

**September 28, 2010
Planning and Economic Development Board
Medway Town Hall
155 Village Street**

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

ABSENT WITH NOTICE: Susy Affleck-Childs, Planning and Economic Development Coordinator

ABSENT WITHOUT NOTICE:

ALSO PRESENT: Amy Sutherland, Meeting Recording Secretary
Gino Carlucci, PGC Associates Planning Consultant
Dave Pellegri, Tetra Tech Rizzo

The Chairman opened the meeting at 7:00 pm.

Williamsburg Condominium OSRD:

Request for Bond Reduction:

The Board was provided a bond reduction estimate from Tetra Tech Rizzo dated September 20, 2010. See attached. The original bond estimate had been \$242,206.00. Tetra Tech Rizzo has reviewed the work and recommends a new bond amount of \$200,269.00. The reduction will be \$41,937.00.

Mr. Yorkis would like have a letter sent to Walpole Cooperative Bank indicating the reduction.

On a motion made by Tom Gay and seconded by Bob Tucker, the Board voted unanimously to reduce the bond by \$41,937.00 to a new amount being \$200,269.00.

Charles River OSRD Village Public Hearing:

Prior to the official opening of the public hearing, representatives of abutter Ms. McDonald (9 Neelon Lane) wanted clarity on some issues.

Attorney Thomas Valkevich asked if Mr. Yorkis had provided a disclosure letter for the record indicating that he serves on the Medway Economic Development Committee and the Planning and Economic Development Board is the appointing authority for that Committee.

John Sarkis – Friend of Beth McDonald (9 Neelon Lane). Mr. Sarkis wanted to know if there is an Associate Member of the Planning and Economic Development Board.

Chairman Rodenhiser indicated that there is no Associate Member of the Planning and Economic Development Board at this time.

Member Rogers wanted it noted that he does not believe that Mr. Yorkis has a conflict of interest in this case by serving as a member on the Medway Economic Development Committee.

The Chairman opened the “new” public hearing for the proposed Charles River Village condominium community. The subject parcel is a 7.6 acre site located at the end of Neelon Lane and abutting the Charles River.

The applicant is Charles River Village LLC. They have applied to the Planning and Economic Development Board for an Open Space Residential Development Special Permit and an Affordable Housing Special Permit. The applicant withdrew the original submittal and has resubmitted the application so that all the Board members may take part in the hearing.

The Chairman informed all that for the benefit of those present in the audience, to be aware that the meeting will be videotaped and broadcasted live on Medway local cable access.

The Chairman reminded all that this project is presently at the second phase in the review process. The public notice requirements for this project have been satisfied and abutter notices were sent to all owners of property located within 300 feet of the development site. The official legal notice for this public hearing was posted at the Medway Town Clerk’s office on September 8, 2010 and was published in the *Milford Daily News* on September 13 and 21, 2010.

On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to dispense with a formal reading of the official public hearing notice.

NOTE - The public hearing notice is attached to these minutes.

Paul Yorkis, Charles River Open Space Residential Development:

Mr. Yorkis provided a Power Point presentation. The show provided an overview on the original submittal along with reviewing specific points on the revised plan which the applicant distributed to the Board at the hearing. The revised plan is dated September 24, 2010, prepared by Faist Engineering and O’Driscoll Land Surveying Co. **A copy of the revised Charles River Special Permit Concept plan is attached.**

Original Application:

This slide show explained how the land would be divided within the original application.

The total area of the site is 7.61 acres.

The development parcel A is 3.20 acres.

The open space parcel B is 3.92 acres (upland is 3.16 acres)

Open space C is .28 acres (upland is .28 acres).

The Neelon Lane Extension D is .21 acres.

The Number of Dwellings:

The Market Rate Units = 9.

The affordable units = 2

The Bonus Market Rate Units = 2

The total number of units =13

Revised Plan:

The total area of the site is 7.61 acres.

The development parcel A is 3.43 acres

The Open Space parcel B is 4.18 acres (upland is 3.42 acres)

Development Area Increases by .02 acres

Open Space Area decreases by .02 Acres

The Number of Dwellings:

The Market Rate Units = 9

The affordable units =2

The Bonus Market Rate Units = 2

The total number of Units =13

No Change in the number of dwellings

The slide presentation showed the surroundings area along with the existing development surrounding the project location. It also made reference to the current Assessors map.

The next series of slides included information about Neelon Lane.

- Town of Medway has Neelon Lane listed officially as a public way.
- Dating back to the 1970's the Town of Medway has received State aid for Neelon Lane.
- The Town of Medway has improved and maintained Neelon Lane over the years.
- Attorney Thomas J. Valkevich questioned the public status of Neelon Lane at the original public hearing on August 24, 2010 Planning Board meeting on behalf of Mary E. McDonald.
- The applicant has since retained Attorney F. Sydney Smithers, ESQ. to review this matter.

Mr. Yorkis communicated that John Claffey had retained the services of Attorney Sydney Smithers to review the status of Neelon Lane. See attached letter from Attorney Smithers dated September 21, 2010.

Mr. Yorkis commented on the safety concerns that some residents brought up at the meeting. The slide presentation references that the Board is in receipt of three communications.

1. Town of Medway Fire Department memo dated August 23, 2010.

The Medway Fire Department Chief memo made reference that, "Upon review of the preliminary plans, I have no problem or issue with the width of Neelon Lane. The design of the circle is suitable for emergency vehicles, in and out of the complex. The width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of the fire hydrants on Neelon Lane, within the complex, and on the access road in from Cherokee Lane is acceptable."

2. Town of Medway Police Department memo dated September 21, 2010.

The Medway Police Department memo from Sergeant /Safety Officer Watson noted “The width of the roadway complies with the rules for a development of that size.” It was noted that the Medway Police Department feels that this is an adequate width for such a development. It was recommended that a no parking sign be placed on the East side of Neelon Lane 20 feet from the intersection of Village Street as to comply with the Town’s bylaw. This would enable emergency vehicles the ability to make the turn from Village Street onto Neelon Lane without any obstruction from such vehicles.

3. **Conley Associates memo dated September 2, 2010**

The memo from Conley Associates was stamped on September 23, 2010. Mr. Yorkis presented a statement from Conley Associates noting that the proposed widening of Neelon Lane to 18 feet meets the minimum recommended roadway width. According to ITE (Institute for Transportation Engineers), there would need to be approximately 42 single family homes in order for a wider roadway to be needed.

Copies of the above 3 letters are attached to these minutes.

The last portion of the slide show presentation showed the following photographs:

- View across Village Street from Neelon Lane.
- View showing typical existing pavement conditions of Neelon Lane.
- View looking from Village Street to Neelon Lane.
- View showing pavement conditions at 2 Neelon Lane.
- View showing pavement conditions at end of Neelon lane.

The full PowerPoint presentation provided by Mr. Yorkis is attached hereto.

Engineer, David Faist:

The Charles River Village LLC proposes to develop a thirteen unit cottage style residential condominium community. This is a 7.61 acre parcel located at 6 Neelon Lane. There was a visual showing the type of cottage. The homes will range in size from 1500 to 2400 square feet; each home would have 3 bedrooms and a garage. Mr. Faist noted that the Concept Plan has been revised based on the comments from the last meeting and was distributed to the Board. New plan date is September 24, 2010.

The Board would like a copy of the revised plan given to the Open Space Committee for additional comments.

Member Tucker communicated that the drainage is a big concern.

Mr. Yorkis noted that the Building Inspector is very strict and checks to make sure that everything is in compliance and if the drainage doesn’t work then the project cannot move forward.

Engineer David Faist indicated that there will be more exact calculation of numbers in relation to the drainage in the definitive plan stage of this process.

Member Spiller-Walsh had a question about the strip at the edge of the cul-de-sac.

The engineer noted that there is no longer a strip in the revised plan. The cul-de-sac is now shown with an easement for public passage.

Member Spiller-Walsh questioned if there is a conflict with the OSRD bylaw's requirement regarding 15 ft strips of land in the open space area. She also communicated that she is a member of the Design Review Committee and the DRC has not made any formal recommendations at this point. They did agree with the cottage flavor of the dwelling units and these would be very marketable.

The discussion was opened to the public:

Attorney Thomas Valkevich (on behalf of Beth McDonald)

The Board is in receipt of a memo dated August 24, 2010 from Attorney Valkevich who is representing Ms. McDonald and another memo dated September 28, 2010. Copies of both are attached.

Attorney Valkevich noted a variety of issues:

1. The first concern was that applicant's representative, Mr. Yorkis, is a member of the Medway Economic Development Committee and that the Planning and Economic Development Board is the appointing authority for the members of that Committee. Attorney Valkevich asks if the Board has a public disclosure on file.
2. The second concern is the access to the subject site over Neelon Lane. As noted in the certified document of the 1863 Town Meeting vote (certified by the Medway Town Clerk on August 24, 2010), Neelon Lane was laid out as a private way. This is known as a "statutory private way". It is his opinion that the applicable statutory reference is Chapter 82 of the Massachusetts General Laws, Section 21 through 24. Such statutory private ways have a different legal status than a public way.
3. He questions the overwrite in this document changing "house" to "barn".
4. He believes the roadway layout as shown on the existing Charles River Village concept plan may be inaccurate.
5. A statutory private way is not a public way or a way maintained and used as a public way for the purpose of the Subdivision Control Law. He does not believe that the access qualifies under the Subdivision Control Law. The applicant's proposal requires changes to the usage of Neelon Lane. For the Town to impose such restrictions on a parcel that is not part of the ownership parcel of the developer is beyond the Board's authority, and would require additional takings by the Town of the rights of abutting owners or their mutual consent.

Attorney Valkevich believes that the proposed plan also does not comply with the OSRD section of the Medway Zoning Bylaw. The access over Neelon Lane is not in harmony with the character of the adjacent residential neighborhoods, it will have a detrimental impact on abutting properties, which impact can be mitigated by accessing the site over existing public way Cherokee Lane instead of over Neelon Lane.

He further explains that the proposal fails to comply with the existing rights of parties owning property on Neelon Lane and the proposal does not meet the purposes standards of the Site Plan Review section of the Zoning Bylaw – SECTION V. USE REGULATIONS, Sub-Section C. - 1 (e) (3), (8), (9), (10) and (11). It is the opinion of Attorney Valkevich that the Board does not have the authority to alter the nature of the private way.

