

**December 14, 2010
Medway Planning and Economic Development Board
155 Village Street**

BOARD MEMBERS PRESENT: Andy Rodenhiser, Chan Rogers, Tom Gay, Bob Tucker (arrived at 8:20 p.m.) and Karyl Spiller-Walsh.

ABSENT WITH NOTICE:

ABSENT WITHOUT NOTICE:

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

The Chairman opened the meeting at 7:05 pm.

Northeastern Benchmark Study:

Susy Affleck-Childs will be setting up a meeting to review the results of the Northeastern University Economic Development Self Assessment Tool Benchmark Study. The Economic Development Committee will be invited to this meeting.

Minutes November 23, 2010:

On a motion made by Chan Rogers and seconded by Tom Gay, the minutes from November 23, 2010 were accepted unanimously as written.

Minutes November 16, 2010:

The minutes of November 16, 2010 will be tabled until the next meeting to make the recommended revisions.

REPORTS

DOER Green Communities Program

The Town is waiting to learn if it has been designated as a Green Community. The designation has not been determined yet.

Medway Affordable Housing Trust:

The Board is in receipt of a draft 5 year action plan for the Medway Affordable Housing Trust for Fiscal Year 2012-2016 prepared by the Medway Affordable Housing Committee.

Zoning Bylaw Amendments:

The Board had a discussion about possible Zoning Bylaw amendments to be worked on for the 2011 Annual Town Meeting. **See Attached list.** The following recommendations were noted:

- Duplex residential housing living by right
- Reviewing the OSRD and large lot zoning and looking at the back land
- Further review of contractors yard
- Exempt uses
- Commercial Land Use
- Site Plan Review
- Overlay District

Susy Affleck-Childs informed the Board that there are new flood plans being updated and those updates will need to be referenced in the zoning bylaw and new zoning maps. Gino Carlucci will be working on that project.

Member Rogers will be meeting with the Building Commissioner, John Emidy on zoning bylaw ideas and Rogers will report back to the Board.

Susy Affleck-Childs will be meeting with Gino Carlucci to begin work on drafting text.

PUBLIC HEARING CONTINUATION - Charles River Acres Open Space Residential Development

The Chairman opened the continued hearing.

The Chairman indicated that member Tucker will be arriving late, but will be using the Mullin Rule to make up for his partial absence. He will be reviewing the tape and audio.

The Chairman took a telephone call from member Tucker at 7:36 pm regarding his attendance status. Mr. Tucker expects to be at the meeting in an hour.

The Board is in receipt of an email from Mr. Yorkis dated December 9, 2010. (**ATTACHED**) The email makes reference to six points which the applicant would like to know the Board's agreement and/or preference relative to:

1. Neelon Lane being 25' wide and is a statutory public way.
2. The second area is relative to the use of Neelon Lane as the primary access point for the subdivision is acceptable.
3. The applicant is also seeking agreement that the applicant's most recent proposal showing Neelon Lane as the primary access point for the subdivision is acceptable. The Board is not ready to make a determination in relation to this item.
4. The construction of a 3' wide paved sidewalk within the emergency access connecting the proposed subdivision to Cherokee is acceptable.
5. The plan set entitled "Charles River Village" as revised September 24, 2010 is acceptable.
6. The proposed access points to the open space within the proposed 13 unit OSRD subdivision revised September 24, 2010 is acceptable.

The applicant would like to submit a final set of plans noting the Board's preferences for the Board to review at the next meeting.

After the Board reviewed the email, the applicant asked the Board to hold off on responding to the various items until Tetra Tech provided their recommendations.

The Chairman indicated the Board is not ready to make a determination that using Neelon Lane as the primary access point for the subdivision is acceptable.

Tetra Tech:

The Board is in receipt of a memo from Robert Daylor of Tetra Tech dated December 10, 2010. (**ATTACHED**). This memo explained the technical analysis regarding the proper width of Neelon Lane. Second, it noted that there must be an analysis of the proper layout of Neelon Lane. Lastly, The Board will have to review its options regarding the process moving forward.

Tetra Tech Rizzo did an analysis exclusively based on the documents provided to it by the PEDB. No additional research was conducted. A meeting was held on December 3, 2010 with the applicant, its engineer and one of the abutters, Beth McDonald, and her engineer. The minutes from this meeting were provided to the Board. (**ATTACHED**)

The goal of that meeting was to provide the surveyors representing the applicant and abutter the opportunity to present their collected data and information to Tetra Tech.

Bob Daylor from Tetra Tech Rizzo provided the Board with a synopsis of the meeting with the Charles River Village representatives and provided his explanation about the issues relative to the width of Neelon Lane.

It is Mr. Daylor's opinion that after hearing both sides of the discussion, it was clear that the right-of-way dimension is 25'. The surveyors on both sides were in agreement on this matter. The evidence of this was from the Town of Medway Selectman meeting notes from March 26, 1863. The minutes reference the layout and the creation of the statutory private way known as Neelon Lane to be twenty-five feet wide.

Mr. Daylor further explained that the real question is in relation to the exact location of Neelon Lane. The individual deeds prevent the applicant from accurately closing at the Neelon Lane right-of-way. It is the opinion of Tetra Tech Rizzo that it is not the Board's place to resolve this dispute, although they may act on the special permit application as proposed. It was further explained that the location question will have to be resolved during the next phase of the project review.

The last issue is in relation to the length of Neelon Lane. It is the opinion of Tetra Tech Rizzo that the layout of the 125 feet property and the extension off of it in the southerly direction as reflected on the plans dated 9/24/10 is incorrect. Tetra Tech Rizzo has the opinion that the accepted layout extends in a straight line on the applicant's property to the fence line which no longer exists. There is physical evidence of old wall remnants and a line of large trees just south of the barn which might be the ancient fence line.

In the concluding analysis, it is the opinion of Mr. Daylor that the Board has enough information to act on the OSRD application. One option presented to the Board by Mr. Daylor would be to include a condition in the decision that absolves the Board from any responsibility to adjudicate the Neelon Lane location conflict. It would have to be the responsibilities of the individual parties to take this a step further. The second option would be to include a condition requiring the dispute to be resolved prior to construction, with any plan changes provided to the Board. Tetra Tech Rizzo made one last recommendation which would be to have the drawings modified to accurately represent the southerly extension of Neelon Lane.

Member Spiller-Walsh is not comfortable moving to phase two (Definitive Plan stage after the special permit) without having these issues resolved.

Attorney Valkevich indicates that he makes reference in his letter dated December 14, 2010 that the road does in fact extend further. There are calculation errors on this plan. He is recommending that this be addressed and fixed.

Mr. Yorkis responds by stating that it is speculation to say that some evidence of an old wall might be the ancient fence. There is no evidence to support this. It may be or not be evidence. It is speculation.

Attorney Valkevich asks the Board what is the legal basis for Mr. Daylor's proposed resolution to the two options.

Mr. Pellegri, from Tetra Tech Rizzo indicated that the legal implications were not part of the review by Tetra Tech Rizzo.

Mr. Daylor responded that he is not present at the meeting to provide legal advice. He will only provide the information sought by the Board in relation to the documentation provided.

Dan O'Driscoll communicated that he showed exactly the conclusions as shown on the plans. This was indicated on the plan which was revised and dated December 14, 2010. It was noted on the plan. Dave Faist indicated that there is no impact on the calculations.

Bob Daylor reiterated again that the language is precise as worded. He did see the evidence in the old fence line. This is not speculation.

Paul Yorkis noted that there may be other evidence other than the fence and no one is sure.

Member Tucker arrived at 8:22 pm.

Engineer Faist then presented some calculation numbers (**See Attached**) relative to the density questions which were brought up at the last meeting. He provided an aerial photograph shown with the proposed overlay.

The density was looked at relative to three different streets.

1. Massapoag St., 21 homes on 6.12 acres = 3.4 homes
2. Charles River Road: 60 homes on 31.8 acres = 1.9 homes
3. Charles River: 13 homes on 7.61 acres = 1.7 homes

The Board discussed whether the density numbers should be done looking at the 13 homes on 3.61 acres and not the 7.61 acres since the buildable portion of the site is 3.61 acres,

Member Spiller-Walsh believes that the intent of an OSRD is not to add to the density over a conventional subdivision.

Mr. Yorkis noted that the numbers as presented are consistent and accurate with the Town of Medway's OSRD Bylaw and the comparisons provided.

Member Spiller-Walsh suggested that the Board discuss what is considered open space, along with the primary and secondary conservation land and if this area has protection. It is her belief that the Board has the right to ask these questions since most of the land which is designated for open space is on a slope.

Paul Yorkis asks the Board to review again the email he sent regarding the several items they are seeking guidance on.

Mr. Yorkis indicated that Neelon Lane is 25' wide and is a statutory private way. The Board is in agreement with this fact based on the information provided.

Mr. Yorkis also noted that the applicant intends to use of Neelon Lane as the primary access point for the subdivision. David Faist presented and discussed the applicant's most recent Neelon Lane entrance and width layout plan which was entitled "Village Street – Neelon Lane Proposed Conditions Sketch" prepared by Faist Engineering Inc. & O'Driscoll Land Surveying Co., dated October 29, 2010. **See Attached.**

Mr. Yorkis also informed the Board that there will be construction of a 3' wide paved sidewalk within the emergency access connecting the proposed subdivision to Cherokee Lane.

Engineer Faist went on to explain that the most recent layout is for the proposed 13 unit OSRD Subdivision.

Member Rogers makes reference to the fact that there are several streets in town that are not 25 feet wide. One example is Fisher St.

Member Spiller-Walsh is concerned with the corner rounding at Village Street and Neelon Lane. This seems very narrow. Her concern is also with what happens to the children as they wait for the school bus. Mr. Yorkis indicated that the school bus stops and routes change yearly.

The Board communicated that the sidewalk discussion could take place during the definitive stage and any decision that the Board prepares could reference language making sure the applicant meets the AAB compliant standards.

Member Spiller-Walsh read a section of the Open Space Bylaw. She suggests reducing some of the units and combining some to establish vistas with views. The intent of the OSRD is to not add density. The Board is the steward of land. One idea would be to combine units 9 and 10 and create a clear vista to the open space.

Member Yorkis disagrees. No one can build any subdivision in Medway any longer without affordable units. The Board has a cottage style development with single family homes that are different since the units are smaller in size. The Board has a communication from the Open Space Committee supporting the plan as shown. The bylaw encourages preservation of open space along the Charles River. There is an economic reality and the proposal is an economically viable proposal. Tampering with the units is a concern. The proposal reflects the applicant's best plan.

Member Spiller-Walsh notes that the open space is visually blocked. The open space does not have a vista and thus it should be created within the special permit process. It is worth doing and would be unique to the site.

Member Rogers feels the Board must accept the proposal as submitted. This proposed development does fit the neighborhood.

Chairman Rodenhiser notes that this whole project could be turned into a 40B project and then the Board would not have a say at all.

Susy Affleck Childs communicates that the bylaw does allow flexibility for the arrangement of units; there could be some duplexes to create the vista areas.

Mr. Yorkis indicates that at the site walk a suggestion was made about the cart path and giving this a buffer. This was done. The team has consistently listened and responded to suggestions made. He further verbalized that we have been trying to create a 13 unit single family OSRD and to create a subdivision with multi-family houses does not make sense. The proposed developed area did have some invasive things that were suggested to be removed. There is space to look at, which includes trees.

Member Rogers communicates that homes can be built on land which slopes and these homes can look great.

Engineer Faist notes the proposed access points to open space on sheets 3 of 4 on the "Concept Plan". The Riverview Street is an easy access point. The four access points were explained. The parking was not noted or proposed for Riverview Street. The details need to be worked out during the definitive plan stage. The plan also shows the proposed public easement of passage.

The Chairman asks the public if they have any questions.

Abutter, Mrs. Kaplan wanted to know why the density on Neelon Lane wasn't used in the analysis.

Engineer Faist responded indicating that they were trying to show the density in area neighborhoods as a comparison point. Faist Engineering provided a generalized approach.

Abutter, Mrs. Kaplan wanted to know where the applicant will be required to add signs. In the previous meetings, the Police Department indicated that there “no parking” signs would be posted.

Abutter, Mrs. McDonald would like the applicant to provide a density map with calculations only based on the buildable portion of the site to see how this will affect the density comparison.

Engineer Faist indicated that the density calculations are up for a point of discussion and he could provide that number.

Attorney Valkevich wants to know if the Board will add a requirement within any decision that the location of the road be resolved.

The Chairman wants to know from Mr. Yorkis what he wanted to do regarding the road location issue.

Mr. Yorkis responded that he will need to consult with legal counsel on that matter.

Abutter Mr. Newell, asked if the road is longer, how does this effect where and how the cul-de-sac is used? He also wanted to know will the easement be restricted and is the cul-de-sac part of the statutory way?

Chairman Rodenhiser responds that the easement gives all a right to use it and would need to be left open.

Attorney Valkevich asks if the length of Neelon Lane is extended, then would the cul-de-sac be at that exact location point. There will have to be access over that. Attorney Valkevich communicates that a spite strip remains.

Member Gay noted that this is not characterized as a spite strip.

Dan O’Driscoll communicates that the cul-de-sac will fall inside the 25 foot easement.

Consultant Daylor from Tetra Tech Rizzo indicates that the two lines and layout lines are not the same line and there is a gap.

One of the residents wanted to know if the emergency access will be posted and will there be signage.

Mr. Yorkis responded that there will be some signage and maintenance of this area.

Discussion then moved to the radius at the beginning of Neelon Lane at Village Street. Engineer Faist communicated that a larger radius could be accomplished, but an easement would be needed.

Consultant Carlucci indicated that for some projects, a smaller radius is recommended to slow down the traffic.

The Board discussed the radius and is comfortable with an 18 foot road width with a 15 foot radius.

Abutter, Mrs. Kaplan informed the Board that she is not interested in providing an easement on her property since she does not want this project to be accessed via Neelon Lane.

Abutter Mr. Bankewitz is concerned about the safety of this area and hopes that the applicant will make the road width 25 feet.

Consultant Pellegri believes that for the safety of vehicles the road would need to be 25 ft.

Member Spiller-Walsh communicates to the abutters that it may be in their best interest to work with the applicant to find a way to improve the landscaping at the corner to embellish the property to meet their needs.

