic Development Board must determine whether the proposed site plan modification constitutes a suitable development based on conformance with the purposes of Site Plan Review as specified in the Medway Zoning Bylaw and with the various site development standards and criteria set forth in the Board’s Site Plan Rules and Regulations. The Planning & Economic Development Board, at its meeting on \_\_\_\_\_ in a motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_ voted \_\_\_\_\_ in favor ( ) and \_\_\_\_\_ against ( ) to approve the following **FINDINGS** regarding the Murphy Insurance site plan modification.

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

- (1) Are the buildings, uses and site amenities properly located on the development site in relation to the terrain and scale of other buildings in the vicinity and adjacent neighborhoods?

No new buildings are proposed and the use will not change. The expanded parking lot is properly designed and suitably landscaped. Therefore, the PEDB finds that this criterion is met.

- (2) Are the construction and renovation of buildings and the installation of site amenities thoughtfully designed to reflect or be compatible with Medway's New England architectural style as further detailed in the Design Guidelines?  
Since no new building is proposed and the expanded parking lot is suitably landscaped, the PEDB finds that this criterion is met.
- (3) Are adjacent and neighboring properties protected from nuisance and harmful effects caused by noise, fumes, and the glare of headlights and other light sources generated by uses on the development site?  
No additional noise or fumes are being created. Headlight glare will not be increased and there is vegetation screening on the east side of the parking lot to protect the abutter from such glare. Therefore, the PEDB finds that this criterion is met.
- (4) Are significant natural features on a development site (i.e. hills, water bodies, wetlands, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats, and other areas of aesthetic and ecological interest) preserved with as minimal site disturbance as possible?  
The proposed parking lot expansion impacts an already-developed site. Therefore, the PEDB finds that this criterion is met.
- (5) Are off-street loading facilities and methods for unloading vehicles, goods, products materials and equipment incidental to the normal operation of the establishment(s) on the development site conveniently and safely provided while the visual intrusion thereof is appropriately screened from public view?  
No additional loading facilities are proposed. As an office use, loading needs are minimal. Therefore, the PEDB finds that this criterion is met.
- (6) Are facilities for the storage, handling and disposal of sewage, refuse and other solid wastes resulting from the normal operations of the establishment(s) on the development site provided and adequately screened from public view?  
None of these issues is being changed due to the proposed parking lot expansion. Therefore, the PEDB finds that this criterion is met.
- (7) Are pedestrian ways, access driveways, loading and parking facilities properly designed for the convenience and safety of customers, employees and the general public?  
The proposed parking lot expansion has been reviewed by Town public safety officials and the design has been deemed to provide adequate safety and convenience. Therefore, the PEDB finds that this criterion is met.
- (8) Is convenient and safe access for fire-fighting and emergency rescue vehicles provided to and within the development site in relation to adjacent streets?  
The parking lot expansion does not diminish access to the site for fire-fighting and emergency rescue vehicles. In fact, it adds a second access drive from Milford Street

and expands the area available to park and set up fire-fighting and emergency equipment. Therefore, the PEDB finds that this criterion is met.

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

*The existing drainage system will remain unchanged. Pervious pavement is being used to minimize the increase in runoff to the drainage system. The drainage system has been reviewed by the Town's Consulting Engineer and no design issues have been identified. Therefore, the PEDB finds that this criterion is met.*

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

*The expanded parking lot provides a second driveway at Milford Street allowing for a one-way traffic pattern to be instituted which enhances the level of service on the site. The Town's Consulting Engineer has reviewed the design and has identified no significant issues. Therefore, the PEDB finds that this criterion is met.*

- (11) Have the effects and impacts of the proposed use of land or structures on vehicular and pedestrian traffic, municipal services and utilities, roadways, parking, drainage, environmental quality, water resources, signage, lighting, and community economics, character, values, amenities and appearance been identified and evaluated?

*The impacts on these issues have been evaluated by Town officials and the Town's Consulting Engineer and Consulting Planner. Due to the minimal nature of the site modification, no significant impacts have been identified. Therefore, the PEDB finds that this criterion is met.*

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

*While the site changes are minimal, landscaping has been provided and pervious pavement is being used to mitigate the minor impacts caused by the parking lot expansion. Therefore, the PEDB finds that this criterion is met.*

- (13) Have reasonable conditions, limits, safeguards and mitigation measures been established?

*While the impacts are minor, reasonable conditions, safeguards and mitigation measures have been established below. Therefore, the PEDB finds that this criterion is met.*

### **SITE PLAN RULES AND REGULATIONS**

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

- (14) Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?