Another point of information which was provided by Attorney Valkevich was the existing width of Neelon Lane and the lack of radius at its corner intersection with Village Street. It lacks appropriate sight line easements or other provisions for safe access to the road and is not conducive to the proposed development.

It is his recommendation that a traffic study be required. It is the opinion of Attorney Valkevich that it is beyond the Board's authority to impose restrictions such as "no standing" and "no parking" on Neelon Lane as that land is not part of the ownership parcel of the developer nor is it a public way. To do so would require additional takings by the Town of rights of abutting owners, or their mutual consent to install such.

Attorney Valkevich concluded by noting that the plan as presented doesn't meet the Subdivision Control Standards for roadway width and it would be a detriment to the quality of life of the neighborhood if this development were to be approved.

Abutter, Mary McDonald, 9 Neelon Lane:

Ms. McDonald prepared a PowerPoint presentation for the Board to view. She wanted the Board to know that she is opposed to this project due to the noted issues:

- Safety of street (width) for emergency vehicles.
- There are also environmental issues. 55 gallon oil drums were taken out of the site. There was an oil spill on property and Ms. McDonald is waiting for the test results.
- Blasting is another concern along with the effect of that on her artisan well.
- This area has a high water table.
- There are existing springs.
- The devaluation of her property.
- There will be privacy issues once the trees are cut.
- There has been no drainage plan submitted.
- The results of the 21E evaluation need to be provided to the Board.
- The OSRD Section of the Zoning Bylaw notes that the open space must be left in its natural state and be accessible to the public. The plan does not show this.
- Ms. McDonald's indicated that engineer Guerriere and Halnon has reviewed the proposed plan and has noted a discrepancy with various measurements. This information will be provided to the Board.
- The added traffic will cause a hazard. She recommends that an independent traffic study be completed.
- What is going to be done with the dilapidated house?

Mr. Yorkis indicated that he will need a formal demolition permit to remove the existing house.

- Item 20 on Form F Development Impact Report indicated “no” as an answer to the question regarding whether the site has ever been used for the disposal for hazardous waste. Ms. McDonald wanted further clarification on that.
- Will there be a bond set up to cover damages that might be incurred from blasting?
- What is the plan for the snow storage?
- Ms. McDonald would like to see a federal salt study completed.
- Ledge is a big concern. She wanted to know how far down the applicant dug to determine the predominant soil type.

Engineer Faist communicated that they hit ledge at 10 ft in most spots.

- This area is a natural wildlife corridor. There are snapping turtles, red tail hawks, owls, river otters, turkeys, and other wildlife on this site.

Chairman Rodenhiser recommended that she go to the Conservation Commission with this concern.

Ms. McDonald concluded her presentation by asking the following questions:

- What are the benefits of this project?
- Who will use this?
- Who will be maintaining this?
- Why are so many waivers sought?
- What is the benefit to the homeowners?
- Why would an 18 ft - 2 way roadway with no sidewalks be acceptable?

A copy of Ms. Beth McDonald’s PowerPoint presentation is attached.

Ms. McDonald wanted it noted in the record that she would like a fence installed all the way down her property as a buffer if this project goes through.

Abutter, Susan Diulio, 7 Massasoit St:

Resident Susan Diulio is questioning how the proposal was originally submitted and then revisions were made and no one was able to view those revisions. It is also her concern that everything that was said at the other meeting will not be warranted.

The Chairman informed Mrs. Diulio that copies of the revised plans are on the table for all to view.

Mrs. Diulio expressed her concerns:

- Concerned about the slope.
- Traffic around corner will invite more people to travel through her neighborhood (Charles River neighborhood).
- Trespassing is a concern.
- Her house is located in the middle and will be looking over everything.

- Water within the fields is an issue.
- She does not want to see the pine trees cut which buffer the Tennis Club.

Abutter, Mr. Diulio, 7 Massasoit St.

- He would like the project to have two points of access.
- The safety of the school children at the corner waiting for the bus is a concern.
- Traffic throughout is a big issue.
- The impact onto Village Street must be addressed.

Abutter, Peter Newell, 2 Neelon Lane:

Mr. Newell wanted to know why so many waivers were sought. He would also like to see an independent traffic study completed. He also wanted to know what the Board would do if an independent traffic study made a different recommendation than the Police and Fire Departments.

Member Rogers indicated that he would not take a position against the Fire and Police Department, but he would certainly listen to any further information which may be provided on the issue of traffic.

Mr. Yorkis communicated that the reason for the number of waiver requests has to do with the fact that the Planning Board's *Subdivision Regulations* in regards to the OSRD Development have not been revised.

Member Gay also communicated that upon review of the requested waivers, the waivers sought are mostly procedural in nature.

Abutter, Marielaina Kaplan, 221 Village St:

- Her concerns are about the row of trees which buffer her property and whether the trees will be taken down for roadway improvements to Neelon Lane. These currently serve as a buffer for noise and provide privacy.
- 18 ft wide roadway is not safe.
- She currently has difficulty getting out of her driveway (onto Neelon Lane).
- She is not opposed to change, but the project must be in the best interest of the Town.
- The property line is ambiguous and should be clarified.

Attorney Valkevich noted that there is 4 feet missing within the width of the roadway and it may be on any of the titles of the adjacent properties. One would have to research all titles to determine where the discrepancy is.

John Sarkis, friend of Beth McDonald, Newbury, MA

Mr. Sarkis introduced himself by explaining that he is a general contractor and is a current Planning Board member in the Town in which he resides. He provided the Board with his understanding of the OSRD Bylaw. The main purpose of the OSRD is to have the development of the land benefit the Town which would be different from the alternatives to conventional standards. He would like clarified what the considered benefits of this project are to the Town.

He would not consider the proposed open space area to be a benefit since the slope of this particular parcel is steep and essentially unbuildable.

He then questioned the OSRD formula and the resulting density yield. He indicated that his calculation of the yield differs from that of the applicant. The overall parcel yield is fewer than 13. If access were provided to this site from Cherokee Lane with a 50 ft. ROW, the yield would be only 3 lots as a conventional subdivision.

NOTE – There was no written documentation provided to the Board.

Mr. Sarkis indicated that the sole means of access to this proposed development being 25 feet wide is not suitable.

The second point that Mr. Sarkis wanted to discuss was the end of Neelon Lane at Village Street. Since the road does not have flared curbs, a driver turning into Neelon Lane from Village Street must stop and wait for a vehicle to exit Neelon Lane. This is extremely dangerous. There is no way to get two cars in and out.

Member Spiller-Walsh suggested that the neighborhood should have formed a neighborhood association and could have purchased this piece of land. The developer does have the right to build on this property.

The Board was in receipt of additional information regarding this proposed development:

- Open Space Committee memo dated September 14, 2010
- Town of Medway Department of Public Works memo dated August 23, 2010
- Design Review Committee memo dated September 17, 2010
- Notes from the September 9, 2010 site visit to the subject property
- ANR Plan of Land dated November 6, 1959 showing Neelon's Lane and Lots 1 and 2.
- Town of Medway Assessor's Field Card for the subject property – Map 1D, Parcel 33.
- Minutes from March 23, 2010 Planning and Economic Development Board meeting.
- Minutes of January 26, 2010 Planning and Economic Development Board meeting
- Communication dated August 24, 2010 from Medway Town Clerk regarding street acceptance for Neelon Lane.
- Certification of Medway Town Clerk dated August 24, 2010 regarding the 1863 Town Meeting vote regarding Neelon Lane.

The public hearing was continued to the next Planning and Economic Development Board meeting on Tuesday October 12, 2010 at 7:15 p.m.

It was determined that Town Counsel's opinion would be sought regarding the legal status of Neelon Lane.

146 Main Street – Adaptive Use Special Permit

The Board has received a draft copy of the special permit decision dated September 23, 2010 regarding the Adaptive Use Special Permit for the Steinhoff Realty Trust for 146 Main Street.

A copy of the 9-23-10 draft decision is attached.

Consulting Planner Gino Carlucci's review comments dated August 26, 2010 were provided to the Board.

Tetra Tech representative Dave Pellegrini informed the Board about some issues related to the replacement of the Main Street. A memorandum dated September 16, 2010 from Dave Pellegrini is attached.

The Board does not want to sign off on the Special Permit until the sidewalk issue is further reviewed by Susy Affleck-Childs.

Correspondence:

- The Fall Town Meeting is scheduled for November 15, 2010.
- A memo dated September 17, 2010 came from Petrini & Associates regarding new legislation extending Municipal Permits and Approvals.

Meeting Minutes:

September 14, 2010:

On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to approve the minutes of the September 14, 2010 meeting. (Member Gay abstained from vote).

Future Meetings:

The next meetings are scheduled for: **Tuesday, October 12th & 19th, 2010.**

Adjourn:

- **On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to adjourn at 10:30 PM.**

The meeting was adjourned at 10:30 PM.

Respectfully Submitted,

Amy Sutherland
Meeting Recording Secretary



**Bond Value Estimate
Williamsburg Way
Definitive Subdivision
Medway, Massachusetts
September 20, 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)	180	TON	\$100.00	\$18,000
HMA Top Course - 1 1/2" Depth (Sidewalk)	37	TON	\$100.00	\$3,700
HMA Binder Course - 1 1/4" Depth (Sidewalk)	52	TON	\$90.00	\$4,680
HMA Berm - Modified	1,210	LF	\$5.00	\$6,050
HMA Curb	810	LF	\$6.00	\$4,860
Rip-Rap	5	CY	\$90.00	\$450
Loam	220	CY	\$40.00	\$8,800
Seeding	854	SY	\$1.50	\$1,281
Water Gate Adjustments	4	EA	\$125.00	\$500
Drain Structure Adjustments	7	EA	\$300.00	\$2,100
Sanitary Structure Adjustments	5	EA	\$300.00	\$1,500
24" HPDE Pipe (Roof Runoff Recharge Trench)	232	LF	\$60.00	\$13,920
8" HDPE Pipe (Roof Runoff Recharge Trench)	140	LF	\$40.00	\$5,600
Additional Signs	5	EA	\$100.00	\$500
Light Poles	8	EA	\$5,300.00	\$42,400
Street Trees	51	EA	\$420.00	\$21,420
Pavement Markings	1	LS	\$250.00	\$250
2 year Snow Plowing	1,178	LF/YR	\$2.50	\$5,890
2 year Road Maintenance	1,178	LF/YR	\$2.00	\$4,712
2 year Drainage Maintenance	1,178	LF/YR	\$2.00	\$4,712
As-built Plans	1,178	LF	\$5.00	\$5,890
Legal Services	1	LS	\$3,000.00	\$3,000

\$160,215

Subtotal	\$160,215
Contingency (25%)	\$40,054
Recommended Bond Value	\$200,269

Notes:

1. 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 9/2009 - 9/2010.