Attorney Valkevich letter dated December 14, 2010:

The Board is in receipt of a letter dated December 14, 2010 from Attorney Valkevich. **(See Attached)** This letter is in relation to the application for the OSRD and Affordable Housing Development Special Permits. The letter makes reference that the rights of Neelon Lane can only be determined by a court. It is the abutters' perspective that the applicant has still not proved to the Board that the applicant has the right to build and make improvements. Another point that Attorney Valkevich makes is that without full resolution of the location and width of Neelon Lane, this project cannot go forward.

At the conclusion of the discussion, Mr. Yorkis indicated that he will supply the Board with a set of revised plans.

The hearing for Charles River Village OSRD will be continued until Tuesday, January 11, 2011 at 7:15 pm.

NOTE - Member Tucker left the meeting at 10:30 pm.

Fox Run Farm 40B Development – Discussion of Performance Security

Mujeeb Ahmed, developer and owner was present.

The Board is in receipt of a memo from Attorney Wickstrom who represents Fox Fun Development Group, LLC dated December 9, 2010. **(See Attached)** The letter makes reference that Fox Run Development Group would like the immediate release of 4 lots for building and sale without providing any cash security. This would allow his client the chance to complete the roadway and build a home without the need to borrow more money. At the closing of each house, the Town will get a check for 25% of the bond amount.

After reviewing the letter from Attorney Wickstrom, the Board next reviewed a revised bond estimate dated December 14, 2010 prepared by Tetra Tech Rizzo. The total amount indicated is \$94,451.00. **(See Attached)**

Dave Pellegri from Tetra Tech Rizzo explained that the unit prices were taken from the latest information provided on the Mass DOT. Mr. Pellegri indicated that the binder repair pricing includes the area of roadway that will require repair as described in inspection report #16. The estimate also includes the removal of the existing binder and top 4” of gravel base and the replacement of both. The area of pavement and gravel to be removed and replaced includes the area north of the centerline of the roadway. The loam and seeding pricing includes all non-hardscape areas within the right of way. It was indicated that the estimate for signage can be removed. This will remove \$600.00. The adjusted bond estimate would then be \$93,701.00.

The Board is also in receipt of an email **(See Attached)** from the developer’s project engineer James Pavlik, in relation to the bond estimate which was originally estimated to be \$148,763. It is his opinion that the estimate should only include items within the roadway layout and all utility infrastructures up to the lot lines. He believes it should not include landscaping on private house lots. It was suggested that after the noted adjustments, the overall bond estimate would be \$89,176. Tetra Tech reviewed the email and communicated to the Board that the \$93,701.00 what they recommend.

On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the revised bond estimate for Fox Run Farm as presented by Tetra Tech Rizzo in the amount of \$93,701.00.

The Board next discussed the Form H - Bond Agreement. The Board was in receipt of emails in relation to the bond agreement. **(See Attachment).**

It was the recommendation of Town Counsel that the performance security be paid in full before any lot is released from the subdivision covenant. Mr. Mujeeb would like to have 4 lots released allowing them to start building houses but not require them to fund the bond account until they convey the lots. The Board is not in support of this.

The applicant would like to be placed on the agenda for Tuesday, January 11, 2011 at 7:15 pm to address the surety issue further.

Affleck-Childs informs the Board that she has communicated with Town Counsel and it was determined that the applicant must comply with all state and local laws in relation to security of the bond estimate.

The Board would like to start the meeting at 6:50 pm on January 11, 2011.

Resignation:

The Board is in receipt of a resignation letter from Paul Yorkis from the Economic Development Committee which was dated December 8, 2010. **(See Attached.)**

Susy Affleck-Childs communicated that Mr. Yorkis had been in contact with the State Ethics Commission staff. It was recommended that he resign from the Economic Development Committee since this committee has not been designated by the BOS as special municipal employees. There are changes in the state conflict of interest standards which reference the special employee status of committee members. It has been determined that it is not in the best interest of the Town to have him be a member of the Economic Development Committee until such time as that committee is so designated or special employee status. This decision rendered by Town Counsel will affect a variety of committees.

On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting at 11:00 PM.

Future Meetings:

The next meetings scheduled are: Tuesday, January 11, 2011 and January 25, 2011.

The meeting was adjourned at 11:00 PM.

Respectfully Submitted,

Amy Sutherland
Meeting Recording Secretary

Reviewed and edited by,

Susan E. Affleck-Childs
Planning and Economic Development Coordinator

Medway Planning and Economic Development

IDEAS for ZONING BYLAW AMENDMENTS & OTHER POSSIBLE TOWN MEETING WARRANT ARTICLES

UPDATED 9-22-10

<i>I. On-Going Substantive Zoning Work</i>	NOTES	Priority for 2011ATM?	Lead Person
A. Town Center/Commercial Mixed Use – 40R Overlay	Recommended in 2009 Master Plan		
B. Expand east side industrial park (Industrial I) - Rezone part of ARI			
C. Rezone area on Route 126/Main/Village Streets near Bellingham for business uses	What kind of uses would you want here?		
D. Traditional Neighborhood Design Overlay District	Draft completed by Gino Carlucci (2007 Smart Growth Grant); Recommended in 2009 Master Plan		
E. Oak Grove/Bottle Cap Lots - 40R Overlay			

II. Zoning Amendment Recommendations from the 2009 Master Plan	NOTES	Priority for 2011 ATM?	Lead Person
A. Establish a Transfer of Development rights option	Model bylaw available		
B. Establish a Wildlife Habitat Corridor Overlay Zoning District			
C. Adopt zoning to encourage mixed use development such as apartments above retail – also known as Top of Shop zoning			
D. Rezone property along Route 109 near Millis, at intersection of Routes 109/126, around the Police Station, and at Clark and Route 109 for new office space construction with residential appearance			
E. Create a new zoning classification for office space and light industry			
F. Rezone properties that are no longer suitable for industrial uses			
G. Review zoning to assure that design standards are consistent with master plan vision			
H. Create an overlay district to provide for mixed uses along portions of Village Street that will preserve historic and scenic areas where mixed uses already exist	This could be similar to the existing AUOD along Main Street – maybe this could be the same zoning and just offer it in another area		
I. Review/revise zoning for high volume drive thru businesses to reduce or eliminate such uses because of safety concerns			

II. Zoning Amendment Recommendations from the 2009 Master Plan	NOTES	Priority for 2011 ATM?	Lead Person
J. Review zoning to ensure that aquifers, wellheads and watershed areas are preserved – expand protection area around wells			
K. Rezone parcels for optimal use and Town benefit, especially areas adjacent to currently zoned industrial property			

III. Zoning Amendment Recommendations from 1999 Master Plan that Haven't Been Addressed	NOTES	Priority for 2011 ATM?	Lead Person
<p>A. Look at Commercial III (around Town Hall) and Commercial IV (around the Police Station) zones.</p> <ul style="list-style-type: none"> • Evaluate the possibility of expanding boundaries of these zones and ways to strengthen the "village characteristics", • encourage preservation/ adaptive use and allow for mixed uses . . . similar to AUOD on Main Street/ Route 109. • Interface with Medway Historic Commission re: the new Medway Village National Register Historic District in the Commercial District III area. • Allow for construction of residential duplexes and mixed uses by right 	<p>These districts do not provide for any residential uses other than the construction of new single family homes</p>		
<p>B. Rezone contaminated lands for economic development.</p>			
<p>C. Create option for Neighborhood Conservation Districts (Zoning or general bylaw?)</p>			

IV. Other Zoning Bylaw Amendment Ideas	NOTES	Priority for 2011 ATM?	Lead Person
<p>A. Add/revise DEFINITIONS as requested/suggested by John Emidy, Building Commissioner</p> <ul style="list-style-type: none"> • trailer • lot • parcel • street lot line • rear lot line • front lot line • side lot line • setback • frontage • farm • agricultural use • accessory family dwelling unit • industrial use • storage • temporary contractor's lawn sign 			
<p>B. Revise new Commercial I</p> <ul style="list-style-type: none"> • link special permits to site plan review; criteria, etc. to streamline and consolidate review process; • change authority so special permits are issued by the PB in conjunction with site plan review 	<p>Work with Karen Johnson/ Charter Realty & Development</p>		
<p>C. OSRD – Revisit formula re maximum # of units and open space; strengthen integrity of 4 step design process</p>	<p>★ <i>Strengthen language</i></p>		
<p>D. Establish Use & Dimensional Tables – Requested by Building Commissioner John Emidy</p>			
<p>E. Modify Affordable Housing Infill Bylaw to allow it to be used on undersized (but neighborhood compatible) parcels created thru ANR process</p>			

IV. Other Zoning Bylaw Amendment Ideas	NOTES	Priority for 2011 ATM?	Lead Person
F. Large Lot Zoning – Allow a single family home to be constructed on an oversize lot with less frontage than normally required with an automatic permanent deed restriction against future subdivision (by right or special permit?)	Many samples available from other towns.		
G. Create a new Village Residential (VR) zoning district for portions of AR11 that are already more dense than the present AR11 standards (150' frontage and 22,500 sq. ft of area)	This would better match the zoning text to the actual uses/sizes on the ground Possibly allow duplexes by right?		
H. Contractor's Yards (outdoor) – Define and authorize as a by right use in Industrial I; not allow in residential districts at all (or allow by special permit???)			
I. Signs <ul style="list-style-type: none"> • Pull sign provisions from zoning bylaw and convert to a general bylaw • Establish specific sign provisions for Medway Mill • Require DRC approval of sign design 			
J. Strengthen buffer requirements in commercial and industrial zoning districts where such are adjacent to residential districts			
K. Exempt Uses – Any clean-up or improvements needed (after having gone thru a limited site plan with the Marian Community's lodging center/retreat facility)??			

IV. Other Zoning Bylaw Amendment Ideas	NOTES	Priority for 2011 ATM?	Lead Person
M. Commercial I – revise zoning setback requirements			
N. Establish a setback requirement (<i>from side lot lines</i>) for driveway locations. (Requested by Bob Klein – 533-6212). He suggests a 6' setback.	Is this a zoning matter? Perhaps it might be better addressed in the <i>Subdivision Rules and Regs</i> and/or the DPS street opening permit requirements		
O. Noise standards			
P. Adaptive Use Overlay District – require adequate Main Street sidewalks or payment in lieu of construction - establish an additional AUOD district – west of Town Hall			
Q. Establish another area for Commercial III or IV zoning – West Medway commercial area – west of Mechanic Street;	Presently this area is zoned ARII but it has many commercial uses functioning as pre-existing non-conforming or old special permits/use variances		
R. Revise flood plain/wetlands section to reflect new FIRM maps			
S. Site Plan Review – add provision for a modest review of certain very limited projects such as façade renovations that need a building permit but nothing else – would include DRC review plus input from John Emidy/SAC; could also apply to non substantial modifications to previously approved site plan projects			

V. Zoning Map - Clean-Up Zoning District Boundaries	NOTES	Priority for 2011 ATM?	Lead Person
A. South side of Coffee Street near Main Street (Change from ARI to ARII)			
B. Southeast corner of Summer and Highland Streets. (Change from ARI to ARII)			
C. Refine ARI and ARII boundary near Brandywine Terrace east to Winthrop Street			
D. Refine ARI and ARII on east side of Winthrop Street north of Adams Street up to Lovering St.			
E. Refine boundary of ARII district along Lovering Street			
F. West side of West Street south of Edison easement - change from AR2 to industrial			
G.			
H.			
I.			

VI. OTHER POSSIBLE TOWN MEETING WORK	NOTES	Priority for 2011 ATM?	Lead
A. Amend CPC Bylaw – Adjust composition of the CPC to include representative of the Open Space Committee			
B. General Bylaw/or article to authorize BOS to accept conveyance of land or interests therein when such is already provided for in a decision by the PB, ZBA or ConCom (instead of having to go to town meeting) – Medfield example; recommended by Mark Cerel			
C. General Bylaw - Right to Farm (recommended in 2009 Medway Master Plan)			
D. General Bylaw – Ban underground sprinkler systems (recommended in 2009 Medway Master Plan)			
E. Something on business hours of operation??? – Prohibit or regulate 24 hour operations.			
F. Something to limit hours for outdoor construction			

Susan Affleck-Childs

From: PGYORKIS@aol.com
Sent: Thursday, December 09, 2010 7:01 PM
To: Susan Affleck-Childs
Subject: Request to the Planning and Economic Development Board

Dear Ms. Affleck-Childs,

Would you please share with members of the Planning and Economic Development Board that it is the applicants hope that at the Planning and Economic Development Board meeting on Tuesday December 14, 2010 that the membership of the Board will be able to give the applicant and the development team an indication of the Board's agreement and/or preferences regarding the following:

1. Neelon Lane is 25' wide and is a statutory private way.
2. The applicant's use of Neelon Lane as the primary access point for the subdivision is acceptable.
3. The applicant's most recent Neelon Lane entrance and width layout plan entitled "Village Street – Neelon Lane Proposed Conditions Sketch prepared by Faist Engineering, Inc. & O'Driscoll Land Surveying, Co., dated October 29, 2010, is acceptable.
4. The applicant's construction of a 3' wide paved sidewalk within the emergency access connecting the proposed subdivision to Cherokee Lane is acceptable.
5. The applicant's most recent layout of the proposed 13 unit OSRD subdivision as shown on a plan set entitled "Charles river Village Special Permit – Concept Plans Open Space Residential Development (OSRD)", prepared by Faist Engineering, Inc. & O'Driscoll Land Surveying Co., revised September 24, 2010, is acceptable.
6. The applicant's proposed access points to the open space within the proposed 13 unit OSRD subdivision as shown on Sheet 3 of 4, "Concept Plan – Charles River Village – OSRD" prepared by Faist Engineering, Inc. & O'Driscoll Land Surveying Co., revised September 24, 2010, is acceptable.

It is the applicant's goal to submit a final set of plans reflecting the Planning and Economic Development Board's preferences and the applicant's preferences for consideration and action at the first Board meeting in January.

Thank you in advance for your assistance.

Paul G. Yorkis
President
Patriot Real Estate, Inc.
An Energy Star Certified REALTOR
159 Main Street
Medway, MA 02053
Cell - 508-509-7860
Office - 508-533-4321



TETRATECH

December 10, 2010

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

**Re: Charles River Village Open Space Residential Development
Neelon Lane Analysis
Medway, Massachusetts**

Dear Board Members:

During the Medway Planning and Economic Development Board (PEDB) hearings associated with the Open Space Residential Development application submitted for the Charles River Village project, the applicant's surveyor, O'Driscoll Land Surveying, Inc. (O'Driscoll) provided the board with information pertaining to the existing width and layout of the existing Neelon Lane. A second surveyor Guerriere & Halnon, Inc (G&H), hired by the abutter at 9 Neelon Lane (Beth McDonald) then submitted property line information which appeared to conflict with that submitted by O'Driscoll. The PEDB felt that this conflicting right-of-way information required a third party professional land surveyor to review the information, and provide the board with direction. Tetra Tech (Tt) has thus been asked to review the information provided by both parties. This letter summarizes the results of that analysis.