*The expanded parking lot will have a minor impact but its additional parking and one-way design will enhance internal circulation. Since there is no access from residential streets, there are no impacts on that either. Therefore, the PEDB finds that this criterion is met.*

- (15) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?  
*No changes to the building are proposed so this criterion is not applicable to this application for site plan modification.*
- (16) Is reasonable use made of building location, grading and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g. waste removal) from public views or from (nearby) premises residentially used and zoned.  
*The expanded parking lot is suitably graded and landscaped and there is no outside storage or outside service areas. Therefore, the PEDB finds that this criterion is met.*
- (17) Is adequate access to each structure for fire and service equipment provided?  
*The parking lot expansion does not diminish access to the site for fire-fighting and emergency rescue vehicles. In fact, it adds a second access drive and expands the area available to park and set up equipment. Therefore, the PEDB finds that this criterion is met.*
- (18) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?  
a) the volume of cut and fill;  
b) the number of trees to be removed with particular care taken with mature trees and root systems;  
c) the visual prominence of man-made elements not necessary for safety;  
d) the removal of existing stone walls;  
e) the visibility of building sites from existing streets;  
f) the impacts on waterways and environmental resource areas;  
g) soil pollution and erosion;  
h) noise  
*The parking lot expansion impacts an already-developed site. The volume of cut and fill is minor. Only trees necessary to be removed to accommodate the new parking lot are being removed. The visual prominence of man-made elements not necessary for safety is not being diminished. No stone walls are being removed. There are no impacts on waterways or environmental resource areas since drainage is being directed to the existing stormwater management system. Soil pollution and erosion are adequately addressed and, other than during construction, noise will not be increased. Therefore, the PEDB finds that this criterion is met.*
- (19) Is pedestrian and vehicular safety both on the site and egressing from it maximized?  
*The expanded parking lot will have a minor impact but its additional parking and one-way design will enhance internal circulation. Adequate provisions have been made for pedestrian safety by adding a connecting walkway from the new parking area. Therefore, the PEDB finds that this criterion is met.*



- (20) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?  
*There are no significant natural or historic features on this site. Therefore, this criterion is not applicable to this application.*
- (21) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?  
*The new lot will have lighting identical to that provided on the existing parking area. It has been shown to prevent glare on adjoining properties and, as conditioned, will be shielded to minimize light pollution. Therefore, the PEDB finds that this criterion is met.*
- (22) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.

*The limit of work is the minimum necessary to accommodate the expanded parking lot. There are no significant natural or cultural features on this site. Therefore this criterion is not applicable to this application. The plans show adequate measures will be taken to minimize soil erosion and water pollution, and stormwater management is adequately addressed through the use of pervious pavement and the existing stormwater management system.*

**IX. SPECIFIC CONDITIONS OF APPROVAL – Approval of this site plan modification is subject to the following specific conditions.**

- A. **Plan Revisions** - Prior to endorsement, the sheet plan set 131-133 Milford Street dated July 2013 prepared by David E. Ross Associates, Inc. of Ayer, MA shall be further revised to incorporate the following:
1. The plan endorsement signature box on all plan sheets shall be revised to specify the Planning and Economic Development Board.
  2. The cover sheet shall be revised to include reference to the previously approved site plan decision and plan set.
  3. At the applicant's discretion, the parking spaces may be reduced in size from 10' wide to 9' wide.
  4. A plan sheet shall be added to include lighting photometrics.
  5. Any plan revisions that may be needed as specified in the Tetra Tech plan review letter dated November 21, 2013.
- B. **Parking Limitations** – Parking at 131 and 133 Milford Street shall be limited only to vehicles for Murphy Insurance Agency. The parking lot spaces may not be leased or made available to any other business for parking purposes.
- C. **Wetlands Protection** – Prior to plan endorsement, the Applicant is required to provide the Planning and Economic Development Board with a copy of the *Order of Conditions* or other form of approval from the Medway Conservation Commission. If any changes

to the site plan are required due to the Conservation Commission's decision, a revised site plan shall be provided to the Board for review by the Inspector of Buildings. If the changes ordered by the Conservation Commission are determined to be Non-Substantial they may be considered for approval at a public meeting. If such changes are Substantial, they will require a formal site plan modification with a new public hearing, notice to abutters, etc.

D. **Light fixtures shall be shielded to prevent light pollution and shall comply with Section V. B. 7 of the Zoning Bylaw.**

E. **Maintenance of Pervious Paved Parking Lot** - The pervious pavement requires special maintenance to ensure that it does not become clogged and thus rendered impervious. The plans adequately specify the monitoring and maintenance that must be provided. The applicant shall provide documentation that such maintenance is being performed upon request of the Town.

F. **Site Consolidation** – Prior to receiving a Demolition permit from the Medway Inspector of Buildings to raze the house at 131 Milford Street, the applicant shall submit an 81X plan to the Board for review and file such plan at the Norfolk County Registry of Deeds. The 81X plan shall show the consolidation of 131 and 133 Milford Street into one parcel.