RECEIVED
SEP 22 2010

Note - the bond amount is presently \$242,206.00

**TOWN OF MEDWAY
PLANNING BOARD**



RECEIVED

SEP 08 2010

TOWN CLERK

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

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

September 7, 2010

LEGAL NOTICE - PUBLIC HEARING

Charles River Village Open Space Residential Development (OSRD)
Application for OSRD and Affordable Housing Special Permits

The Medway Planning & Economic Development Board will conduct a public hearing on **Tuesday, September 28, 2010 at 7:15 p.m. in Sanford Hall at Medway Town Hall, 155 Village Street, Medway, MA** to consider the re-submitted applications of Charles River Village LLC of Medway, MA for approval of an Affordable Housing Special Permit and an Open Space Residential Development (OSRD) Special Permit and Concept Plan. Dated July 28, 2010, the *Charles River Village – Neelon Lane – OSRD Special Permit Concept Plan* was prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying Co of Medway, MA.

The original hearing on this project was held on August 24, 2010. The hearing is being re-held, re-advertised, and re-noticed because there were technical difficulties with the recording equipment in the meeting room during the first public hearing and the hearing was not recorded. The applicant has withdrawn their original applications from consideration and has re-filed those applications with the Town. This starts a new public hearing and review process. There are no changes to the applications or plans from the previous submittals.

Charles River Village LLC proposes to develop a 13 unit, cottage style residential condominium community on a 7.61 acre parcel located at 6 Neelon Lane (Medway Assessors Map 1-7, Parcel 1D-33) in the ARII zoning district. The proposal is to divide the property into a 3.2 acre development parcel and 2 parcels totaling 4.2 acres of dedicated open space. The development would include two "affordable" dwelling units.

Any person or party who is interested or wishes to be heard on this proposal is invited to review the plans and express their views at the public hearing. The special permit applications and Concept Plan are on file with the Medway Town Clerk at the Medway Town Hall, 155

Village Street and may be inspected on Mondays from 8:00 am to 7:30 pm, Tuesdays through Thursdays from 8:00 am to 4:00 pm, and Fridays from 8:00 am to 1:00 pm. Written comments may be forwarded to the Board at 155 Village Street, Medway, MA 02053 or emailed to: planningboard@townofmedway.org. Please contact the Medway Planning and Economic Development office at 508-533-3291 with any questions.

Andy Rodenhiser
Chairman

To be published in the *Milford Daily News*:
Monday, September 13, 2010
Tuesday, September 21, 2010

Cain Hibbard & Myers PC
Counselors at Law

66 West Street, Pittsfield, Massachusetts 01201-5764, 413-443-4771 Fax 413-443-7694
Direct Extension: 413-629-1304 email: fssmithers@cainhibbard.com

F. Sydney Smithers

September 21, 2010

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

Re: Charles River Village - Neelon lane
Proposal by John Claffey

Dear Mr. Rodenhiser:

This office has been retained by John Claffey to render our opinion to your board with respect to the status of Neelon Lane, so called, which extends southerly from Village Street in Medway.

In rendering this opinion we have reviewed copies of the following:

1. A copy of the warrant, dated March 25, 1863 for the town meeting to be held at 11:00 a.m. on Monday, April 6, 1863 including Warrant Article 12th, as follows:

To see if the town will accept the doings of the Selectmen in laying out a private way from the Old Hartford Road (so-called) to the house of Frances Neland [sic] as petitioned for by Luther Metcalf and others.

2. The town meeting minutes for the April 6, 1863 town meeting including the action taken on Article 12th, as follows:

Voted to accept the Report of the Selectmen in relation to said road as follows:

On petition of Luther Metcalf and others we the subscribers Selectmen of Medway have laid out for the use of Francis Neeland and others in passing from the house of said Neeland to the old Hartford Road (so-called) a private way on condition that Neeland shall remove the fence of Chas B. Whitney and reset the same on the easterly side of the proposed way and also that he shall build and

September 21, 2010

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F. Sydney Smithers

construct said way in such a manner that it shall be safe and convenient for carriages.

Said way to be located partly on land set apart for a way by J. W. B. Wilson deceased, partly on land of said Neeland, and partly on land of C. B. Whitney and bounded as follows:

Beginning at the easterly end of the wall in front of the house of the heirs of John Karnes at the old Hartford Road, and running southerly in a straight line to the easterly front in the pickit fence separating land of said heirs, from land of said Neeland, and thence running in the same direction to a fence opposite the southerly side of said Neeland's barn and to be twenty five feet wide on the easterly side of said line.

And we award C.B. Whitney as land damage the sum of twenty dollars (\$20.00) and for fencing the sum of twenty dollars (\$20.00) We also award to the heirs of John Karnes the sum of ten dollars for fencing to paid by the Town.

Dated at Medway the 26 of March, in the year 1863

Wm Danials	Selectmen
Simeon Fisher	of
C Partridge	Medway

3. A plan entitled "Existing Conditions Plan Neelon Lane, Medway, Massachusetts" dated August 23, 2010 and prepared O'Driscoll Land Surveying Co. (the Existing Conditions Plan"); and

4. A plan entitled "Context & Analysis Plan 'Charles River Village' - OSRD Neelon Lane, Medway, Massachusetts", sheet 2 of 4 (the "Context Plan").

The selectmens' layout, upon acceptance at Town meeting, created a statutory private way.

M.G.L. c 82, §§ 21 and 23, provide for statutory private ways, as follows:

September 21, 2010

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F. Sydney Smithers

c. 82, § 21

The Selectmen or road commissioners of a town or city council of a city may lay out, relocate, or alter town ways, for the use of the town or city, and private ways for the use of one or more of the inhabitants thereof; or they may order specific repairs to be made upon such ways; and the town, at a meeting, or the city council of a city, may discontinue a town way or a private way.

c. 83, § 23

No town way or private way which has been laid out, relocated, or altered by the selectmen or road commissioners shall, except as hereinafter provided, be established until such laying out, relocation, or alteration, with the boundaries and measurements of the way, is filed in the office of the town clerk and, not less than seven days thereafter, is accepted by the town at a town meeting. This section shall not apply to cities.

The report of the selectmen dated March 26, 1863 constitutes the “lay out” of a statutory private way, and the vote of the town meeting held on April 6, 1863 constitutes the town’s “acceptance” of that statutory private way.

A statutory private way is laid out at the request of or for the convenience or accommodation of individuals, but is available for use by the members of the public at large. As was said in Flagg v. Flagg, 82 Mass. 175 at 180 (1860):

It is a private way, only as distinguished from a highway or common road, and because in its origin it was laid out for the accommodation and benefit of individuals. But when laid out and established, it becomes a way or easement in its nature public, which anyone having occasion may use and enjoy until it is lawfully discontinued.

Turning to the 1863 report of the selectmen, it is clear that the way to be laid out was what is now known as a statutory private way. In addition to the fact that it is stated to be “a private way”, it was further laid out on the conditions that “Neeland shall remove the fence of Chas B. Whitney and reset the same on the easterly side of the proposed way and also that he shall build and construct said way in such a manner, that it shall be safe and convenient for carriages.” Finally, as we read the report, Neeland was obliged to pay the land damages and damages for fencing to C.B. Whitney.

September 21, 2010
Page 4

F. Sydney Smithers

The ancient statutes make it clear that whether a road is public or private for up-keep purposes depends, not just upon *whether* it was laid out upon *why* it was laid out. The “why” of it is best indicated by who paid for it.

United States v. 125.07 Acres of Land More or Less 707 F. 2d 11 at 14 (1983).

The US Court of Appeals in that same case gave a explanation of the kinds of public roads that existed in early Massachusetts:

First, there were highways, laid out and paid for by the county [citation omitted]. Second, there were town ways laid out and paid for by the town [citation omitted]. Third, there were certain ‘particular and private ways’ necessary for access to ‘the lands of particular persons or proprietors.’ These were also laid out by the town, but they might be paid for by either the town or the ‘inhabitants or proprietors who desire and reap the benefit of the same.’ [citation omitted]. Such a road is public in the sense of providing access, see Denham v. Commissioner of Bristol [108 Mass. 202, 205(1871)] Flagg v. Flagg, 82 Mass. (16 Gray) 175 (1860), but its latter day descendent is the ‘statutory private way’, Mass. Gen. Laws ch. 82 § 21, see Casagrande v. Town Clerk of Harvard, 377 Mass. 703, 387 N.E. 2d 571, 574 (Mass. 1979), a kind of road for which neither town, county, nor commonwealth bears upkeep responsibility. See Mass. Gen. Laws ch. 40 §6 N; id. ch. 84, §14 [other citations omitted]

The case of Casagrande v. Town Clerk of Harvard, 377 Mass. 703 (1973) is instructive. There, the Casagrandes who owned the entire length of a statutory private way named Sawyer Lane, submitted a plan dividing sixteen lots with frontage on Sawyer Lane to the Harvard Planning Board seeking a so-called “subdivision approval not required” endorsement authorizing the division of those lots. They alleged that Sawyer Lane was either a “public way” or a way that was “maintained and used as a public way” thereby permitting the division of land abutting thereon pursuant to G.L. c. 41 § 81P.

For at least fifty years prior to the institution of this action, Harvard maintained Sawyer Lane by removing snow, and by gravelling, grading, and removing brush [Foot Note 4: The Town discontinued maintenance when this action was initiated.] In the 1930’s the Towns of Harvard and Littleton jointly widened Sawyer Lane to facilitate snow plowing. In 1945 the selectmen of Harvard, pursuant to authority from the Town meeting, officially named Sawyer Lane; and in 1970, Sawyer Lane was included on a ‘List of Public Roads.’ The Town of Harvard received reimbursement under G.L. c. 81, §26, for the cost of

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Page 5

F. Sydney Smithers

maintaining Sawyer Lane. The Planning Boards of both Harvard and Littleton have previously endorsed, as not requiring approval, plans showing division [foot note omitted] of parcels bordering on Sawyer Lane. Id. at 705-706.