Existing Documentation and Approach

The analysis conducted by Tt was based solely on the documents provided by the PEDB. These documents primarily consist of the following items:

- Letter dated November 4, 2010 written by attorney F. Sydney Smithers
- Letter dated November 12, 2010 written by G&H along with supporting documentation. Supporting documentation consists of historic deed and record information.
- Letter dated November 16, 2010 written by attorney Thomas Valkevich



- Letter dated November 17, 2010 written by O'Driscoll along with supporting documentation. Supporting documentation consists of historic deed and record information.
- Letter dated November 15, 2010 written by Ken Bancewicz
- Letter dated November 21, 2010 written by the Newells
- Charles River Village Special Permit-Concept Plans prepared by O'Driscoll and Faist Engineering, Inc. dated 7/28/10 and revised 9/24/10.
- Worksheet received at a meeting held on 12/3/10 prepared by O'Driscoll laying out the various property lines using the varying deed information.

A meeting was held on December 3, 2010 between the interested parties to review the submitted information and provide both parties opportunity to provide explanations for their positions. Meeting minutes and an attendance sheet for this meeting will be provided under a separate cover.

After reviewing the information provided, Tt felt it appropriate to approach the matter as a three step process. The first step involved the technical analysis regarding the proper width of Neelon Lane. The second step involved the technical analysis of the proper layout of Neelon Lane. Lastly, the third step involved the options open to the PEDB regarding the process moving forward. Tt will attempt to provide our professional opinion for each of these items in the following paragraphs below.

Neelon Lane Width

One of the documents submitted in the survey packages for Tt to review was the Town of Medway Selectman meeting notes from March 26, 1863. This document describes the layout and creation of the statutory private way known as Neelon Lane. According to the meeting minutes, the roadway was laid out by the Selectmen and accepted by the 1863 Annual Town Meeting to be twenty five feet (25') wide. There were also awards for land damages to three abutters for the taking of property necessary to create Neelon Way and the assessment of costs to build and maintain the way.

The question of the lane's width has been raised because of the lack of property monuments which clearly demark the lane and abutting properties. Compounding the lack of monumentation is the fact that the deeds and plans for properties in the area of the lane have inconclusive or conflicting descriptions. The surveyors for both the applicant and the abutters have done competent work in researching the property records. However, depending upon what records are held as correct, the resulting lane width can be calculated with varying widths. Some of these would result in as narrow a width as 21.28 along the Village Street sideline.



It is our professional opinion based on the review of materials submitted by both the applicant and abutter's consultants, that the Town meeting was laid out by the Selectmen as 25 feet in width and that layout was accepted by the 1863 Town Meeting. Further, the three effected properties were awarded damages to compensate them for providing a twenty five (25) foot way across their land. It's important to note the underlying fee (property ownership) remains in the title of the abutting properties. This opinion was voiced by Tt at the 12/3/10 meeting and met no objections by either the applicant's or abutter's party.

Neelon Lane Layout

While there is no question about the width of the Neelon Lane layout, its exact location cannot be fixed from available plans and deeds. After reviewing both surveyors record information, and hearing their explanation regarding the layout of Neelon Lane it is clear that there is a bust in one (or more) of the individual deeds that prevents them from accurately closing at the Neelon Lane Right-of-Way. The first approach, proposed by O'Driscoll, is to hold the northeast corner of Neelon Lane 148.50 feet from the northeast corner of Lot 1 as depicted on plan number 1253 dated 1959. The other approach as proposed by G&H is to hold the dimensions provided on the Whitney Lot provided on the 1959 plans. O'Driscoll provided a worksheet at the 12/3/10 meeting that illustrated the location of the Neelon Lane Right-of-Way using both of these approaches. TTR agreed, and neither party objected at the 12/3/10 meeting, that the appropriate layout lay somewhere in between the two approaches illustrated in the worksheet.

While we find that the applicant's approach to the laying out of Neelon Lane is acceptable, it will not be dispositive of the precise location question. Further, it is our opinion that the PEDB is not the correct entity to resolve this dispute, but we do believe it is appropriate at this time to review the special permit application as proposed. We do however recommend that the location question be addressed during the next phase of the project review as discussed in the next section below.

There is another factor in the Neelon Way layout that has to be addressed by the applicant. That is the length of the 25 foot way. The actual layout description is from the Old Hartford Road (Village Street) "southerly in a straight line"....."to a fence opposite the southerly side of said Neeland (Neelon) barn." It is our opinion that the layout of the 125' property and extending in the southerly direction as reflected on the O'Driscoll and Feist plans dated 7/28/10 and revised 9/24/10 is incorrect. In our opinion the accepted layout extends in "a straight line" into the applicant's property to the fence line which no longer exists, however it is obvious from the 1863 documents that it is a point south of the barn which does remain. There is some physical evidence of old wall remnants and a line of large trees just south of the barn which might be the ancient fence



line. This needs to be addressed in the next phase. But even in the revised submission the layout is not correctly extended because the applicant's plans show the road bending to follow the existing wall along the westerly property line of the McDonald land. It is clear that the layout does not bend, and further the applicant and the abutter's own the fee underlying the 25 foot statutory way. Therefore there is no justification for changing the course of the 1863 layout to trace 2010 physical evidence.

Process Moving Forward

Based on the discussion above regarding both the Neelon Lane Width and Layout, it is our opinion that the PEDB has enough information to act on the OSRD application for this project at this time. As stated previously it is our professional opinion that the width of Neelon Lane remains twenty five feet (25') and this dimension therefore can be used in determining the adequacy and appropriateness of the proposed roadway dimensions.

As discussed above, the exact east/west location of Neelon Lane and its length remains in question. However it is our professional opinion that this is not an issue to be decided by the PEDB, and we recommend that it be addressed in some way during the definitive review phase. At that time we recommend that the PEDB may condition the project in one of two ways. The first option would be to provide a condition that absolves the PEDB from any responsibility to adjudicate the Neelon Lane location conflict. If necessary, that would be the responsibility of the individual parties to take further action. The second option would be to provide a condition requiring the dispute to be resolved prior to construction, with any plan changes resulting from the resolution to be submitted to the PEDB for approval. We would be available to discuss these options further during the definitive design phase if necessary.

Lastly we feel that the drawings should be modified as part of this application approval process, to accurately represent the southerly extension of Neelon Lane as suggested by Tt above.

It will attend the December 14, 2010 PEDB hearing for this project and will be available to answer any questions that arise after the review of this letter. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.

Very truly yours,

Robert F. Daylor PE, PLS
Senior Vice President

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David R. Pellegri, PE
Project Manager



TETRA TECH RIZZO

RECEIVED
DEC 14 2010

TOWN OF MEDWAY
PLANNING BOARD

MEETING MINUTES-CHARLES RIVER VILLAGE

Date and Time:	Friday-12/3/10 9:00 AM-10:00 AM	Project Name	Charles River Village
Location:	Medway Town Hall Sanford Hall	Project No.	127-21583-11005
Originated By:	David Pellegri	Recorded By:	David Pellegri
Signed:			
Date Prepared:	12/13/10		
Participants:			
Name	Organization	Number	
Dave Pellegri	Tetra Tech (Tt)	508-903-2408	
Bob Daylor	Tetra Tech (Tt)	508-903-2308	
Bob Constantine	Guerriere and Hanlon	508-528-3221	
Paul Atwood	Guerriere and Hanlon	508-473-6630	
Beth McDonald	Abutter	508-523-1838	
Susy Affleck-Childs	Town of Medway	508-533-3291	
Chan Rogers	Town of Medway PEDB	508-533-0422	
Paul Yorkis	Patriot Real Estate	508-509-7860	
Dan O'Driscoll	O'Driscoll Land Surveying	508-533-3314	

Summary

The objective of this meeting was to provide the surveyors representing the applicant and abutter the opportunity to present their collected data and information to Tetra Tech (Tt), and explain their position, as it relates to the Neelon Lane layout. The information presented at this meeting will assist Tt in their review of the project issue.

Discussion

Dan O'Driscoll began the meeting by explaining his position regarding the width of Neelon Lane. Dan referenced the minutes from the Selectmen meeting of 1863 which clearly delineates the width of Neelon Lane to be 25'.

Paul Atwood raised some questions regarding one deed as it relates to one other piece of land other than the Whitney and Wilson parcels.



After hearing the two sides opinions regarding the width of Neelon Lane Bob Daylor stated that he felt that it was clear that the Right-of-Way dimension is 25' and that both surveyors are in agreement of point. He stated that he views the three main issues associated with this project moving forward as the following:

1. Technical Issues-This is basically surveying issues which can be discussed by the three surveyors now involved in the project.
2. Legal Issues- These probably can't be resolved through this review process.
3. Policy/Procedural Issues-This process will determine how the PEDB moves forward with the project.

Bob also stated that there are clearly some issues with the older deeds and plot plans that prevent them from closing accurately at the limits of Neelon Lane. Since some of these older deeds are not accurate, those involved will need to follow the proper hierarchy of information when interpreting.

Dan confirmed the point above and noted that one plan shows the property extending into Neelon Lane.

Paul A. stated that there is a legality question whether the neighbors have a say in the improvements of Neelon Lane.

Bob professed that this was probably a legal question but his impression was that because fees were paid in the past then the neighbors may no longer have those rights.

Bob stated that he walked the site prior to the meeting and had some observations regarding the layout of Neelon Lane.

- Bob noted that Neelon Lane needed to be extended to the south to be consistent with the old deeds. Paul Yorkis stated that Tt was referring to an older set of plans and the latest revision shows the extension of that roadway to the proper location. Paul then provided an updated version for discussion.
- Bob noted that there was some evidence in the field to represent the southern limits of the roadway. Setting this line will be a matter of surveying.



TETRA TECH

The issues of the layout of Neelon Lane may need to be settled through the Title Insurance process.

Dan then provided a worksheet that showed the different possible locations of Neelon Lane using the different record information.

Paul A. then asked since everyone now agrees that the Layout of Neelon Lane is unclear based on the record information, how does the applicant set the correct lines.

Dan then went on to explain why he felt it was appropriate to set the location as currently illustrated on the most current plans.

Paul A. then explained why he set the line from the opposite property limits.

At that point Bob Daylor felt that he had a good grasp of both opinions on the layout and asked if there was any additional information that may be helpful. Neither side offered new record information to assist the review at this time.

Action Items

1. Tt to provide recommendation letter to the board prior to the Planning and Economic Development Hearing on December 14, 2010.



**MEETING
ATTENDANCE SHEET**
Charles River Village
December 3, 2010

	<u>Name</u>	<u>Company</u>	<u>Telephone No.</u>	<u>E-mail</u>
1.	DAVE PELLEGRINI	TTR	508-703-2408	david.pellegrini@ttrvatech.com
2.	BOB DAYLEN	TB	508-908-2308	bob.daylen@ttrvatech.com
3.	ROB CONSTANTINE	G&H	508-508-3221	rconstantine@guerrierandhannon.com
4.	BETH McDONALD	HOMERUNNER	508-523-1838	LMRET14@YAHOO.COM
5.	PAUL ARWOOD	G&H	508-473-6630	PATWOOD@GUERRIERANDHANNON.COM
6.	Suey Affleck-Chids	TopM	508-833-3291	saffleckchids@townofmedway.org
7.	Chan Rogers	Medway	PB 508-533-0422	chanrogers@comcast.net
8.	PAUL G. YORRIS	Patrolmen's Union	508-509-7860	pyorris@aol.com
9.	DANIEL A. O'DRISCOLL	O'DRISCOLL LAND SURVEYING CO.	508-533-3314	odlandsurvey@VERIZON.NET
10.				
11.				
12.				
13.				

FAIST ENGINEERING, INC.

600 Charlton Street · Southbridge, MA 01550

December 10, 2010

Mr. Andy Rodenhiser
 Chairman – Medway Planning Board
 Town of Medway
 155 Village Street
 Medway, MA 02053

Re: Charles River Road Area Density Estimate - "*Charles River Village-OSRD*" Medway, MA

Dear Medway Planning Board:

Faist Engineering, Inc. (FE) is providing the attached Figure entitled "**Assessor's Map Density Estimate**" to illustrate the comparison between the existing development density of the adjacent Charles River Road area to the proposed 13-Unit "*Charles River Village-OSRD*" development located at #6 Neelon Lane (the "Site").

FE is utilizing the January 1, 2009 Medway Assessor's Map No. 1-8 depicting the Site, adjacent parcels & roadway areas. Our estimates are based on the visible dwelling footprints shown on the Assessor's Map and utilizing AutoCAD software to accurately scale and calculate the subject areas. We looked at three (3) specific areas within the Charles River Road area between Village Street and the Charles River to evaluate existing area development density.

Massapoag, King Philip, & Wamesit Streets

This area is directly adjacent to the Site and consists of approximately 21 homes on 6.1 +/- Acres of land. This area is slightly smaller than the proposed OSRD and has the highest per Acre density at **3.4 Homes/Acre**.

West Side of Charles River Road

This area extends from Village Street all the way to the Charles River along the west side of Charles River Road. Seven (7) named public ways along this road provide access to approximately 29 homes on 13.3 +/- Acres of land. This area includes the 7 public ways and provides a density estimate of **2.2 Homes/Acre**.

Charles River Road – Overall Density Estimate

We also are providing a broader look at the adjacent area by taking into account the approximately 60 homes located on 31.8 +/- Acres of land extending from Village Street to the Charles River along both sides of Charles River Road. This area takes into account all street right-of-ways, the Charles River Tennis club, and several undeveloped building parcels to provide an overall density estimate of **1.9 Homes/Acre**.

