



Planning Department

TOWN OF ACTON  
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**MEMORANDUM**

**To:** Planning Board **Date:** February 17, 2005  
**From:** Roland Bartl, AICP, Town Planner *R.B.*  
**Subject:** Ellsworth Village – Application for Senior Residence Special Permit  
Hearing February 22, 2005 (continued from January 25)

1. Attached please find supplemental materials submitted on behalf of the applicant. We have not reviewed it as it arrived just before completion of the packages.
2. Consultations between Planning, Town Counsel, Town Manager, and the applicant's attorney have resulted in a clearer understanding of the disposition of the Brabrook Road public street easement. Should the Planning Board approve Ellsworth Village, it may require that the developer at his sole expense and to the Board's satisfaction:
  - a. Extend the street within the Town's easement including a new temporary turnaround at the new terminus of the public street, or make other suitable arrangements for public travel and turnaround on his land. The specifications for the improvements may follow the Subdivision Rules including any waivers that the Board deems appropriate.
  - b. Receive Board of Selectmen consent for the aforesaid work in the Town's easement.
  - c. Grant the Town all right, title and interest in the finished product upon completion of work.
  - d. Remove the existing temporary turnaround, except for any portion included in the street extension, and fill, grade and landscape the affected areas.
  - e. Grant a new easement for public use.
  - f. Provide mechanics lien releases for all the work in the easement prior to any release of performance guarantee or issuance of building or occupancy permits, as appropriate.
3. Further legal review of the circumstances has clarified the role of public bid laws. The work in the Town's easement is proposed by a private developer in connection with the construction of the access to a private development project. The performance of such work would be a condition of the Planning Board's approval of the project, if granted, and performed solely by the developer at his own expense. This is, on balance, not different from a Planning Board requirement that a developer perform off-site work to mitigate development impact, such as constructing sidewalks, improving street alignments or grades, or installing traffic control devices. The procurement statutes do not appear to be triggered in such situations.

**Cc:** Town Manager  
Applicant