Notwithstanding that high degree of municipal maintenance activity on Sawyer Lane, the fact that it was laid out as a statutory private way and not as a public way obviated any opportunity to obtain an ANR endorsement of lots abutting on Sawyer Lane because municipalities are not obliged to maintain statutory private ways. The care distinguishes statutory private ways from town ways in Foot Note 2, at 704. Foot Note 2 reads in part:

A statutory private way is a way laid out and accepted by town officials 'for the use of one or more inhabitants....' G.L. c. 82, §§ 21, 23.... Repairs on a private way may be made by the town on the application of any person, provided the town is reimbursed for most expenses. [citation omitted] Some public money may be appropriated for removal of snow and ice from public ways if a town elects to do so [citation omitted]

Town ways are established for the use of the town and must be maintained at public expense. See G.L. c. 82, § 21; G.L. c. 84, §1

The fact that the town of Medway has maintained, in part, Neelon Lane and had received state reimbursement for some of its expenses, does not change the fact that Neelon Lane is a statutory private way.

Neelon Lane is an easement (Flagg v. Flagg supra at 180) of public passage (Opinion of the Justices, 313 Mass. 779 (1943) where it was said, at 782; "... [T]he words 'private ways' may occasionally be used in the statutes with a different meaning, see, for example, G.L. (Ter. Ed) c. 84, §§ 12-14, they commonly mean ways of a special type laid out by public authority for the use of the public. G.L. (Ter. Ed) c. 82, §§ 21-32A. Such 'private ways' are private only in name, but are in all other respects public. Denham v. Bristol County Commissioners, 108 Mass. 202, 208 [other citations omitted]."

Neelon Lane was laid out as a public easement of passage twenty five feet in width and extending southerly from what is now Village Street (formerly the old Hartford Road) an unstated distance to a fence opposite the southerly side of a barn on Neeland's land.

We have been advised that the barn at 6 Neelon Lane is likely the former Neeland barn. We therefore conclude that Neelon Lane extends from Village Street southerly to about the point shown on the Context Plan as "Ex. Bit. Driveway." We conclude that Neelon

September 21, 2010
Page 6

F. Sydney Smithers

Lane extends about 125 feet further south from the point labeled "End of Existing Public R.O.W." on the Context Plan.

As a public easement of passage twenty five feet in width, the entire width of the easement may be appropriated for public passage. As such, the entire 25 foot width may be occupied by the installation of paved traveled ways, sidewalks, storm drainage and municipal utilities. The paved traveled way may be located anywhere within the 25 foot width of the easement, on either side, or centered.

The owner of the former Neeland land may be charged with the reasonable expense of alteration, improvement, paving or installation of utilities in Neelon Lane.

To the extent the proposed cul-de-sac is outside the limits of Neelon Lane as originally laid out, the town should require that it be granted as easement of public passage in the cul-de-sac and any land adjacent to it needed for maintenance, storm drainage and snow storage.

If we can be of further assistance, please feel free to call us.

Very truly yours,

CAIN HIBBARD & MYERS PC



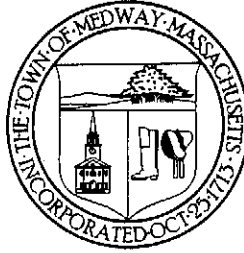
F. Sydney Smithers

FSS/klm
Enclosure

Town of Medway Fire Department

Paul L. Trufant, Chief
44 Milford Street
Medway, MA 02053

Tel: (508) 533-3213
Fax: (508) 533-3254



RECEIVED
AUG 23 2010

TOWN OF MEDWAY
PLANNING BOARD

August 23, 2010

To: The Medway Planning Board

Re: Charles River Village Open Space Residential Development (OSRD)

Upon review of the preliminary plans, I have no problem or issue with the width of Neelon Lane. The design of the circle is suitable for emergency vehicles, in and out of the complex.

The width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of the fire hydrants on Neelon Lane, within the complex, and on the access road in from Cherokee Lane is acceptable.

For the Department,

Chief Paul L. Trufant



Medway Police Department

315 Village Street
Medway, MA 02053

Phone: 508-533-3212
FAX: 508-533-3216
Emergency: 911

Allen M. Tingley
Chief of Police

September 21, 2010

RECEIVED
SEP 21 2010

To: Medway Planning Board

From: Jeffrey W. Watson
Sergeant/Safety Officer
Medway Police Department

Ref: "Charles River Village" Neelon Lane

TOWN OF MEDWAY
PLANNING BOARD

I have looked at the Concept plan Dated 07/28/2010 for the "Charles River Village" located off of Neelon lane. I have been asked to comment on the safety of an 18 foot wide roadway (Neelon Lane) leading into the development. This would be the minimum width that we would be able to safely get emergency vehicles in and out of the development.

If an 18 foot wide roadway adheres to the towns regulations. I would recommend that a no parking sign be placed on the East side of Neelon lane 20 feet from the intersection of Village Street. This would enable emergency vehicles the ability to make the turn from Village St. onto Neelon lane without any obstruction such as vehicles. The 20 foot rule follows our town by-laws.

I was also asked to comment on a need for a sidewalk to be installed on Neelon Lane. A side walk on Neelon Lane is a good idea. It would give a safe place for the children coming out of the development along with the children on Neelon Lane a safe place to wait for the school bus and walk to school.

If a side walk was to be installed I believe that any side walk construction would have to comply with the Americans with Disabilities Act Requirement: "When streets and roads are newly built or altered, they must have ramps wherever there are curbs or other barriers to entry from a pedestrian walkway. Likewise, when new sidewalks or walkways are built or altered, they must contain curb ramps or sloped areas wherever they intersect with streets or roads". I would be concerned that if a new sidewalk was installed on Neelon Lane the town might be obligated to continue the sidewalk down Village or across Village street.

If you have any questions please contact me.

CONLEY
ASSOCIATES

Memorandum

To: Mr. John Claffey
From: Mr. Brian J. Beisel
CC: Mr. David Faist
Date: September 2, 2010
Re: Charles River Village Access

Conley Associates, Inc. has reviewed the site plan prepared by Faist Engineering, Inc. for the Charles River Village residential development accessed via Neelon Lane in Medway, Massachusetts. Currently Neelon Lane provides access to three residential single family homes, not including the house located on the Site Property (which will be removed as part of this development). The proposed development consists of building 13 additional single family homes for a total of 16 homes accessed via Neelon Lane. As part of the development of the 13 homes, Neelon Lane will be widened to 18 feet with a four foot sidewalk.

Trip Generation

As per industry standard, Conley Associates, Inc. determined the trip generation of the existing and proposed homes based on the Institute of Transportation Engineer's (ITE) manual, Trip Generation, 8th Edition, 2008. Land Use Code (LUC) 210--Single Family Detached Housing was utilized in order to determine the trip generation of the existing and proposed houses. Table 1 summarizes the trip generation of the single family homes.

RECEIVED
SEP 23 2010

TOWN OF MEDWAY
PLANNING BOARD

Table 1: ITE Trip Generation Summary

	Existing ¹	Proposed ²	Total
Weekday Daily Total			
In	14	62	76
<u>Out</u>	<u>14</u>	<u>62</u>	<u>76</u>
Total	28	124	152
Weekday AM Peak Hour			
In	1	3	4
<u>Out</u>	<u>2</u>	<u>7</u>	<u>9</u>
Total	3	10	13
Weekday PM Peak Hour			
In	2	8	10
<u>Out</u>	<u>1</u>	<u>5</u>	<u>6</u>
Total	3	13	16

1. Trip generation based on Trip Generation, 8th Edition, published by Institute of Transportation Engineers, 2008. Assumes 3 units of LUC 210, Single Family Detached Housing.
2. Trip generation based on Trip Generation, 8th Edition, published by Institute of Transportation Engineers, 2008. Assumes 13 units of LUC 210, Single Family Detached Housing.

As shown in Table 1, the existing three houses are generating approximately 28 vehicle trips during the course of typical weekday. According to ITE, the proposed 13 houses are expected to generate approximately 124 additional vehicle trips throughout the course of a typical weekday. Therefore, 152 vehicles trips are expected to access Neelon Lane to and from the 16 homes. The trip generation worksheets are attached to this memorandum.

AASHTO Minimum Width Requirements

Conley Associates, Inc. researched the American Association of State Highway and Transportation Officials (AASHTO) publication, “A Policy On Geometric Design of Highway and Streets” (AASHTO Green Book) to determine the minimum width recommended for a roadway with a daily traffic volume of approximately 150 vehicles. Exhibit 5-5, ‘Minimum Width of Traveled Way and Shoulders’ states that with a design speed of 40 mph or less, an 18 foot roadway can accommodate up to 400 vehicles per day. Therefore, the proposed widening of Neelon Lane to 18 feet meets the minimum recommended roadway width. In fact, according to ITE, there would need to be approximately 42 single family homes in order for a wider roadway to be recommended. Exhibit 5-5 of the AASHTO Green Book is attached to this memorandum.

Emergency Access

Conley Associates, Inc. is in receipt of a letter written by the Town of Medway Fire Chief dated August 23, 2010. This letter states that Chief has “no problem or issue with the width of Neelon Lane.” A copy of the letter can be found attached to this memorandum.