G. **Construction Activities**

1. **Commencement** – Site construction work shall not begin until after the Inspector of Buildings has issued a Demolition permit for the structure at 131 Milford Street.
2. **Time** - Construction work at the site and in the building shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. No construction shall take place on Sundays or legal holidays unless authorized in advance by the Medway Building Commission.
3. **Construction Traffic/Parking** – All parking for construction and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on Milford Street/Route 109.
4. **Construction Materials/Debris** - There shall be no tracking of construction materials/debris onto any public way. Sweeping of the roadway adjacent to the site shall be done as needed to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for vehicles, pedestrians and neighborhood residents. In the event any construction debris is carried onto a public way, the applicant shall be responsible for all clean-up of the roadway within 24 hours of its occurrence.
5. During the construction period, the contractors shall maintain suitable access at all times for employees and customers of Murphy Insurance.

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

employees or consultants. The cost for inspections by the Town's outside consultants shall be borne by the applicant.

I. **Plan Compliance**

1. The Applicant shall construct all improvements in compliance with the approved and endorsed site plan modification.
2. Any construction work that deviates from this and the previous site plan decisions shall be a violation of the Zoning Bylaw. The Board or its agents may use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with this decision and its conditions.
3. The Conditions of Approval are enforceable under Section V. C. 12 of the Medway Zoning Bylaw (non-criminal disposition) and violations or non-compliance are subject to the designated fine.

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

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

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

L. **Project Completion** - The applicant shall:

1. provide the Board with a **written certification from a Professional Engineer** registered in the Commonwealth of Massachusetts that all approved site plan modification work has been completed in strict compliance with the approved and endorsed site plan modification, the decision and any conditions thereto; and
2. submit six (6) copies of an **As-Built Plan**, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of

Massachusetts, to the Planning & Economic Development Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the approved site plan and any modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic form.

## X. GENERAL CONDITIONS OF APPROVAL

- A. **Appeal** – Any person aggrieved by the Planning & Economic Development Board's Decision may appeal such to the court within twenty (20) days of the date the Decision is filed with the Town Clerk.
- B. **Plan Endorsement** - Within thirty (30) days after the Planning & Economic Development Board has filed its *Decision* with the Town Clerk, the Applicant shall submit a final site plan modification drawing reflecting all required revisions, if any, to the Planning and Economic Development Board to review for compliance with the Board's *Decision* before plan endorsement. All plan sheets shall be bound together in a complete set.
- C. **Fees/Taxes** - Prior to endorsement of the modified site plan by the Planning & Economic Development Board, the Applicant shall pay the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering and planning consultants, and any other outstanding expenses or obligations due the Town of Medway, including real estate and personal property taxes and business licenses. The Applicant's failure to pay these fees in their entirety shall be reason for the Planning & Economic Development Board to withhold plan endorsement.
- D. **Construction Standards** - All construction shall be in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- E. **Other Permits** – The contractor for the applicant or assigns shall obtain, pay and comply with all other required Town permits, including but not limited to a Street Opening/Roadway Access Permit from the Department of Public Services.

Approved by the Medway Planning & Economic Development Board:

**ATTEST:**

Susan E. Affleck Childs  
Planning & Economic Development Coordinator

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Date

**COPIES TO:** Stephanie Bacon, Health Agent  
Patty Barry, Conservation Agent  
John Emidy, Building Commissioner/Zoning Enforcement Officer  
Donna Greenwood, Principal Assessor  
Thomas Holder, DPS  
Suzanne K. Kennedy, Town Administrator  
Jeff Lynch, Fire Department  
Melanie Phillips, Treasurer/Collector  
Jeff Watson, Police Department  
Dave Pellegri, Tetra Tech



## **Susan Affleck-Childs**

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**From:** Pellegri, David <david.pellegri@tetratech.com>  
**Sent:** Friday, January 10, 2014 7:44 AM  
**To:** Susan Affleck-Childs  
**Subject:** Cumberland Farms Comments

Hi Susy,

I've reviewed the Cumberland farms conditions and feel that we are covered sufficiently for stormwater. There were a couple of items from my comment list that I feel should be conditioned in some way. If you already covered it somewhere else that's fine but I didn't see anything at first glance.

The applicant shall coordinate with DPs and obtain all easements required for sections of the public sidewalk along Route 109 which extend onto private property.

The applicant shall coordinate with the DPS for typical maintenance requirements for the three painted crosswalks located at the site driveways. Two crosswalks are located within the public ROW and one is on private property but a responsible entity should be identified for maintenance responsibility, and that maintenance should be consistent with typical DPS practices.

I'll be sending the Millstone comments over to you around noon. Everything looked pretty good, I'll only have a few comments but Brian is checking on a stormwater issue this morning which I want to incorporate into the letter. The stormwater analysis met the old DEP regs and not the new regs so Brian is going to provide key points that have changed between the two.

Thanks,  
Dave

**David R. Pellegri, P.E.** | Senior Project Manager  
Direct: 508.903.2403 | Main: 503.903.2000 | Fax: 503.903.2001  
[david.pellegri@tetratech.com](mailto:david.pellegri@tetratech.com)

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