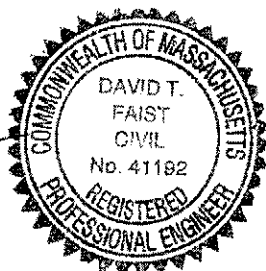
Proposed "Charles River Village – OSRD"

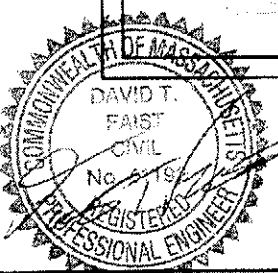
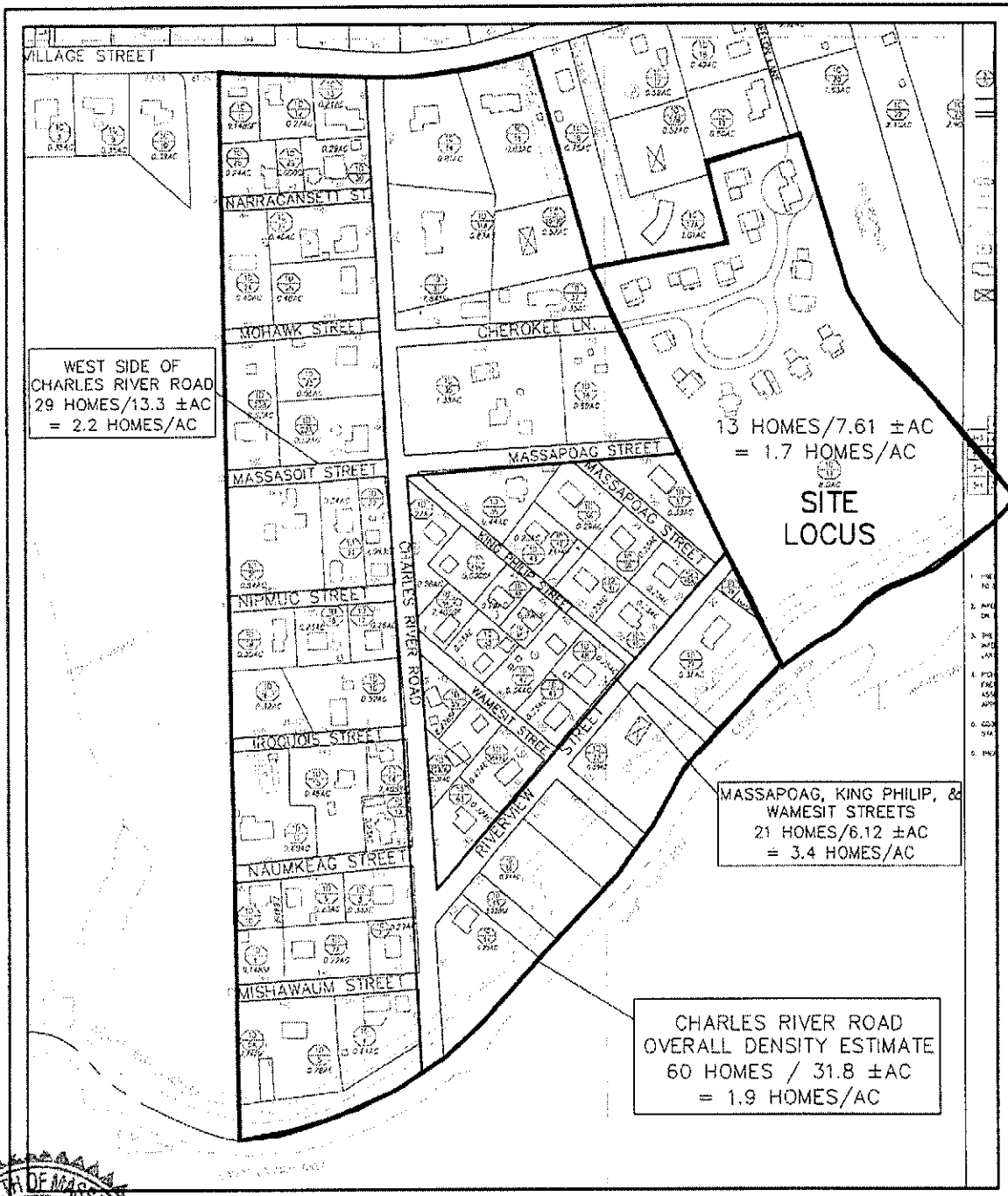
The proposed Site will provide 13 dwelling units on 7.61 Acres, with the development parcel providing approximately 4.18 Acres of Open Space. This provides an overall project density of **1.7 Homes/Acre**.

Therefore, we believe the proposed 13-Unit OSRD development will provide less density than the existing adjacent Charles River Road neighborhoods. We hope the Planning Board finds this information useful in your deliberations regarding the "*Charles River Village-OSRD*" Special Permit application. Please call me with any questions or comments at (508) 765-7755.

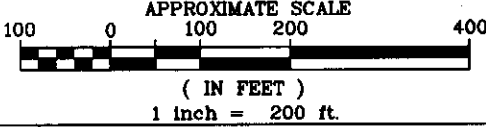
Thank you.
 Sincerely,

David T. Faist
 David T. Faist, P.E.
 Principal Engineer

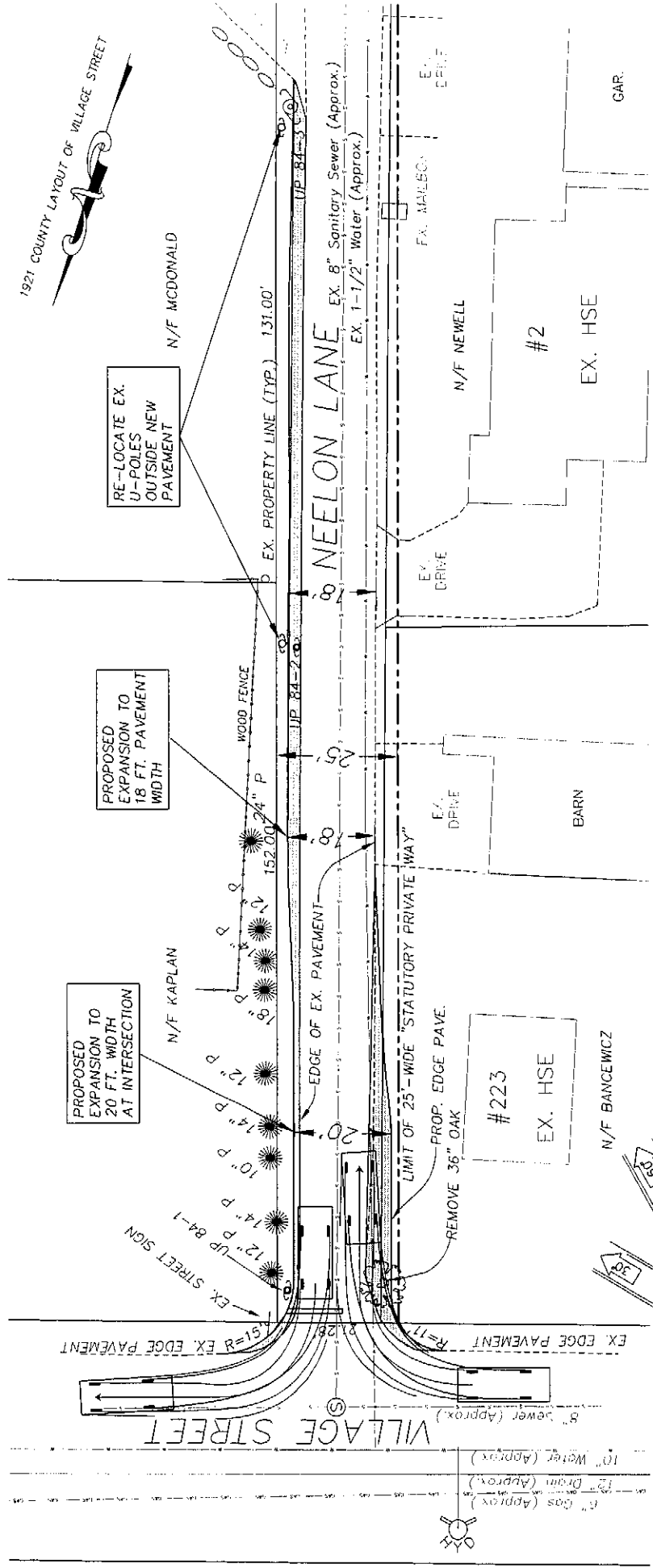
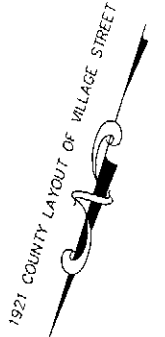




<p>ASSESSOR'S MAP DENSITY ESTIMATE "CHARLES RIVER VILLAGE" MEDWAY, MASSACHUSETTS</p> <p>MAP: 1-8 JANUARY 1, 2009 SCALE: 1"=300'</p>	<p>DATE: DECEMBER 8, 2010</p> <p>PREPARED FOR: CHARLES RIVER VILLAGE, LLC P.O. BOX 1 Medway, Massachusetts</p>	<p>FAIST ENGINEERING, INC.</p> <p>600 Charlton Street Southbridge, MA 01550 MA Phone/Fax: (508) 765-7755</p> <p><i>O'DRISCOLL</i> LAND SURVEYING Co. LAND SURVEYING GPS MAPPING LAND CONSULTING MEDWAY, MASSACHUSETTS 02053 (508) 533-3314</p>
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AERIAL PHOTOGRAPH SKETCH "CHARLES RIVER VILLAGE" MEDWAY, MASSACHUSETTS MAP: 1-7 PARCEL: 1D/33	DATE: NOVEMBER 24, 2010	FAÏST ENGINEERING, INC. 600 Charlton Street Southbridge, MA 01550 MA Phone/Fax: (508) 765-7755
	SCALE: 1"=200'	
	PREPARED FOR: CHARLES RIVER VILLAGE, LLC P.O. BOX 1 Medway, Massachusetts	

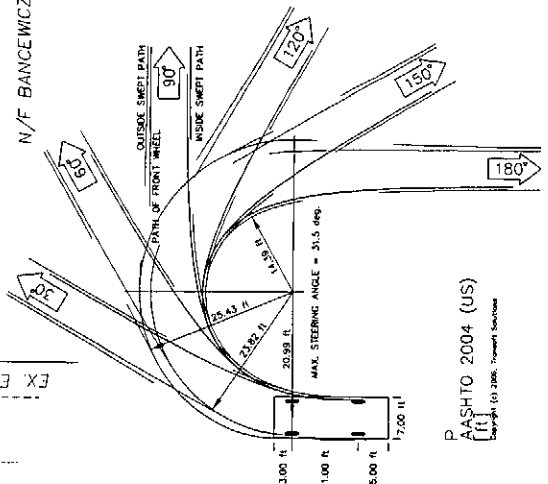
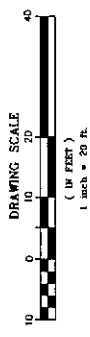


PROPOSED EXPANSION TO 20 FT. WIDTH AT INTERSECTION

PROPOSED EXPANSION TO 18 FT. PAVEMENT WIDTH

RE-LOCATE EX. U-POLES OUTSIDE NEW PAVEMENT

VILLAGE STREET - NEELON LANE PROPOSED CONDITIONS SKETCH



ASHTO 2004 (US)
Copyright © 2004, Transient Software

NOTES:
1) LIMITED EXISTING CONDITIONS & SITE PROPERTY BOUNDARIES ARE BASED ON AN ON-THE-GROUND SURVEY BY O'DRISCOLL LAND SURVEYING CO. INFORMATION SHOWN IS SOLELY FOR USRD SPECIAL PERMIT CONCEPT PLAN PURPOSES ONLY.

FAIST ENGINEERING, INC.
600 Charlton Street Southbridge, MA 01550
MA Phone/Fax: (508) 765-7755

O'DRISCOLL LAND SURVEYING CO.
LAND SURVEYING GIS MAPPING LAND CONSULTING
48 COTTAGE STREET MEDWAY, MASSACHUSETTS 02053 (508) 533-3314
DATE ISSUED: 10/29/10 PROJECT NO: CHA-2345

10-11-10

Thomas J. Valkevich
Attorney at Law
99 Walnut Street, Suite G
Saugus, Massachusetts 01906
781-233-6812
Facsimile 781-231-5124
Email: tjvesq@netzero.com

R E C E I V E D
DEC 14 2010

December 14, 2010

Town of Medway
Planning & Economic Development Board
155 Village Street
Medway, Massachusetts 02053

TOWN OF MEDWAY
PLANNING BOARD

RE: Charles River Village Open Space Residential Development (OSRD)
Application for OSRD and Affordable Housing Special Permits
Hearing date December 14, 2010

Dear Board Members:

Please be advised that I again represent Mary E. McDonald of 9 Neelon Lane, Medway in the matter of the Application for OSRD and Affordable Housing Special Permits as to some issues raised by the plan as submitted. Ms. McDonald will also express some additional matters as to which she possesses personal knowledge as to site conditions, access issues, neighborhood matters and subsurface concerns at the meeting.

As a procedural matter, we still have concerns that the representative for the applicant is Mr. Paul Yorkis who, according to available records, is a member of the Economic Development Committee, and that the Planning and Economic Development Board is the appointing authority for members of that Committee. We have asked whether or not the Board has a public disclosure on file as to this relationship as to this matter, and the board responded that it did not. The board then proceeded to detail how much they have relied on and respected Mr. Yorkis' opinion. There remains concern over the Board's apparent deference to Mr. Yorkis as evidenced by board members concerns that "we must approve this" and expressed apprehensions that the Board will be sued if they don't.

There remain issues about the nature and extent of rights in Neelon Lane that can only be fully and finally determined by a court of competent jurisdiction. See the signed and stamped letter from Guerrire and Halnon, Inc. The letter speaks for itself, but the conclusion is that a judicial determination is required. The Board, at the last meeting on November stated its intention to refer the matter to a third engineering firm, apparently to interpret the issues raised. The report of the Board's selected engineers confirms that the Board is "not the correct entity to resolve this dispute." The engineer's suggestion that the board can proceed as to other issues, however, does not seem appropriate. If the Board must condition it's final decision and permitting upon resolution of the location issues, the matter should be tabled at best, withdrawn until resolution, or denied. Given the Board's engineers conclusion that Neelon Lane may extend further than shown on

any plans submitted , the computations, open space available, and layouts may all need revision . That the Board can somehow absolve itself of an approval given the absence of the petitioner's showing of rights to build and improve its project as depicted is totally impermissible. I ask that the Board, through Town Counsel, demonstrate its authority to exempt any petitioner from meeting such requirements. The right of the Board to absolve itself is clearly not a matter to be resolved by the engineer, but rather by statute, judicial decision. For the Board to proceed to any approval suggests that the Board is looking only on how to approve this project, not the application of all appropriate standards.