TRIP GENERATION WORKSHEET

x= 3 Dwelling Units

LUC: Single-Family Detached Housing (210)

WEEKDAY

Average Rate = 9.57
 Total Trips = 28.71

Fitted Curve Equation = $\text{Ln}(T) = 0.92 * \text{Ln}(X) + 2.71$
 Total Trips = 41.29

AM PEAK HOUR of ADJACENT STREET

Average Rate = 0.75
 Total Trips = 2.25
 25% of Trips In = 1
 75% of Trips Out = 2

Fitted Curve Equation = $T = 0.70 * X + 9.74$
 Total Trips = 11.84
 25% of Trips In = 3
 75% of Trips Out = 9

PM PEAK HOUR of ADJACENT STREET

Average Rate = 1.01
 Total Trips = 3.03
 63% of Trips In = 2
 37% of Trips Out = 1

Fitted Curve Equation = $\text{Ln}(T) = 0.90 * \text{Ln}(X) + 0.51$
 Total Trips = 4.48
 63% of Trips In = 3
 37% of Trips Out = 2

AM PEAK HOUR of GENERATOR

Average Rate = 0.77
 Total Trips = 2.31
 26% of Trips In = 1
 74% of Trips Out = 2

Fitted Curve Equation = $T = 0.70 * X + 12.37$
 Total Trips = 14.47
 26% of Trips In = 4
 74% of Trips Out = 11

PM PEAK HOUR of GENERATOR

Average Rate = 1.02
 Total Trips = 3.06
 64% of Trips In = 2
 36% of Trips Out = 1

Fitted Curve Equation = $\text{Ln}(T) = 0.88 * \text{Ln}(X) + 0.62$
 Total Trips = 4.89
 64% of Trips In = 3
 36% of Trips Out = 2

SATURDAY

Average Rate = 10.08
 Total Trips = 30.24

Fitted Curve Equation = $\text{Ln}(T) = 0.95 * \text{Ln}(X) + 2.59$
 Total Trips = 37.85

PEAK HOUR of GENERATOR

Average Rate = 0.93
 Total Trips = 2.79
 54% of Trips In = 2
 46% of Trips Out = 1

Fitted Curve Equation = $T = 0.89 * X + 9.56$
 Total Trips = 12.23
 54% of Trips In = 7
 46% of Trips Out = 6

SUNDAY

Average Rate = 8.77
 Total Trips = 26.31

Fitted Curve Equation = $T = 8.84 * X - 13.31$
 Total Trips = 13.21

PEAK HOUR of GENERATOR

Average Rate = 0.86
 Total Trips = 2.58
 53% of Trips In = 1
 47% of Trips Out = 1

Fitted Curve Equation = $\text{Ln}(T) = 0.91 * \text{Ln}(X) + 0.35$
 Total Trips = 3.86
 53% of Trips In = 2
 47% of Trips Out = 2

TRIP GENERATION WORKSHEET

x = 13 Dwelling Units

LUC: Single-Family Detached Housing (210)

WEEKDAY

Average Rate = 9.57
 Total Trips = 124.41

Fitted Curve Equation = $\text{Ln}(T) = 0.92 \cdot \text{Ln}(X) + 2.71$
 Total Trips = 159.14

AM PEAK HOUR of ADJACENT STREET

Average Rate = 0.75
 Total Trips = 10
 25% of Trips In = 3
 75% of Trips Out = 7

Fitted Curve Equation = $T = 0.70 \cdot X + 9.74$
 Total Trips = 18.84
 25% of Trips In = 5
 75% of Trips Out = 14

PM PEAK HOUR of ADJACENT STREET

Average Rate = 1.01
 Total Trips = 13.13
 63% of Trips In = 8
 37% of Trips Out = 5

Fitted Curve Equation = $\text{Ln}(T) = 0.90 \cdot \text{Ln}(X) + 0.51$
 Total Trips = 16.75
 63% of Trips In = 11
 37% of Trips Out = 6

AM PEAK HOUR of GENERATOR

Average Rate = 0.77
 Total Trips = 10.01
 26% of Trips In = 3
 74% of Trips Out = 7

Fitted Curve Equation = $T = 0.70 \cdot X + 12.37$
 Total Trips = 21.47
 26% of Trips In = 6
 74% of Trips Out = 16

PM PEAK HOUR of GENERATOR

Average Rate = 1.02
 Total Trips = 13.26
 64% of Trips In = 8
 36% of Trips Out = 5

Fitted Curve Equation = $\text{Ln}(T) = 0.88 \cdot \text{Ln}(X) + 0.62$
 Total Trips = 17.76
 64% of Trips In = 11
 36% of Trips Out = 6

SATURDAY

Average Rate = 10.08
 Total Trips = 131.04

Fitted Curve Equation = $\text{Ln}(T) = 0.95 \cdot \text{Ln}(X) + 2.59$
 Total Trips = 152.43

PEAK HOUR of GENERATOR

Average Rate = 0.93
 Total Trips = 12.09
 54% of Trips In = 7
 46% of Trips Out = 6

Fitted Curve Equation = $T = 0.89 \cdot X + 9.56$
 Total Trips = 21.13
 54% of Trips In = 11
 46% of Trips Out = 10

SUNDAY

Average Rate = 8.77
 Total Trips = 114.01

Fitted Curve Equation = $T = 8.84 \cdot X - 13.31$
 Total Trips = 101.61

PEAK HOUR of GENERATOR

Average Rate = 0.86
 Total Trips = 11.18
 53% of Trips In = 6
 47% of Trips Out = 5

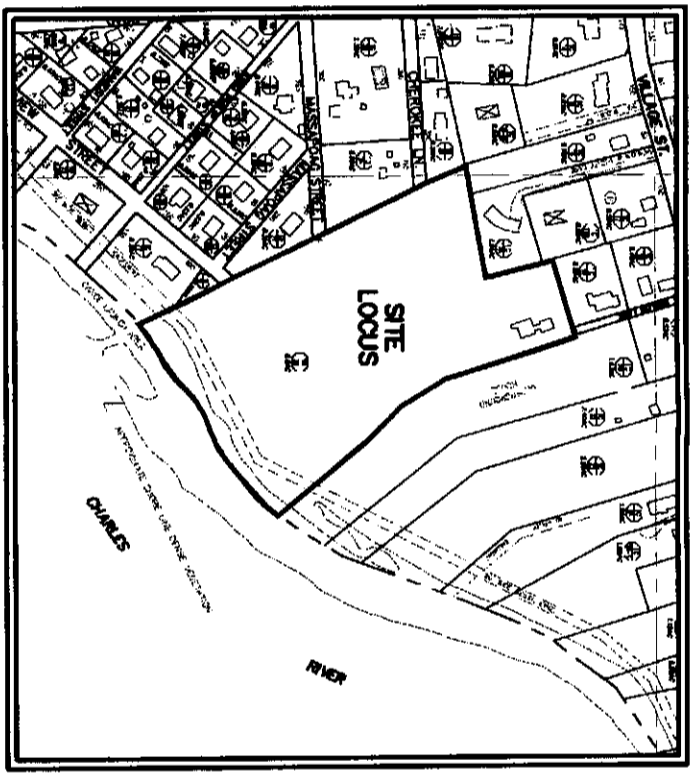
Fitted Curve Equation = $\text{Ln}(T) = 0.91 \cdot \text{Ln}(X) + 0.35$
 Total Trips = 14.65
 53% of Trips In = 8
 47% of Trips Out = 7

Metric					US Customary				
Minimum width of traveled way (m) for specified design volume (veh/day)					Minimum width of traveled way (ft) for specified design volume (veh/day)				
Design speed (km/h)	under 400	400 to 1500	1500 to 2000	over 2000	Design speed (mph)	under 400	400 to 1500	1500 to 2000	over 2000
20	5.4	6.0 ^a	6.0	6.6	15	18	20 ^a	20	22
30	5.4	6.0 ^a	6.6	7.2 ^c	20	18	20 ^a	22	24 ^c
40	5.4	6.0 ^a	6.6	7.2 ^c	25	18	20 ^a	22	24 ^c
50	5.4	6.0 ^a	6.6	7.2 ^c	30	18	20 ^a	22	24 ^c
60	5.4	6.0 ^a	6.6	7.2 ^c	40	18	20 ^a	22	24 ^c
70	6.0	6.6	6.6	7.2 ^c	45	20	22	22	24 ^c
80	6.0	6.6	6.6	7.2 ^c	50	20	22	22	24 ^c
90	6.6	6.6	7.2 ^c	7.2 ^c	55	22	22	24 ^c	24 ^c
100	6.6	6.6	7.2 ^c	7.2 ^c	60	22	22	24 ^c	24 ^c
Width of graded shoulder on each side of the road (m)					Width of graded shoulder on each side of the road (ft)				
All speeds	0.6	1.5 ^{ab}	1.8	2.4	All speeds	2	5 ^{ab}	6	8
^a For roads in mountainous terrain with design volume of 400 to 600 veh/day, use 5.4-m [18-ft] traveled way width and 0.6-m [2-ft] shoulder width. ^b May be adjusted to achieve a minimum roadway width of 9 m [30 ft] for design speeds greater than 60 km/h [40 mph]. ^c Where the width of the traveled way is shown as 7.2 m [24 ft], the width may remain at 6.6 m [22 ft] on reconstructed highways where alignment and safety records are satisfactory. See text for roadside barrier and offtracking considerations.									

Exhibit 5-5. Minimum Width of Traveled Way and Shoulders

LEGEND

- N/F NOW OR FORMERLY
- CB/DH CONCRETE BOUNDARY WITH DRILL HOLE
- FND. FOUND
- EXST. EXISTING
- PROJ. PROPOSED
- INVT. INVERT
- R.C.P. REINFORCED CONCRETE PIPE
- APPROX. APPROXIMATE
- HYDRANT
- SEWER MANHOLE
- DRAIN MANHOLE
- CB STORMWATER CATCH BASIN
- EXISTING CONTOUR LINE
- PROPOSED CONTOUR LINE
- OHV OVERHEAD WIRES
- SFM SEWER FORCE MAIN
- OTH DEEP TEST HOLE
- DET. DETENTION
- UTILITY POLE
- FES FLARED END SECTION
- ELEV. ELEVATION
- BIT. BITUMINOUS
- CONC. CONCRETE
- F.F. FIRST FLOOR ELEVATION
- B.F. BASEMENT FLOOR ELEVATION
- G.F. GARAGE FLOOR ELEVATION
- BM. BENCHMARK
- FA FIRE ALARM BOX
- WATER GATE
- V.G.C. VERTICAL GRANITE CURB
- TEST PTS
- ELECTRIC, TELEPHONE & CABLE



* REDUCED SCALE PLOT *
SEE FULL SIZE (24"X36")
1"=40' SCALE PLANS

TOWN OF MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD

ENDORSEMENT DATE

APPROVAL DATE

I, MARYJANE WHITE, CLERK OF THE TOWN OF MEDWAY, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO NOTICE OF APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

TOWN CLERK _____ DATE _____

"CHARLES RIVER VILLAGE"

NEELON LANE - MEDWAY, MASSACHUSETTS

SPECIAL PERMIT - CONCEPT PLANS

OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

PLAN INDEX

SHEET 1:	TITLE SHEET
SHEET 2:	CONTEXT & ANALYSIS PLAN
SHEET 3:	CONCEPT PLAN "CHARLES RIVER VILLAGE" OSRD
SHEET 4:	YIELD PLAN

"CHARLES RIVER VILLAGE"
SPECIAL PERMIT - CONCEPT PLANS
OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)
IN
MEDWAY, MASSACHUSETTS

FAIST ENGINEERING, INC.