There still remains an issue about the nature and extent of the petitioner's rights, and the Town's right's to make the improvements and traffic control measures discussed in the various meetings. The Town Counsel reported that the right to install underground utilities was a matter of probability, that it may be permissible. The petitioner's counsel stated that he was "confident" that the Town could impose traffic control and parking and curb cut restraints, which is not a certainty of legal right.. The burden is on the petitioner to demonstrate that they have the right to build the project in all respects.

The " Village Street-Neelon Lane Proposed Conditions Sketch" submitted by Faist Engineering at the November 16, 2010 meeting shows pavement extending to the edge of the twenty five foot layout of Neelon Lane, and even using that disputed width, can only accommodate, under ideal conditions of vehicles being tight to the edge of the right of way, two passenger size vehicles. Any other scenario, e.g. SUV's Trucks, Delivery vehicles would have to stop and wait on Village Street until all exiting vehicles departed Neelon,Lane. This would also require cars to stop and wait should a vehicle larger than a passenger size be exiting Neelon. Without full and final resolution of the location and width of Neelon Lane, the petitioner's own plan cannot go forward

The report filed by Gillon Associates, Traffic and Parking Specialists, dated November 15, 2010. addresses compliance with ADA standards which are completely ignored by the petitioner. Since Neelon Lane must accommodate the public, the question remains as to the applicability of ADA standards to development.

It should be noted that the petitioner's density studies submitted recently ignore the Neelon Lane neighborhood. Much has been made of the access over Neelon Lane by the petitioner, yet the petitioner conveniently completely ignores those densities, as well as the enormous detrimental impact the scope of this project will have on this quiet neighborhood.

The following matters are reiterated since the Board has not specifically addressed them in the past meetings:

The Town has considered development of parcels in this location in the past, but not approved development using Neelon Lane as access. The issues raised by using Neelon Lane as access militate against approval of the plans as submitted. At most, Neelon Lane's public use should be consistent with its limited access as historically and legally existing. For all the foregoing reasons, the proposed plan does not comply with the OSRD by-law in numerous respects, namely by not complying with all sections of the Zoning By-law, the access over Neelon Lane is not compatible or in harmony with the

character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, and safe, convenient access over such a narrow, substandard route, cannot be demonstrated, especially given the 30' wide public way Cherokee Lane on the opposite side of the subdivision.

The proposal, as submitted fails to comply with the existing rights of parties on Neelon Lane, with accepted safety and traffic standards affecting the community at large and not just the abutters, the board's own standards for issuance of a special permit as stated in section 10 and sections 11 (g), (i), (j), and (k). The proposal clearly does not meet the standards set out in the purposes section of site plan review, sections C.1. (c) (3), (8), (9), (10) and (11).

The Board rules, at section 12 (d) of article T reference site plan review standards that shall be applied to the project which include protections of neighbors from noise fumes etc and safe access for emergency vehicles. The approval of this plan will destroy the character of the existing neighborhood

Finally, the revised plan STILL lays out a way and cul de sac which does abut the McDonald parcel. There exists a gap between the layout on the developer's parcel and the McDonald parcel .. Leaving such a strip is certainly contrary to sound planning practices. I believe previous cases in other towns have given the nickname "spite strips" to this feature. Ms McDonald is concerned that, as drawn, this plan would adversely affect her property and possible development or changes.

The Board must deny or indefinitely delay the petition pending resolution of the issues concerning Neelon Lane, by allowing withdrawal or otherwise. To do otherwise would waste the Town's resources by examining details of a project that may not have the access determined for quite some time. Not only is this Board not the proper authority for such resolution, but any resolution of the length or width or location of Neelon Lane will require action by the Town unless a strictly judicial determination is rendered. The Board is not in the business of absolving itself from its responsibilities for the orderly development of projects under the Zoning By-laws and statutes of the Commonwealth.

Thomas J. Valkevich
Attorney for Mary E. McDonald



November 12, 2010

Medway Planning Board
155 Village Street
Medway, MA 02053

On behalf of our client, Elizabeth McDonald of #9 Neelon Lane, Guerriere & Halnon, Inc. submits, for Planning Board review, the following information pertaining to the location, width and status of Neelon Lane:

Timeline

- 1851.Dec.10 C.B. Whitney acquires land east in reference to now Neelon Lane --- Deed Book 222 Page 44.
- 1856.Aug.05 Neelan (aka Neeland, Neelon) acquires land west and south in reference to now Neelon Lane --- Deed Book 289 Page 154.
- 1856.Oct.21 Kearns acquires one acre west in reference to now Neelon Lane --- Deed Book 250 Page 26.
- 1863.Apr.06 Town accepts 25 feet wide private way partly on
1. Land set apart for a way by J.W.B. Wilson (Deed Book 250 Page 26)
(at the time owned by Kearns)
 2. Land of Neeland
 3. Land of C.B. Whitney
- 1921.Dec Village Street laid out (Neelon Lane scales 16.5'+/- wide)
- 1950.Mar.25 Plan of Land by H.W. Whittier depicting Lots A & B (land of Kearns) on "Wilson's Lane" (Neelon Lane) recorded as Plan No. 335 of 1950 --- Deed Book 2903 Page 45.
- 1959.Oct.21 Plan of Land by Schofield depicting McDonald (C.B. Whitney) Lot recorded as Plan No. 1253 of 1959 --- Deed Book 3776 Page 530.

Summary of this timeline and all other information collected by this surveyor:

Since there are a number of ambiguous pieces to this puzzle and a lack of physical monuments on site, two or more competent surveyors could arrive at different solutions. The location of the properties and the location of Neelon Lane (a.k.a. Wilson Lane) as interpreted by Guerriere & Halnon, Inc are arrived at using the following rationale:

On April 5, 1863, the three properties owned by Kearns, Neelan and Whitney all abutted one another.

On April 6, 1863, the town accepted the 25' Wide Private Way partially over the land of all three extending southerly from what is now Village Street to a fence opposite the southerly side of the Neeland house (#6 Neelon Lane). It was not taken in fee.

Question for Title Attorney: What is the current status of the title in the 25' Wide Way? While it was referred to as a Private Way in 1863, subsequent deeds refer to "excepting the town road" (Deed Book 363 Page 210) and plans were created showing the land removed (Plan 335 of 1950). Guerriere & Halnon has not found written evidence that the Town of Medway has acquired the fee interest in Neelon Lane. If title is to the original lot lines lie within the 25' Wide Way, all parties with interest in The Way would need to agree on improvements.

In 1950, a plan of the land formerly owned by Kearns is recorded depicting H.W. Whittier's interpretation of what remained of the "one acre lot" (Deed Book 250 Page 26) after taking out the "land set apart by Wilson." Unfortunately, this plan does not close mathematically. Therefore, it must be closed using available evidence. G&H started at the corner of the original stone wall first described in 1856 as the border. Working away from there, a combination of angles from the 1950 plan and original deed distances was used to retrace the intent of Mr. Whittier. G&H believes that the resulting easterly line best sets up the westerly sideline of the 25' Wide Private Way, Neelon Lane.

In 1959, a plan of the land formerly owned by Whitney is recorded (Plan No. 1253 of 1959) depicting Schofield's interpretation of the westerly sideline of Whitney's land described in deed Book 222 Page 44 after the 25' Wide Private Way was accepted.

Regardless of the title status in the Way, and in conjunction with the possibility that the westerly line shown on the 1959 plan is questionable and may follow the existing wall more closely and the original deed calls in Deed Book 222 Page 44, G&H believes that the original boundary line between land formerly of Whitney (McDonald) and that of land formerly of Neeland and Wilson (Aquafresca and Lots A & B) would be somewhere inside the 25' Wide Way and would enter at the southerly end of the way somewhere in the middle, not along the easterly sideline as shown on the Plan of Land by Schofield done in 1959.

If our interpretation is correct, then the Way would be further east than that shown by the applicant's surveyor and the property line would enter the southerly end of the way leaving less than 25' on the Applicant's land.

Simply holding the plan done in 1959 on the Whitney (McDonald) lot and G&H's interpretation of the 1950 plan would result in remaining land for the way of 21.5' more or less at Village Street and 18.0' more or less at the southerly end of the Kearns lot (#2 Neelon Lane).

Guerriere & Halnon, Inc. believes that the uncertainties of the location, width and status of Neelon Lane should be resolved in the Land Court after submission by a land surveyor of all necessary plans, deeds, interpretations, survey, etc.

Furthermore, based on the issues raised above, it would be imprudent for The Town of Medway and the applicant before the Planning Board to propose improvements to Neelon Lane without first settling these issues. The risk of encroaching onto private land and infringing property rights of abutters should signal caution in this matter.

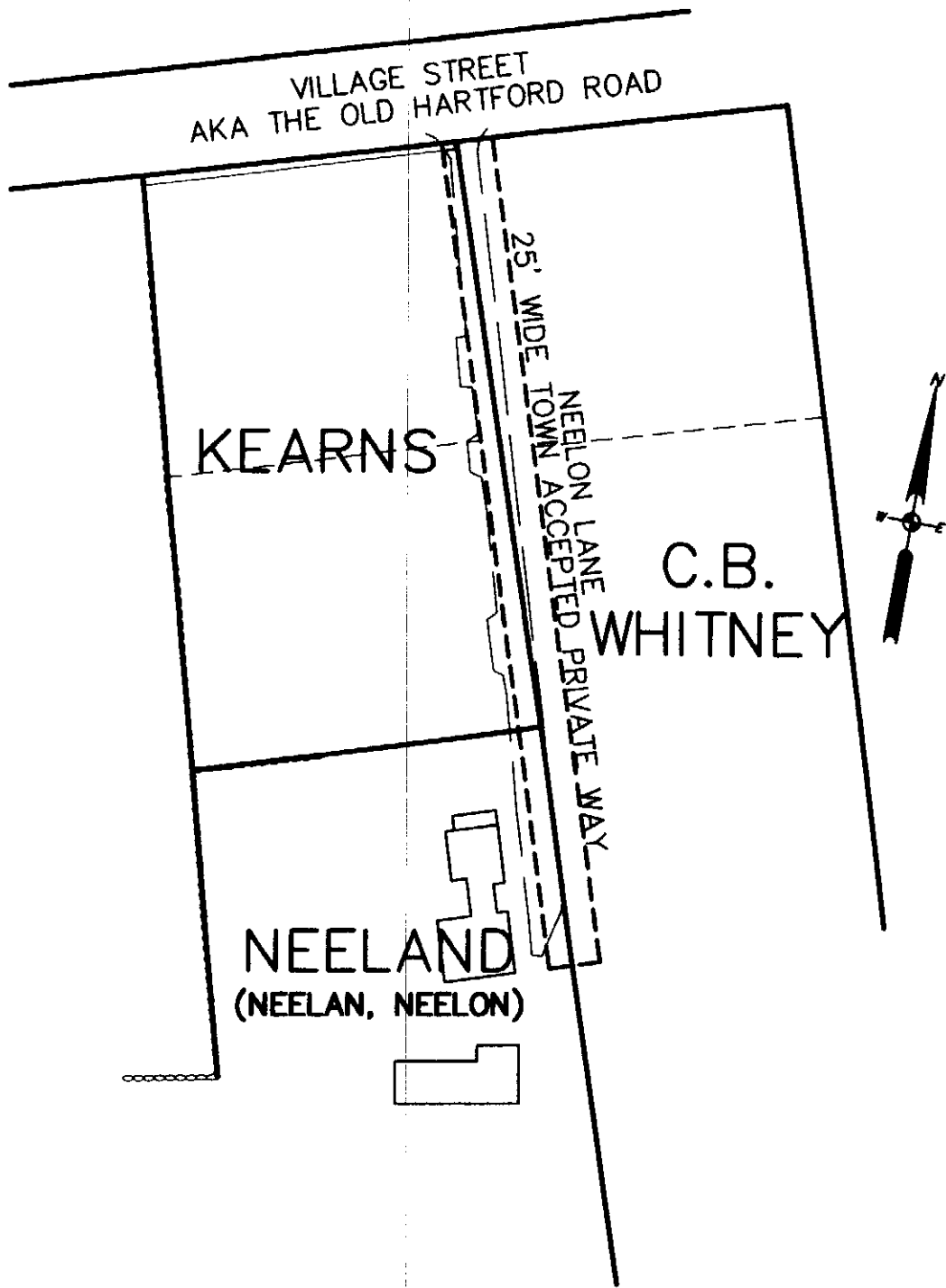
Sincerely,

Paul B. Atwood

Paul B. Atwood, PLS

11/16/10





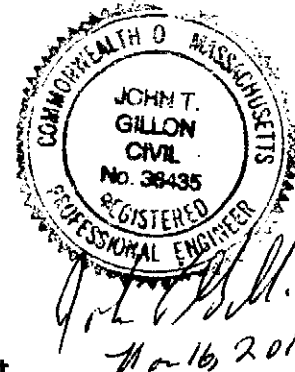


3 Old Farm Road
Norwood, MA 02062-6513
Tel./ Fax: (781) 762-8856
e-mail: jt.gillon@norwoodlight.com

November 15, 2010

Medway Planning Board
155 Village Street
Medway, MA 02053

Reference: Traffic Issues
Neelon Lane Roadway Layout



Dear Board Members:

On behalf of our client, Elizabeth McDonald, of #9 Neelon Lane, I have prepared this review for the Planning Board's consideration. I have reviewed the proposal plans, the Conley Associates Memorandum dated September 2, 2010, and I have visited the site. In addition, I have researched reference manuals regarding minimum paved travel way and sidewalk widths. The minimum widths provided do not appear adequate for a roadway open to the public.

The proposal before the Board involves providing a total paved two-way travel way of eighteen (18) feet on Neelon Lane, along with a paved four-foot wide sidewalk. Although the Conley Memorandum does show a copy of Exhibit 5-5 from the "Geometric Design of Highways and Street" (Green Book) published by the American Association of State Highway and Transportation Officials, the table shows 18 feet of travel way is the minimum "along" with a two-foot wide shoulder on each side of the road (middle of table) bringing the usable surface to **22-foot minimum**. Obviously the eighteen-foot wide paved roadway abutting the sidewalk does not afford a two-foot wide shoulder on that side. The Institute of Transportation Engineer's "Traffic Engineering Handbook" 6th Edition also shows this 22-foot minimum layout on Table 7-17, page 236. The MassDOT 2006 Edition of their "Project Development and Design Guideline" Manual suggests the clear width for a sidewalk is five feet excluding the width of the curb. (p. 5-14). Although this manual does not specify a minimum paved surface width for local roads, it does state "Local roads should Meet Municipal Standards". Although I presume this was adopted to retain the scenic quality of some local communities, the statement does not offer any leeway for reducing minimum Town-wide standards through waivers and variances.