DATE: JULY 28, 2010

RECORD OWNER: MICHAEL ACQUARRESCA & CAROL SUPERIOR
EXECUTIVE OF HELEN GRUDZINKAS
282 PURCHASE STREET
MILFORD, MA 01757

CONTACT: CAROL SUPERIOR
71A THURGOOD DRIVE
WORCESTER, MA 01603
(508) 770-0825

PREPARED FOR: CHARLES RIVER VILLAGE, LLC
ASSESSORS REFERENCE: MAP 1-7 PARCEL 10/33

DEED REFERENCE: NORFOLK COUNTY REGISTRY OF DEEDS
BOOK 18973 PAGE 237
BOOK 05949 PAGE 353
BOOK 05224 PAGE 185

ZONING DISTRICT: AGRICULTURAL-RESIDENTIAL M (AR R)
MIN. REQUIRED AREA: 22,000 S.F.
MIN. REQUIRED FRONTAGE: 150'
MIN. SETBACK FROM STREET LINE: 35'
MIN. SIDE AND REAR LOT LINES: 15'

NOTES:

- 1) LIMITED EXISTING CONDITIONS & SITE PROPERTY BOUNDARIES ARE BASED ON AN ON-THE-GROUND SURVEY BY O'DRISCOLL LAND SURVEYING CO. DURING JUNE-JULY 2010. INFORMATION SHOWN IS FOR OSRD SPECIAL PERMIT CONCEPT PLAN PURPOSES ONLY.
- 2) TOPOGRAPHY, WETLANDS, RIVER BANK AND FLOOD PLAIN LOCATIONS ARE BASED ON A PLAN PROVIDED BY THE APPLICANT AND ARE NOT BASED ON ANY ON THE GROUND SURVEY. APPLICANT WILL PROVIDE A PROFESSIONAL WETLANDS REPORT TO Delineate THESE RESOURCE AREAS AND FILE AN OFFICIAL MAP WITH THE MEDWAY CONSERVATION COMMISSION.
- 3) THE PROPOSED PROJECT SHALL BE SERVICED BY TOWN WATER AND TOWN SEWER VIA EXISTING SERVICES IN WILAGE STREET & CHARLES RIVER ROAD THROUGH NEELON LANE & CHERRIDGE LANE.
- 4) NO CUTS OR FILLS GREATER THAN 4' OR SLOPES GREATER THAN 25% WILL BE NECESSARY FOR THIS PROJECT. BASED ON A PRELIMINARY REVIEW OF AVAILABLE TOPOGRAPHIC DATA.
- 5) AREAS OF 100-YEAR FLOOD SHOWN BASED ON FIRM FLOOD INSURANCE RATE MAP FOR THE TOWN OF MEDWAY MASSACHUSETTS DATED 5/1/2005. COMMUNITY PANEL NUMBER 280243 0005 B. EFFECTIVE DATE: JUNE 10, 1990.

- THIS PLAN TO BE USED FOR PRELIMINARY SITE PLANNING PURPOSES ONLY -

APPLICANT: CHARLES RIVER VILLAGE, LLC
P.O. BOX 1
MEDWAY, MA 02053
P: (508)-328-7505

RECORD OWNER: MICHAEL ACQUARRESCA & CAROL SUPERIOR
EXECUTIVE OF HELEN GRUDZINKAS
282 PURCHASE STREET
MILFORD, MA 01757

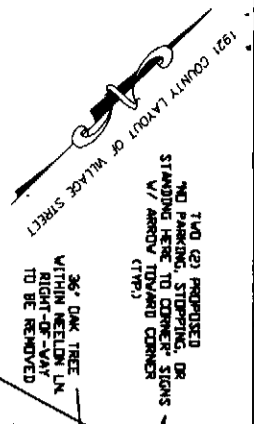
PROJECT ENGINEER: DAVID T. FAIST, P.E.
FAIST ENGINEERING, INC.
600 CHARLTON STREET
SOUTHBRIDGE, MA 01550
PH: (508) 765-7755

CONTACT: CAROL SUPERIOR
71A THURGOOD DRIVE
WORCESTER, MA 01603
(508) 770-0825

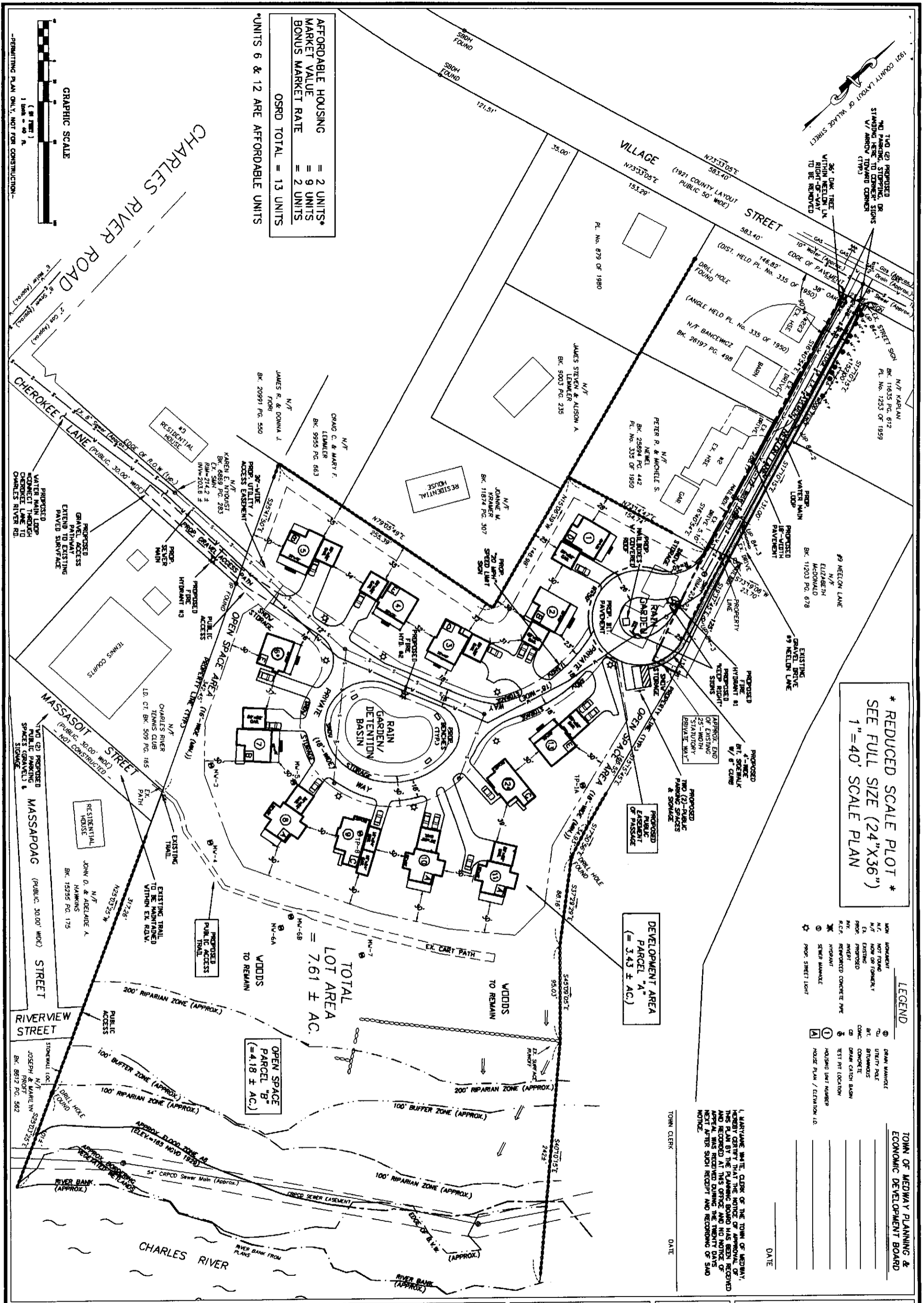
PROJECT SURVEYOR: DANIEL A. O'DRISCOLL, P.L.S.
O'DRISCOLL LAND SURVEYING, CO.
46 COTTAGE STREET
MEDWAY, MA 02053
P: 1-508-633-3314

LANDSCAPE ARCHITECT: LONEL ROBINSON
LANDSCAPE ARCHITECT
82 SEDWICK STREET
NORFOLK, MA 02056-1113
PH: (508) 528-3503

O'DRISCOLL LAND SURVEYING Co.
600 Charlton Street
Southbridge, MA 01550
MA Phone/Fax: (508) 765-7755
e-mail: dfaist@faisteng.com



AFFORDABLE HOUSING = 2 UNITS*
 MARKET VALUE = 9 UNITS
 BONUS MARKET RATE = 2 UNITS
 OSRD TOTAL = 13 UNITS
 *UNITS 6 & 12 ARE AFFORDABLE UNITS



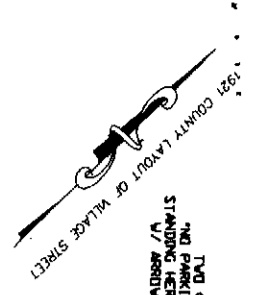
* REDUCED SCALE PLOT *
 SEE FULL SIZE (24"X36")
 1"=40' SCALE PLAN

LEGEND

⊙	DRAIN MANHOLE
⊕	UTILITY POLE
⊖	BRIDGEOLETS
⊗	CONCRETE
⊘	DRAIN CATCH BASIN
⊙	TEST PIT LOCATION
⊙	HOUSE LOT NUMBER
⊙	HOUSE PLAN / ELEVATION I.D.
⊙	PROP. STREET LIGHT

TOWN OF MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD
 I, MARYANNE WHITE, CLERK OF THE TOWN OF MEDWAY, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO NOTICE OF APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.
 TOWN CLERK: _____ DATE: _____