The Americans with Disabilities Act (ADA) does allow for narrow sidewalks to serve wheelchairs at 36-inches. However, since two wheelchairs have to pass each other within a two hundred-foot section, all sidewalks **MUST** be widened to five-foot minimum every two hundred feet to allow for passage.

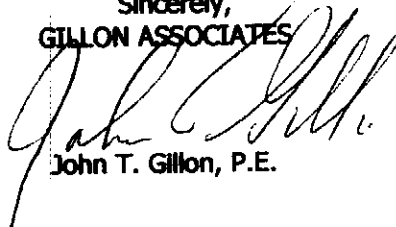
The narrow roadway pavement width coupled with a short turning radius at the Village Street intersection will require the turning of large vehicles to travel over the center line of the roadway into the path of opposing traffic. Thus, the pavement width should be widened and a larger radii provided.

On another note, the National Center for Safe Routes to School has indicated the ADA 36-inch minimum sidewalk width was not a sidewalk recommendation. They recognize that 3-foot width does not allow for two-way travel and they recommend a five to six-foot sidewalk width to allow for children being socially active and to walk side by side comfortably.

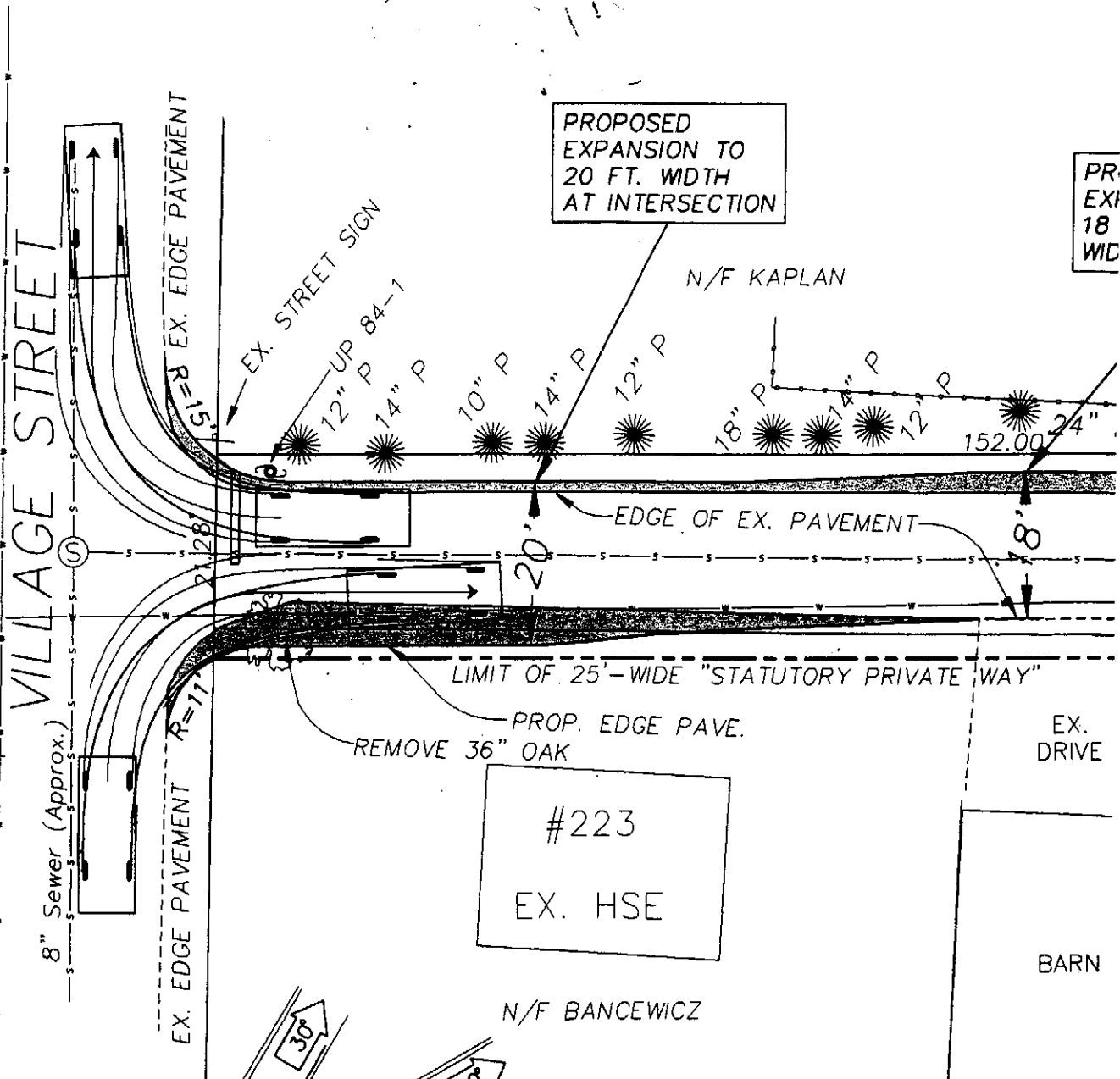
Medway - Neelon Lane
November 15, 2010 p. 2

The Board should also consider the ramifications and implications of granting these proposed physical features. Once minimum widths are waived on one project, there will be other developments that cannot be built without waivers coming forward claiming similar hardships. Thank you for the opportunity to present these thoughts.

Sincerely,
GILLON ASSOCIATES

A handwritten signature in black ink, appearing to read "John T. Gillon", written over the printed name below.

John T. Gillon, P.E.



PR
EXI
18
WID

PROPOSED
EXPANSION TO
20 FT. WIDTH
AT INTERSECTION

N/F KAPLAN

VILLAGE STREET

LIMIT OF 25'-WIDE "STATUTORY PRIVATE WAY"

PROP. EDGE PAVE.
REMOVE 36" OAK

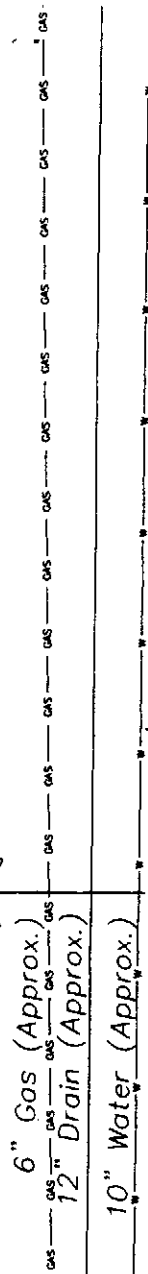
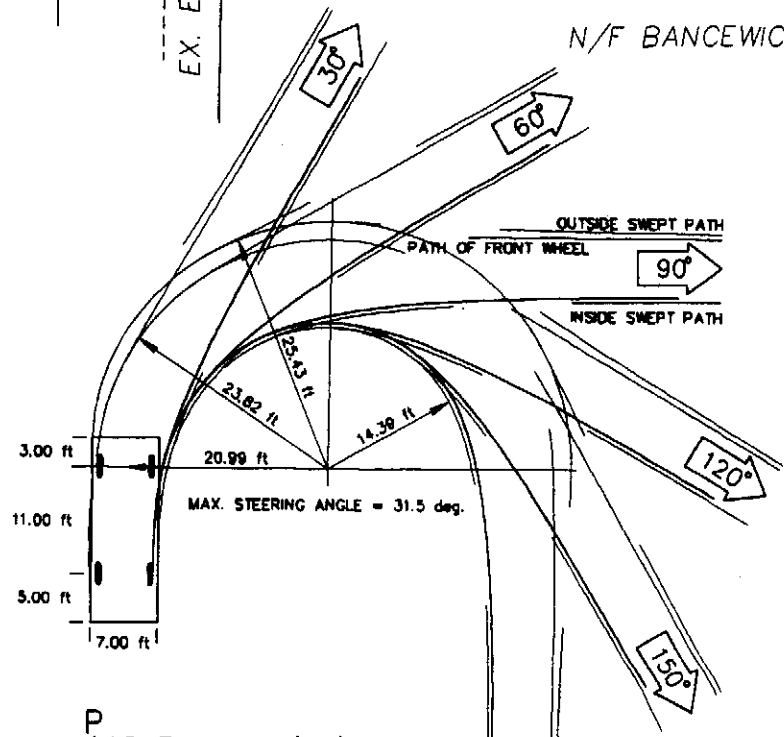
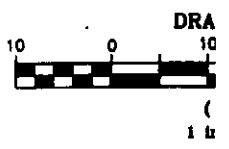
#223
EX. HSE

EX.
DRIVE

BARN

N/F BANCEWICZ

**VILLAGE STRE.
PROPOSED COI**



8" Sewer (Approx.)

EX. EDGE PAVEMENT R=17

EX. EDGE PAVEMENT R=15

EX. STREET SIGN
UP 84-1

30°

60°

90°

120°

150°

P
AASHTO 2004 (US)
ft
Copyright (c) 2008, Traneet Solutions

- NOTES:
1) LIMITED EXISTING CONDITIONS
ON-THE-GROUND SURVEY BY
SOLELY FOR DCDP SPECIAL P

*Morfolk County
no access issues*

USED
VISION TO
PAVEMENT

RE-LOCATE EX.
U-POLES
OUTSIDE NEW
PAVEMENT

1921 COUNTY LAYOUT OF VILLAGE STREET

N/F MCDONALD

WOOD FENCE

EX. PROPERTY LINE (TYP.) 131.00'

EX. DRIVE

NEELON LANE

EX. 8" Sanitary Sewer (Approx.)

EX. 1-1/2" Water (Approx.)

EX. DRIVE

EX. MAILBOX

EX. DRIVE

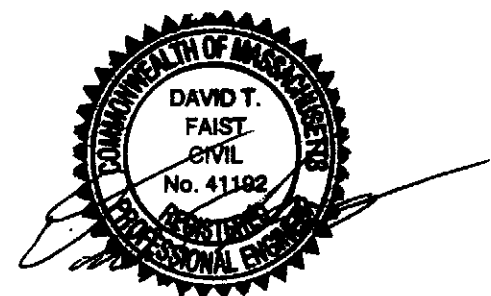
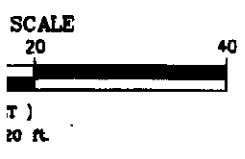
N/F NEWELL

#2

EX. HSE

GAR.

NEELON LANE CONDITIONS SKETCH



FAIST ENGINEERING, INC.
600 Chariton Street Southbridge, MA 01550
MA Phone/Fax: (508) 765-7755

O' DRISCOLL
LAND SURVEYING Co.
LAND SURVEYING GPS MAPPING LAND CONSULTING

46 COTTAGE STREET MEDWAY, MASSACHUSETTS 02053 (508) 533-3314

PROPERTY BOUNDARIES ARE BASED ON AN
O' DRISCOLL LAND SURVEYING CO. INFORMATION SHOWN IS
CONCEPT PLAN PURPOSES ONLY

TASHJIAN, SIMSARIAN & WICKSTROM, LLP
COUNSELORS AT LAW
60 CHURCH STREET

EDWARD D. SIMSARIAN
JOHN A. WICKSTROM
JAMES E. TASHJIAN
TIMOTHY P. WICKSTROM
ELIZABETH W. MORSE
THOMAS J. WICKSTROM
MARK P. WICKSTROM
THOMAS M. HOFFEY, JR.
LUKE T. TASHJIAN

WHITINSVILLE, MASSACHUSETTS 01588-1416
TELEPHONE (508) 234-4551
FACSIMILE (508) 234-8811

BERGE C. TASHJIAN
(1937-1995)
WORCESTER OFFICE:
370 MAIN STREET
WORCESTER, MA 01608-1763
TEL. (508) 756-1578
FAX (508) 756-1153
PLEASE RESPOND TO
WHITINSVILLE OFFICE

December 9, 2010

Sent via email

Town of Medway
Attn: Susan E. Affleck-Childs, Coordinator
Medway Planning and Economic Development Board
155 Village Street
Medway, Ma 02053

RECEIVED
DEC 09 2010

TOWN OF MEDWAY
PLANNING BOARD

RE: Fox Run Farm

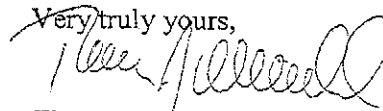
Dear Ms. Affleck-Childs and Members of the Board:

As you know, this office represents Fox Run Development Group, LLC in connection with the project known as "Fox Run farm". I sent you a letter dated November 30 suggesting an agreement with the Town for an immediate release of 4 lots for building and sale and a proposal to place the bond with the Town.

What my client hereby proposes is an immediate release of 4 lots for building and sale without any cash security at this time. This would give my client an opportunity to use his funds to complete the roadway and build a home without the need to borrow excess funds or use other funds, thereby helping his cash flow. In addition as each lot sells, we would be required, at closing, to cut a check to the Town Treasurer for 25% of the bond amount. So, one hundred percent of the bond amount would be with the Town after the first 4 lots sell and he could then obtain a release of the rest of the lots from the covenant. I see no risk to the Town agreeing to this scenario as a lot of roadwork is done already, the payments would come from the first 4 sales, and in the extremely unlikely event my client leaves the project unfinished, the Town would be secured as it would have 100% of the cash bond by the fourth sale. In addition the other lots would still be burdened by the covenant until the full bond is in place.

We ask the board to consider and approve this request.

Thank you.

Very truly yours,

Thomas J. Wickstrom



TETRATECH RIZZO

MEMORANDUM

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

Fr: Steven Bouley–Tetra Tech Rizzo

Re: **Fox Run Farm
Bond Estimate
Medway, MA**

Dt: December 2, 2010

RECEIVED
DEC 07 2010

TOWN OF MEDWAY
PLANNING BOARD

At the request of the Medway Planning and Economic Development Board, Tetra Tech Rizzo (TTR) has performed an inspection of the Fox Run Farm development in order to prepare a bond estimate for the remaining work to be completed by the developer. The inspection is also required to determine whether the developer has satisfactorily completed the minimum infrastructure improvements as specified in Section 6.6.3 of the Town of Medway Planning Board Rules and Regulations that need to be completed before the board authorizes a release to allow for construction of the dwelling units.