3 of 4	CONCEPT PLAN "CHARLES RIVER VILLAGE"-OSRD NEBLON LANE MEDWAY, MASSACHUSETTS	DATE ISSUED: 7/28/10 DWG. SCALE: 1"=40' DRAWN BY: DO/DF REVIEWED BY: DF/LR PROJECT NO: CHA-2345	REVISIONS PER: PUBLIC HEARING & O.S.C. COMMENT 9/24/10	DATE: _____ PREPARED FOR: Charles River Village, LLC P.O. Box 1 Medway, MA 02053	FAIST ENGINEERING, INC. 600 Charles Street Southbridge, MA 01550 MA Phone/Fax: (508) 765-7755 O' DRISCOLL LAND SURVEYING Co. <small>LAND SURVEYING AND MAPPING LAND CONSULTING</small> <small>100 CHURCH STREET MEDWAY, MASSACHUSETTS 02053 (508) 535-1311</small>
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* REDUCED SCALE PLOT *
SEE FULL SIZE (24" X 36")
1" = 40' SCALE PLAN

LEGEND

NON-MOVEMENT	DRAIN MANHOLE
NOT FOUND	UTILITY POLE
N/F	BR. BRIMBORNS
EX. EXISTING	CONC. CONCRETE
PROG. PROPOSED	DR. DRAIN CHAIN BRASS
IN. INSET	HOUSING UNIT NUMBER
R.C.P. REINFORCED CONCRETE PIPE	HEADMANT
SEWER MANHOLE	

TOWN OF MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD

TOWN CLERK _____ DATE _____

1. I, HARRY W. WHITE, CLERK OF THE TOWN OF MEDWAY, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE PLANNING BOARD HAS BEEN RECEIVED AND THAT THE PLAN HAS BEEN APPROVED AND RECORDED IN THE TOWN RECORDS. THE TOWN RECORDS WILL BE OPEN FOR PUBLIC INSPECTION AND RECORDING OF SAID NOTICE.

AFFORDABLE HOUSING MARKET VALUE BONUS MARKET RATE = 2 UNITS* = 9 UNITS = 2 UNITS

OSRD TOTAL = 13 UNITS

*UNITS 6 & 12 ARE AFFORDABLE UNITS

TOTAL PROPERTY AREA (TA):
= 7.61 +/- Acres

WETLAND RESOURCE AREA (WRA):
= 2.31 +/- Acres

WETLAND AREA:
100-YR FLOOD PLAIN: 0.41 AC. ±
200-YR RIPARIAN ZONE: 1.55 AC. ±
TOTAL WA = 2.31 Acres

Maximum # of OSRD Dwelling Units = TA - (0.5 x WA) - (0.1 x TA)
Zoning District Minimum Lot Area = 7.61 Acres - (0.5 x 2.31) - (0.1 x 7.61) = 5.517 Acres

Maximum # of OSRD Dwelling Units = 11.01 UNITS

REQUIRED OPEN SPACE AREA (50% TA) = 3.80 Acres

REQUIRED UPLAND AREA W/IN OPEN SPACE = 3.42 Acres (90%)

WETLAND AREA: 0.41 Acres
100-YR FLOOD PLAIN: 0.35 Acres
TOTAL = 0.76 AC. ± (10%)

PROPOSED TOTAL OPEN SPACE AREA = 4.18 Acres

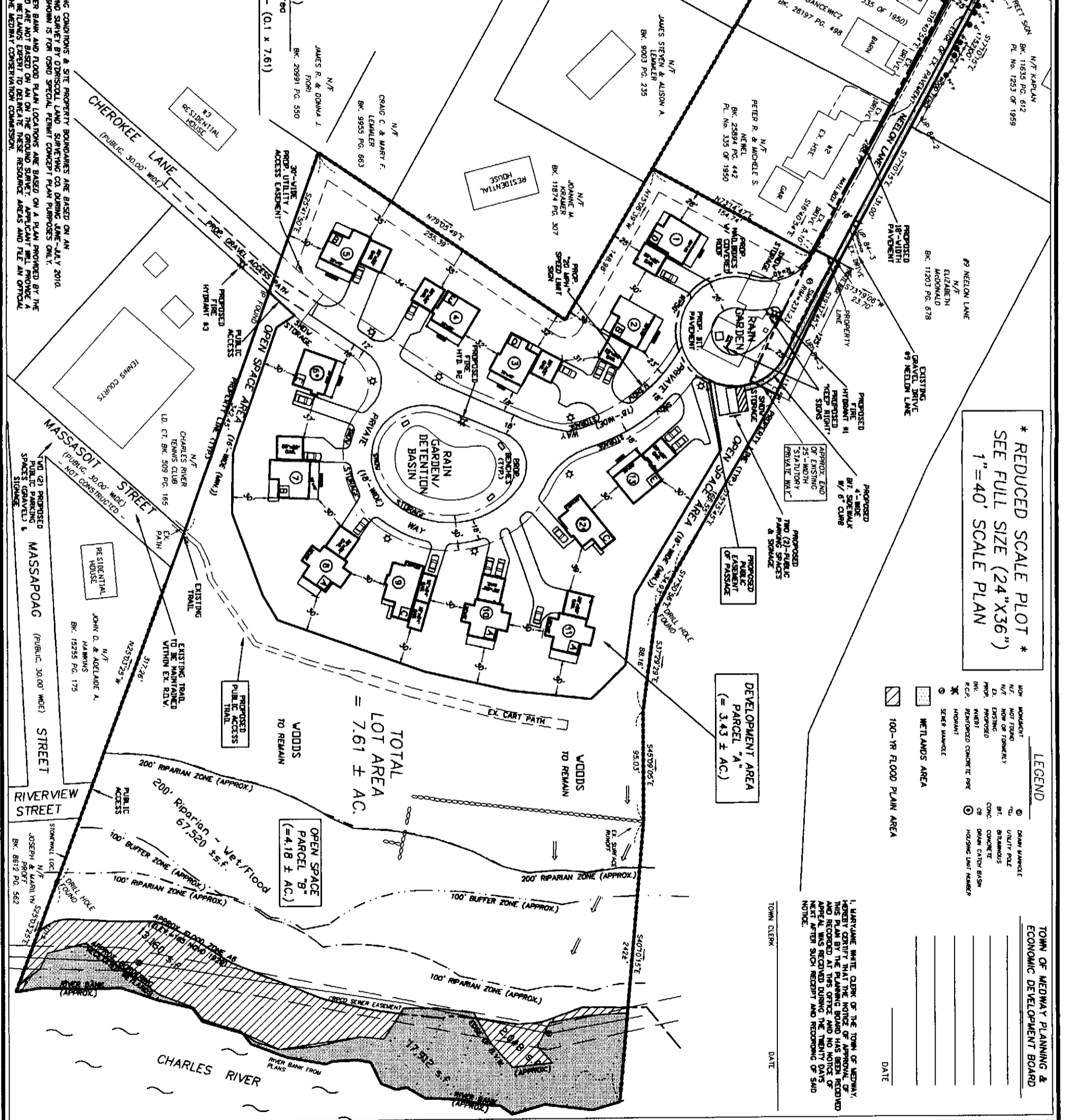
UPLAND AREA WITHIN OPEN SPACE = 3.42 Acres

GRAPHIC SCALE

1" = 40'

1" = 40' (1/8" = 5')

PRELIMINARY PLAN ONLY, NOT FOR CONSTRUCTION.



NOTES:

1) LIMITED EXISTING CONDITIONS & SITE PROPERTY BOUNDARIES ARE BASED ON AN ON-THE-GROUND SURVEY BY DRISCOLL LAND SURVEYING CO. DURING JUNE-JULY 2010. INFORMATION SHOWN IS FOR GENERAL CONCEPT PLAN PURPOSES ONLY.

2) WETLANDS, RIVER BANK AND FLOOD PLAN LOCATIONS ARE BASED ON A PLAN PROVIDED BY THE PROFESSIONAL AND ARE NOT BASED ON AN ON-THE-GROUND SURVEY. APPLICANT WILL PROVIDE A PLAN AND WETLANDS REPORT TO DELINEATE THESE RESOURCE AREAS AND FILE AN OFFICIAL AMEND WITH THE MEDWAY CONSERVATION COMMISSION.

<p>YIELD PLAN "CHARLES RIVER VILLAGE"-OSRD NEELON LANE MEDWAY, MASSACHUSETTS</p>	<p>DATE ISSUED: 7/28/10</p>	<p>REVISIONS PER: PUBLIC HEARING & O.S.C. COMMENT</p>	<p>DATE: 9/24/10</p>	<p>PREPARED FOR: Charles River Village, LLC P.O. Box 1 Medway, MA 02053</p>	<p>FAIST ENGINEERING, INC. 600 Charlton Street Southbridge, MA 01550 MA Phone/Fax: (508) 765-7755</p>
	<p>DWG. SCALE: 1" = 40'</p> <p>DRAWN BY: DO/DF</p> <p>REVIEWED BY: DTF</p> <p>PROJECT NO: CHA-2345</p>	<p>TOWN OF MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD</p>		<p>DATE _____</p>	

Norfolk Registry of Deeds
Dedham, Mass.