On Thursday, December 2, 2010, Steven Bouley from TTR performed an inspection to accomplish the tasks specified above. It was our determination that items remain outstanding and must be addressed prior to the board issuing a release. The outstanding items are as follows.

Section 6.6.3

1. *Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales, infiltration systems or any other stormwater management facilities. (Ch. 100 §6.6.3c)*
 - The flared end on the outlet pipe of the underground stormwater system and the rip-rap outlet protection does not appear to be constructed as detailed. A 3" layer of crushed stone has not been installed below the rip-rap. See attached photo #1-2.
2. *As-built plan of each detention pond and forebay contoured in two foot (2') intervals; and all critical elevations and details of the structures, pipes and headwalls. (Ch. 100 §6.6.3d)*
 - No As-Built Plan has been submitted.



TETRA TECH RIZZO

3. *Street name signs and "Street Not Accepted by the Town" signs in a size and form as specified by the Medway Department of Public Services, and all regulatory signs as specified in the approved plan. (Ch. 100 §6.6.3e)*
 - No Street Signs have been installed.
4. *Stop line pavement markings. (Ch. 100 §6.6.3f)*
 - A stop line and the word "STOP" have been painted in the roadway. However, the pavement markings do not appear to be per any standard. It is at the discretion of the town to allow the use of non-standard pavement markings. See attached photo #3-4.
5. *Sidewalk binder. (Ch. 100 §6.6.3g)*
 - Sidewalk binder has not been installed.

Also, please find attached a draft bond estimate for preliminary discussion. This bond estimate will need to be revised prior to issuance, to include the outstanding items above. Once these items are addressed the attached bond estimate will be finalized and may be utilized by the planning board to assess a proper bond value. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.

Photo #1

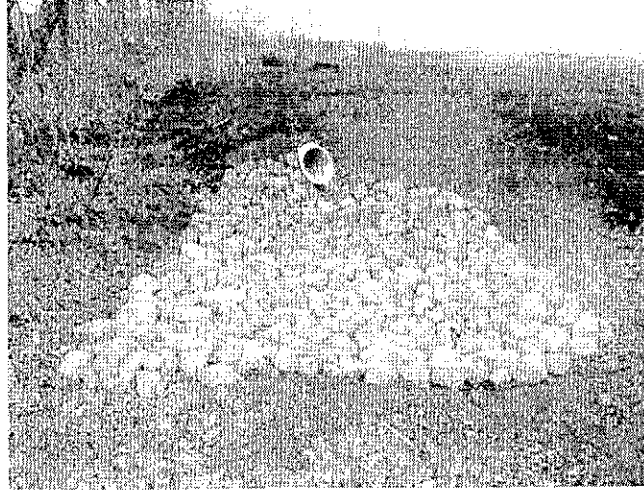
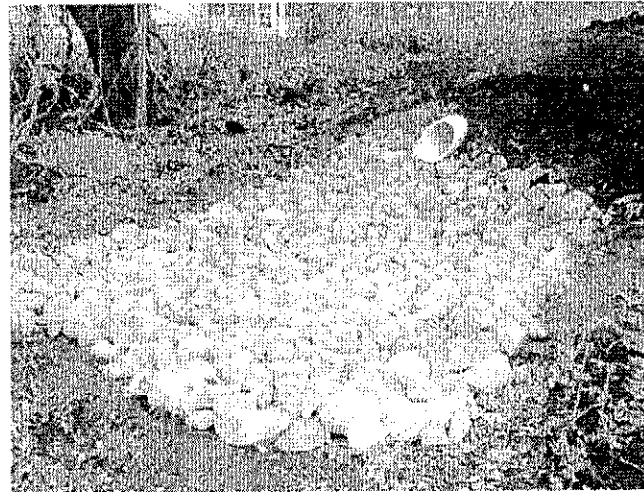


Photo #2





TETRA TECH RIZZO

Photo #3

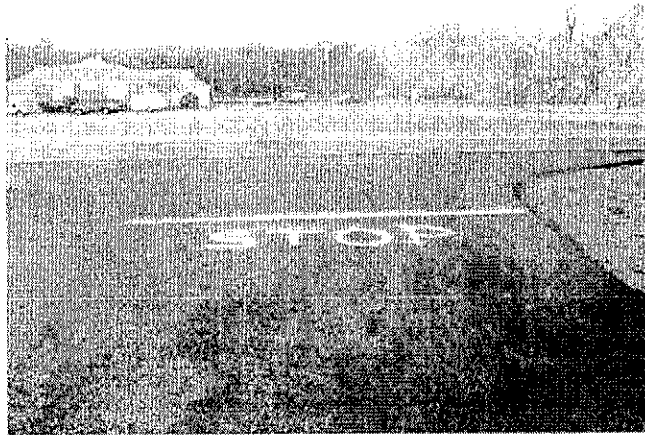


Photo #4





TETRA TECH RIZZO

**Bond Value Estimate
Fox Run Farm
Comprehensive Permit
Medway, Massachusetts
December 2, 2010**

One Grant Street
Framingham, MA 01701
Tel: 508.903.2000 Fax: 508.903.2001

DESCRIPTION	QUANTITY	UNIT	UNIT COST	ENGINEERS ESTIMATE
HMA Top Course - 1 1/2" Depth (Roadway)	125	TON	\$100.00	\$12,500
HMA Top Course - 1 1/4" Depth (Sidewalk)	23	TON	\$100.00	\$2,300
HMA Binder Course - 1 3/4" Depth (Sidewalk)	32	TON	\$85.00	\$2,720
HMA Berm - Modified	402	LF	\$5.00	\$2,010
HMA Binder Repair ²	1	LS	\$1,700.00	\$1,700
Gravel Borrow (Sidewalk)	110	CY	\$57.50	\$6,325
Vertical Concrete Curb	333	LF	\$40.00	\$13,320
Vertical Granite Curb	125	LF	\$39.00	\$4,875
Concrete Wheelchair Ramp	30	SY	\$78.00	\$2,340
Drain Structure Adjustments	5	EA	\$280.00	\$1,400
Sanitary Structure Adjustments	3	EA	\$290.00	\$870
Landscaping/Playground ³	1	LS	\$8,000.00	\$8,000
Screening Treecs ³	36	EA	\$200.00	\$7,200
Stockade Fence ³	80	LF	\$20.00	\$1,600
Loam ⁴	214	CY	\$40.00	\$8,560
Seeding ⁴	1,947	SY	\$1.50	\$2,921
Singage	2	EA	\$300.00	\$600
Light Poles	3	EA	\$10,000.00	\$30,000
Pavement Markings	1	LS	\$500.00	\$500
2 year Snow Plowing	515	LF/YR	\$2.50	\$2,575
2 year Road Maintenance	515	LF/YR	\$2.00	\$2,060
2 year Drainage Maintenance	515	LF/YR	\$2.00	\$2,060
As-built Plans	515	LF	\$5.00	\$2,575

\$119,011

Subtotal	\$119,011
Contingency (25%)	\$29,753
Recommended Bond Value	\$148,763

Notes:

- Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 12/2009 - 12/2010.
- Binder repair pricing includes the area of roadway that will require repair as described in inspection report #16. Pricing includes removal of the existing binder and top 4" of gravel base and the replacement of both. The area of pavement and gravel to be removed and replaced includes the area north of the centerline of the roadway between STA 0+40 to STA 0+60. Area could increase/decrease per an inspection at the time of removal.
- Items for Landscaping, Screening Trees and Stockade Fencing is included in this estimate based upon letter correspondence by Rice Associates dated August 17, 2005. The landscaping/playground item includes the landscaping of the center island in the cul-de-sac and the installation of the playground area. Screening trees include 36 trees (Arborvitae) that will be planted along the northern and south eastern property boundaries to screen the development from abutting properties. Stockade fencing will be installed at each duplex dwelling along the center of the backyard.
- Loam and seeding pricing includes all non-hardscape areas within the right of way, openspace lots and the drainage easement.



Bond Value Estimate
Fox Run Farm
Comprehensive Permit
Medway, Massachusetts
 December 14, 2010

One Grant Street
 Framingham, MA 01701
 Tel 508.903.2000 Fax 508.903.2001

DESCRIPTION	QUANTITY	UNIT	UNIT COST	ENGINEERS ESTIMATE
HMA Top Course - 1 1/2" Depth (Roadway)	125	TON	\$100.00	\$12,500
HMA Top Course - 1 1/4" Depth (Sidewalk)	23	TON	\$100.00	\$2,300
HMA Binder Course - 1 3/4" Depth (Sidewalk)	32	TON	\$85.00	\$2,720
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HMA Binder Repair ²	1	LS	\$1,700.00	\$1,700
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Vertical Concrete Curb	333	LF	\$40.00	\$13,320
Vertical Granite Curb	125	LF	\$39.00	\$4,875
Concrete Wheelchair Ramp	30	SY	\$78.00	\$2,340
Loam ³	44	CY	\$40.00	\$1,760
Seeding ³	394	SY	\$1.50	\$591
Singage	2	EA	\$300.00	\$600
Light Poles	3	EA	\$5,000.00	\$15,000
Pavement Markings	1	LS	\$250.00	\$250
2 year Snow Plowing	515	LF/YR	\$2.50	\$2,575
2 year Road Maintenance	515	LF/YR	\$2.00	\$2,060
2 year Drainage Maintenance	515	LF/YR	\$2.00	\$2,060
As-built Plans	515	LF	\$5.00	\$2,575
				\$75,561

Subtotal	\$75,561
Contingency (25%)	\$18,890
Recommended Bond Value	\$94,451

Notes:

- Unit prices are taken from the latest information provided on the Mass DOT website. They utilize the Mass DOT weighted bid prices (Combined - All Districts) for the time period 12/2009 - 12/2010.
- Binder repair pricing includes the area of roadway that will require repair as described in inspection report #16. Pricing includes removal of the existing binder and top 4" of gravel base and the replacement of both. The area of pavement and gravel to be removed and replaced includes the area north of the centerline of the roadway between STA 0+40 to STA 0+60. Area could increase/decrease per an inspection at the time of removal.
- Loam and seeding pricing includes all non-hardscape areas within the right of way.

Susan Affleck-Childs

From: Pellegrini, David [david.pellegrini@tetrattech.com]
Sent: Monday, December 13, 2010 10:47 AM
To: jpavlik; Susan Affleck-Childs
Cc: mujeebahmed58@yahoo.com; Paul Cusson
Subject: RE: Fox Run Farm Bond Estimate

Thanks Jim,
I'll take a look at the information.

Dave

From: jpavlik [mailto:jpavlik@outback-eng.com]
Sent: Monday, December 13, 2010 9:33 AM
To: Susan Affleck-Childs; Pellegrini, David
Cc: mujeebahmed58@yahoo.com; Paul Cusson
Subject: FW: Fox Run Farm Bond Estimate

RECEIVED
DEC 13 2010

TOWN OF MEDWAY
PLANNING BOARD

Dear Susy and Dave,
For your considerations, attached please find both TTR's bond estimate memo (\$148,763 to complete) and a proposed bond estimate prepared by Mujeeb Ahmed (\$89,176 to complete).

We believe the estimate to complete should only be concerned with items within the roadway layout and all utility infrastructure up to the lot lines -- and not anything related to construction on the lots such as the playground, because this work would be under the jurisdiction of the Zoning Board per the Comprehensive Permit. Accordingly, we suggest deduct 75% of \$8000 cost shown for "landscaping/playground" (remaining 25% or \$2000 would cover landscaping of the cul de sac only), and deduct \$7200 and \$1600, respectively for screening trees and stockade fence at rear of duplexes (all this work is on individual lots). Mujeeb also adjusted other items to reduce the overall cost down to \$89,176, such as placing street signs which are to be delivered shortly, rim adjustments are covered in topcoat paving cost.

Also, our street light detail (Belle Chase, stock number 9165 or 9285, by Mel Northey) shown on sheet 5 of CP plans is not the town standard for a subdivision (was picked by developer back in 2005 when project was still condo) -- please advise if we should request change to the town standard for metering purposes.

Please review and let me know if you have any further questions.

James A. Pavlik, P.E., Principal
Outback Engineering, Inc.
165 East Grove Street
Middleborough, MA 02346
Tel: (508) 946-9231 x203
Fax: (508) 947-8873
Email: jpavlik@outback-eng.com
Website: www.outback-eng.com

----- Forwarded Message -----

From: Susan Affleck-Childs <saffleckchilds@townofmedway.org>
To: Mujeeb Ahmed <mujeebahmed58@yahoo.com>
Cc: "Pellegrini, David" <david.pellegrini@tetrattech.com>
Sent: Tue, December 7, 2010 10:38:54 AM
Subject: Fox Run Farm Bond Estimate

Hi Mujeeb,

Attached is the bond estimate prepared by Tetra Tech Rizzo. I will provide this estimate to the Medway Planning and Economic Development Board for consideration at its meeting on 12/14/2010.

Please contact me if you have any questions.

Susy

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

508-533-3291

saffleckchilds@townofmedway.org

From: Pellegri, David [<mailto:david.pellegri@tetrattech.com>]
Sent: Monday, December 06, 2010 3:54 PM
To: Susan Affleck-Childs
Subject: FW: Fox Run Farm Bond Estimate

Susy,
Attached is the bond estimate for the Fox Run Farm project. Let me know if you have any questions/issues.
Thanks,
Dave

From: Bouley, Steven
Sent: Monday, December 06, 2010 3:34 PM
To: Pellegri, David
Subject: Fox Run Farm Bond Estimate

Steven Bouley | Engineer |
Tetra Tech | 708.802.2332 | Main: 508.505.2000 | Fax: 508.802.2001
steven.bouley@tetrattech.com www.tetrattech.com

**TOWN OF MEDWAY
PLANNING and ECONOMIC DEVELOPMENT BOARD**

AGREEMENT FOR DEPOSIT OF MONEY

This agreement is entered into this _____ day of December, 2010, between the Town of Medway, acting through its Planning and Economic Development Board, with an address of 155 Village Street, Medway, MA 02053 (hereinafter referred to as "the Board"), and Fox Run Development Group, LLC with an address of C11, 287 Chancy Street, Mansfield, MA ("Applicant"), to secure the construction of ways and installation of municipal services in the subdivision of land shown on an approved subdivision plan described below, in accordance with General Laws Chapter 41A Section 81U, and all other applicable provisions of the Subdivision Control Law and General Laws.

WHEREAS, on October 19, 2005, after a duly noticed public hearing, the Medway Zoning Board of Appeals approved a comprehensive permit to Rice Associates, Inc. for Fox Run Farm for a 10 lot subdivision, which is entitled Comprehensive Permit Subdivision Lotting Plan, Fox Run Farm, Medway, MA prepared by Outback Engineering dated _____ and recorded at the Norfolk County Registry of Deeds in Plan Book 599 Page 64, (hereinafter referred to as the "Plan"); and

WHEREAS, the approved Plan shows the division of a parcel of land located at 122 Holliston Street and further described in a deed or deeds dated October 14, 2010 and recorded in the Norfolk County Registry of Deeds in Book 28163 Page 357.

WHEREAS, the Board is required by G.L. c. 41A §81U to secure the construction of ways and installation of municipal services in the subdivision.

NOW, THEREFORE, the parties agree as follows:

1. The Applicant hereby binds and obligates itself, successors and assigns to the Board in the sum of _____ and has secured this obligation by depositing with the Town of Medway Town Treasurer a deposit of money in the above sum to be deposited in a subdivision escrow account in the name of the Town of Medway. The deposit of money is to be used to secure the performance by the Applicant of all covenants, conditions, agreements, terms and provisions contained in the following: the Subdivision Control Law (G.L. c. 41A §§ 81K-81GG); the Zoning Board of Appeals Comprehensive Permit Decision and all conditions of approval, the approved Plan; all conditions subsequent to approval of this Plan due to any amendment, modification or revision of the Plan; all of the provisions set forth in this Agreement and any amendments thereto; and the following additional documents: _____. (hereinafter the "Approval Documents").

2. The Applicant shall complete the construction of ways and the installation of municipal services no later than _____ years from the date of this agreement.

3. Upon completion of all obligations as specified herein on or before the completion date, or such later date as may be specified by vote of the Zoning Board of Appeals with the concurrence of the Applicant, the deposit of money including all interest accrued thereon shall be returned to the applicant by the Town of Medway. In the event the Applicant should fail to complete the construction of ways and installation of municipal services as specified in the Approval Documents and within the time herein specified, the Board, in accordance with applicable laws, may apply the deposit of money held by the Town of Medway Town Treasurer, in whole or in part, for the benefit of the Town of Medway to the extent of the reasonable costs to the Town of Medway to complete construction of ways and installation of municipal services as specified in this agreement. Any unused portion of the deposit of money, together with accrued interest, will be returned to the Applicant upon completion of the work by the Town of Medway.

4. The Zoning Board of Appeals may rescind approval of the Plan in breach of any provision of this Agreement or any amendments thereto. Such rescission shall be in accordance with G.L. c. 41 s. 81W.

5. The Board shall notify the Town of Medway Town Treasurer of any authorized reduction or release of the deposit of money that secures this agreement in full or in part. Upon receipt of a notice of reduction or release, the Treasurer shall forthwith return the deposit of money, or portion thereof, together with accrued interest, to the Applicant, or to such other person or entity as the Applicant may designate in writing.

6. The Applicant agrees and understands that the Board will not release this agreement until the ways and municipal services have been deemed by the Board to be constructed and installed in accordance with this agreement, which shall include demonstration of adequate construction and installation for six months prior to said release. This agreement does not expire until released in full by the Board.

7. If a court of competent jurisdiction determines that any provision of this agreement is unenforceable, such determination shall not affect the remaining provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of December, 2010.

**TOWN OF MEDWAY
Planning and Economic Development Board**

DRAFT

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

On this _____ day of _____, 2____, before me, the undersigned
notary public, personally appeared the following Members of the Medway Planning and
Economic Development Board, _____

proved to me through satisfactory evidence of identification, which was (personal
knowledge) (Massachusetts driver's license), to be the persons whose names are signed
on the preceding document, and acknowledged to me that it was signed voluntarily for its
stated purpose.

Notary Public
My commission expires: _____

APPLICANT/OWNER/DEVELOPER

By: _____

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

On this ____ day of _____, 2____ before me, the undersigned notary public, personally appeared the above named _____,

proved to me through satisfactory evidence of identification, which was (personal knowledge) (____ driver's license), to be the person whose name is signed on the preceding document, and acknowledged to me that it was signed voluntarily for its stated purpose.

Notary Public
My commission expires: _____

DRAFT

Bond Value Estimate			
Fox Run Farm		Planning Bd	Planning Bd Control
Comprehensive Permit	TTR #	Control	Mujeeb
Medway, Massachusetts		With TTR #	Contract #'s
2-Dec-10			
(Roadway) 125 TON \$100.00	\$ 12,500.00	\$ 12,500.00	\$ 12,500.00
HMA Top Course - 1 1/4" Depth			
(Sidewalk) 23 TON \$100.00	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00
HMA Binder Course - 1 3/4" Depth			
(Sidewalk) 32 TON \$85.00 \$2,720	\$ 2,720.00	\$ 2,720.00	\$ 2,720.00
HMA Berm - Modified 402 LF \$5.00 \$2,010	\$ 2,010.00	\$ 2,010.00	\$ 2,010.00
HMA Binder Repair 2 1 LS \$1,700.00 \$1,700	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00
Gravel Borrow (Sidewalk) 110 CY \$57.50 \$6,325	\$ 6,325.00	\$ 6,325.00	\$ 1,870.00
Vertical Concrete Curb 333 LF \$40.00 \$13,320	\$ 13,320.00	\$ 13,320.00	\$ 6,660.00
Vertical Granite Curb 125 LF \$39.00 \$4,875	\$ 4,875.00	\$ 4,875.00	\$ 2,500.00
Concrete Wheelchair Ramp 30 SY \$78.00 \$2,340	\$ 2,340.00	\$ 2,340.00	\$ 2,340.00
Drain Structure Adjustments 5 EA \$280.00 \$1,400	\$ 1,400.00		
Sanitary Structure Adjustments 3 EA \$290.00 \$870	\$ 870.00		
Landscaping/Playground 3 1 LS \$8,000.00 \$8,000	\$ 8,000.00	\$ 2,000.00	
Screening Trees 3 36 EA \$200.00 \$7,200	\$ 7,200.00		
Stockade Fence 3 80 LF \$20.00 \$1,600	\$ 1,600.00		
Loam 4 214 CY \$40.00 \$8,560	\$ 8,560.00	\$ 8,560.00	\$ 4,280.00
Seeding 4 1,947 SY \$1.50 \$2,921	\$ 2,921.00	\$ 2,921.00	\$ 2,921.00
Singage 2 EA \$300.00 \$600	\$ 600.00		
Light Poles 3 EA \$10,000.00 \$30,000	\$ 30,000.00	???	\$ 3,000.00
Pavement Markings 1 LS \$500.00 \$500	\$ 500.00	\$ 500.00	\$ 250.00
2 year Snow Plowing 515 LF/YR \$2.50 \$2,575	\$ 2,575.00	\$ 2,575.00	\$ 2,575.00
2 year Road Maintenance 515 LF/YR \$2.00 \$2,060	\$ 2,060.00	\$ 2,060.00	\$ 2,060.00
2 year Drainage Maintenance 515 LF/YR \$2.00 \$2,060	\$ 2,060.00	\$ 2,060.00	\$ 2,060.00
As-built Plans 515 LF \$5.00 \$2,575	\$ 2,575.00	\$ 2,575.00	\$ 2,575.00
Total	\$ 119,011.00	\$ 71,341.00	\$ 54,321.00
Contingency	\$ 29,752.75	\$ 17,835.25	\$ 13,580.25
Total with Contingency	\$ 148,763.75	<u>\$ 89,176.25</u>	\$ 67,901.25
<u>Bond Amount should not be more then \$89,176.00</u>			
<i>Prepared by Jim Pavlik, Outback Engineering</i>			

Susan Affleck-Childs

From: Mujeeb Ahmed [mujeebahmed58@yahoo.com]
Sent: Thursday, December 09, 2010 10:43 PM
To: Susan Affleck-Childs
Cc: Pellegrini, David
Subject: Re: Fox Run Farm Bond Estimate
Attachments: Stop_Street-Signs.pdf

Susan,

Attach is the Invoice for street & stop signs, The second pole I came to know on dec1st at ZBA meeting, So I ordered it and its expected to be delivered next week, but its all paid. meanwhile, before Dec 14th I am going to install one pole with stop and street sign till the next pole arrives. So can we take out these items from the Bond estimate?

Mujeebuddin Ahmed
Office:508-328-2377
Fax:508-507-3349
Email: mujeebahmed58@yahoo.com

From: Susan Affleck-Childs <saffleckchilds@townofmedway.org>
To: Mujeeb Ahmed <mujeebahmed58@yahoo.com>
Cc: "Pellegrini, David" <david.pellegrini@tetrattech.com>
Sent: Tue, December 7, 2010 10:38:54 AM
Subject: Fox Run Farm Bond Estimate

Hi Mujeeb,

Attached is the bond estimate prepared by Tetra Tech Rizzo. I will provide this estimate to the Medway Planning and Economic Development Board for consideration at its meeting on 12/14/2010.

Please contact me if you have any questions.

Susy

Susan E. Affleck-Childs
Medway Planning and Economic Development Coordinator
155 Village Street
Medway, MA 02053
508-533-3291
saffleckchilds@townofmedway.org

From: Pellegrini, David [<mailto:david.pellegrini@tetrattech.com>]
Sent: Monday, December 06, 2010 3:54 PM
To: Susan Affleck-Childs
Subject: FW: Fox Run Farm Bond Estimate

Susy,
Attached is the bond estimate for the Fox Run Farm project. Let me know if you have any questions/issues.
Thanks,
Dave

INVOICE No.

126523

(508) 586-6240
(508) 587-0617

PERMA-LINE CORP. OF NEW ENGLAND

www.perma-line.com

FAX (508) 587-2110

P.O. BOX 4515 — 132 COURT STREET — BROCKTON, MASS. 02303

OURS 7:00-4:00 MON.—FRI.

- STREET & TRAFFIC SIGNS
 - SPECIALTY SIGNS
 - CHANNEL POSTS
 - ALUMINUM & GALV. POSTS
 - SIGN BRACKETS & FIXTURES
- AVERY REFLECTIVE MATERIAL
 - ALUMINUM SIGN BLANKS
 - FOUL WEATHER GEAR
 - WORK GLOVES & BOOTS
 - SQUARE POSTS
- LINE STRIPING MACHINES
 - TRAFFIC PAINT & STENCILS
 - TRAFFIC CONES
 - BARRICADES & BARRELS
 - SNOWPLOW BLADES

BILL TO • Mujeeb Construction Co.
11 W. Butterfly Way
Lincoln, RI 02865

SHIP TO • Call When Ready
Mujeeb 1-508-328-2377

Ship Via Customer Pickup Work Order # 95714

PURCHASE ORDER #		SHIP DATE	TERMS	DATE		
		12/8/2010	Credit Card	12/8/2010		
QUANTITY SHIPPED	B/O	ITEM	DESCRIPTION	UNIT PRICE	AMOUNT	
1	0	MEDWAY MA	FINISHED STREET SIGNS 9" Extruded Blue E.C. w/White Prismatic D.S. w/Town Seal	0.00	0.00T	
1	0	48x9-X	48x9-X (seal) MORNINGSIDE DR	91.55	91.55T	
1	0	NEX-12X	NEX-12X 12" Brackets for Nex Tube Posts for Extruded Street Sign Blades	27.55	27.55T	
FINISHED TRAFFIC SIGNS						
1	0	FTPRR1-1-30x30	PRR1-1-30x30 PRISMATIC Stop Sign	88.50	88.50T	
2	1/0	10-NEX-BLUE	10' Blue Nex Tube Post <i>BO (1)</i>	105.00	210.00T	
2	0	3-2 1/4-SQUARE	3"x2 1/4"x 2 1/4" Square Posts 12 Ga	13.95	27.90T	
2	0	WEDGES	Wedges for Square Posts	2.50	5.00T	
2	0	FM200	FM 200 Front Mount Brackets for 2" Nex Tubes	6.95	13.90T	
2	0	DRIVE PINS	Drive Pins	1.45	2.90T	
<div style="border: 1px solid black; border-radius: 50%; padding: 10px; display: inline-block;"> PAID IN FULL VISA \$496.51 * </div>						
<i>HAPPY HOLIDAYS!</i>						
Subtotal					\$467.30	
Sales Tax (6.25%)					\$29.21	
Payments/Credits					\$-496.51	
Balance Due					\$0.00	

All claims for errors and deficiencies must be made within fifteen (15) days after receipt of goods.

1 1/2% per month on invoices not paid in 30 days
Federal identification - #042-235-825

REPRINT

SALES DRAFT

PERMA LINE CORP OF NE
132 COURT ST
BROCKTON, MA 024030000
TERMINAL 0263826

902203978991
11/24/2010 15:57:30

VISA
XXXXXXXXXXXX3486
AUTH. TRANS. ID. 080328719023813
INVOICE 17001 @02
AUTH. CODE 035822

SALE TOTAL \$367.47
TAX \$0.00
TOTAL \$367.47

CUSTOMER COPY

SALES DRAFT

PERMA LINE CORP OF NE
132 COURT ST
BROCKTON, MA 024030000
TERMINAL 0263826

902203978991
12/02/2010 09:55:18

VISA
XXXXXXXXXXXX3486
AUTH. TRANS. ID. 080336501944374
INVOICE 20001 @02
AUTH. CODE 075635

SALE TOTAL \$129.04
TAX \$0.00
TOTAL \$129.04

CUSTOMER COPY

↓
Second Pole Order
after ZBA Meeting.

7 Independence Lane
Medway, MA 02053

December 8, 2010

Ms. Mary Jane White
Town Clerk
Town of Medway
155 Village Street
Medway, MA 02053

RECEIVED
DEC 03 2010

TOWN OF MEDWAY
PLANNING BOARD

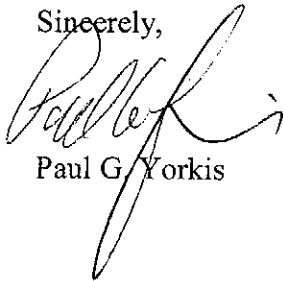
RECEIVED
DEC - 8 2010
TOWN CLERK

Dear Ms. White:

Please accept this letter of resignation from the Economic Development Committee effective immediately.

Thank you in advance for your assistance.

Sincerely,



Paul G. Yorkis