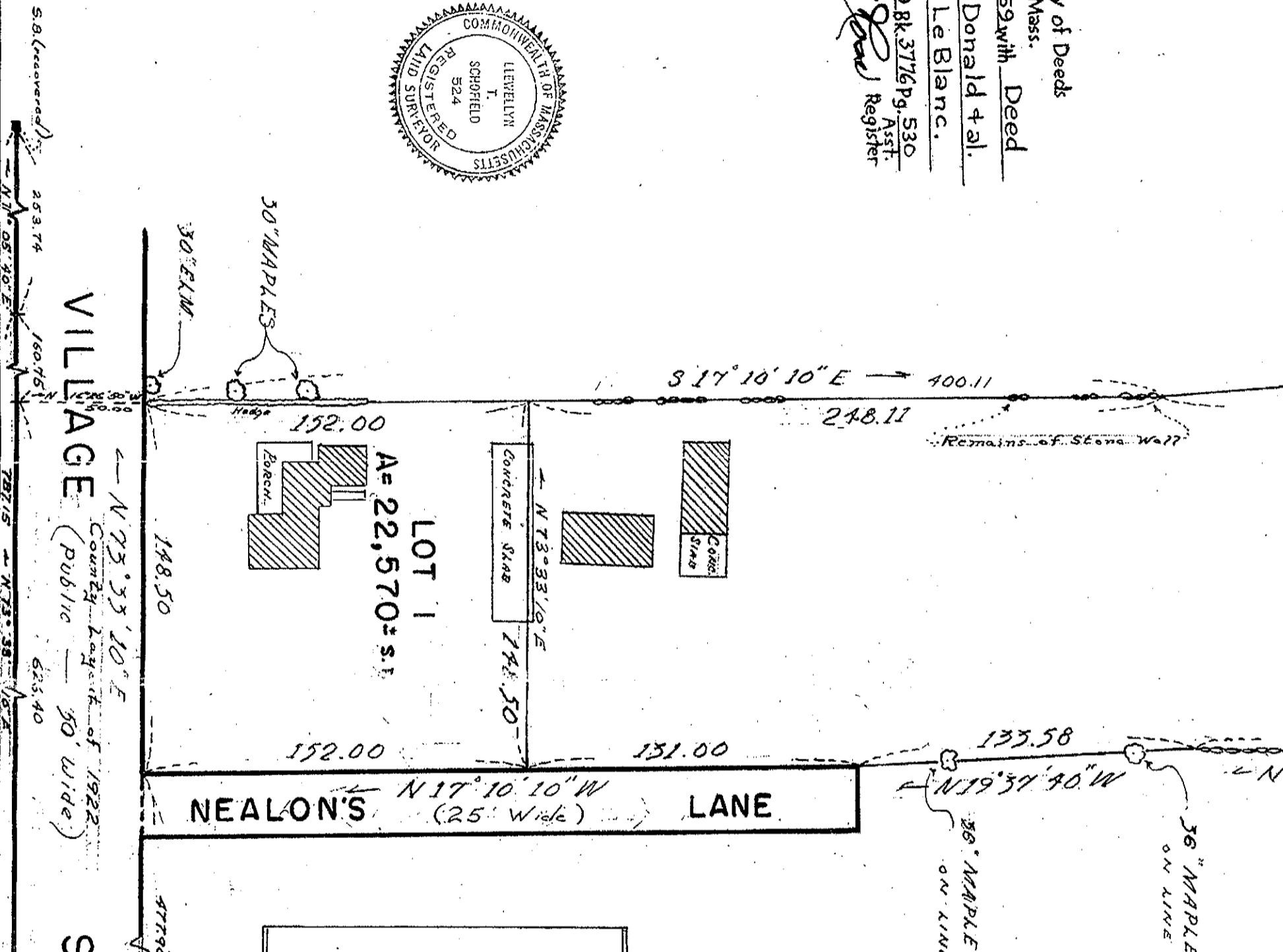
Received Nov. 16, 1959 with Deed

William S. McDonald et al.

to Norman J. A. Le Blanc.

Filed as No. 1253 1959 Bk 3716 Pg. 530

Attest: Shirley J. Spaul Asst. Register



VILLAGE

STREET

NEALON'S LANE

Plan of Land
in
MEDWAY, MASS.
Property of William S. McDonald et ux
Scale 1" = 50' October 21, 1959.
Schofield Brothers, Reg. Civil Engineers.
48 Park Street, Framingham, Mass.
Offices in Framingham & Orleans, Mass.

Approval under the Subdivision
Control Law not required.
Medway Planning Board

Joseph D. McElroy
Samuel W. Randall
Allen S. Dickinson

Date: November 6, 1959

RECEIVED
AUG 24 2010

TOWN OF MEDWAY
PLANNING BOARD

Power Point

PowerPoint Presentation

9-28-10

File

9/28/10

9/28/2010

**CHARLES RIVER VILLAGE
OPEN SPACE RESIDENTIAL
DEVELOPMENT**

**CHARLES RIVER VILLAGE
ORIGINAL APPLICATION**

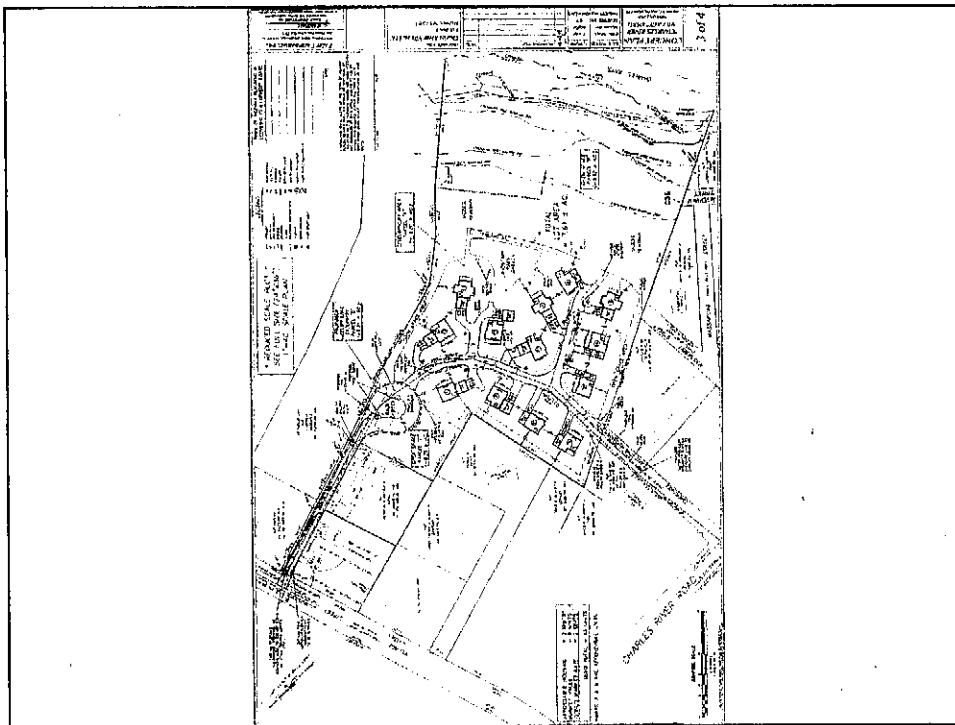
HOW THE LAND WILL BE DIVIDED

- Total area of site is 7.61 acres
- Development parcel A is 3.20 acres +/-
- Open Space parcel B is 3.92 acres +/-
(upland is 3.16 acres)
- Open Space parcel C is .28 acres +/-
(upland is .28 acres)
- Neelon Lane Extension D is .21 acres +/-

CHARLES RIVER VILLAGE ORIGINAL APPLICATION

THE NUMBER OF DWELLINGS

- MARKET RATE UNITS = 9
- AFFORDABLE UNITS = 2
- BONUS MARKET RATE UNITS = 2
- TOTAL NUMBER OF UNITS 13



CHARLES RIVER VILLAGE REVISED APPLICATION

HOW THE LAND WILL BE DIVIDED

- Total area of site is 7.61 acres
- Development parcel A is 3.43 acres +/-
- Open Space parcel B is 4.18 acres +/-
(upland is 3.42 acres)

DEVELOPMENT AREA INCREASES BY .02 ACRES

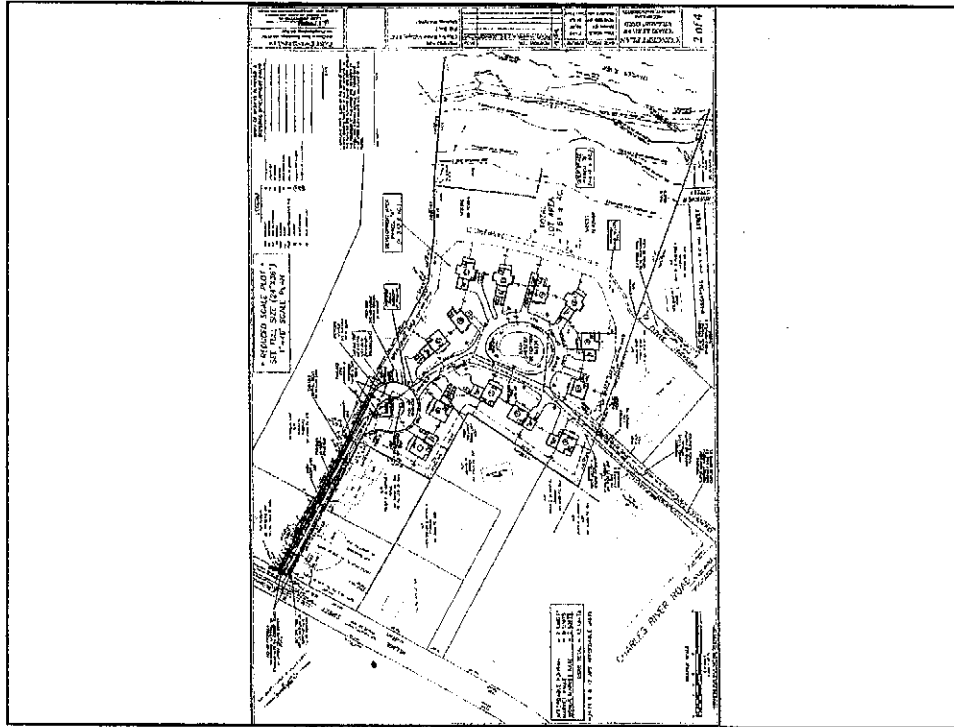
OPEN SPACE AREA DECREASES BY .02 ACRES

CHARLES RIVER VILLAGE REVISED APPLICATION

THE NUMBER OF DWELLINGS

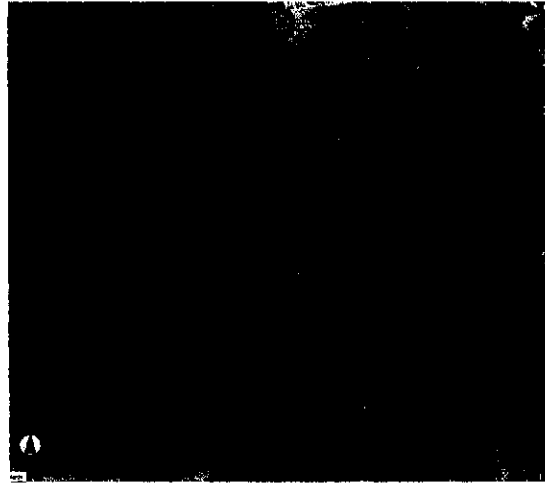
- MARKET RATE UNITS = 9
- AFFORDABLE UNITS = 2
- BONUS MARKET RATE UNITS = 2
- TOTAL NUMBER OF UNITS 13

NO CHANGE IN THE NUMBER OF DWELLINGS

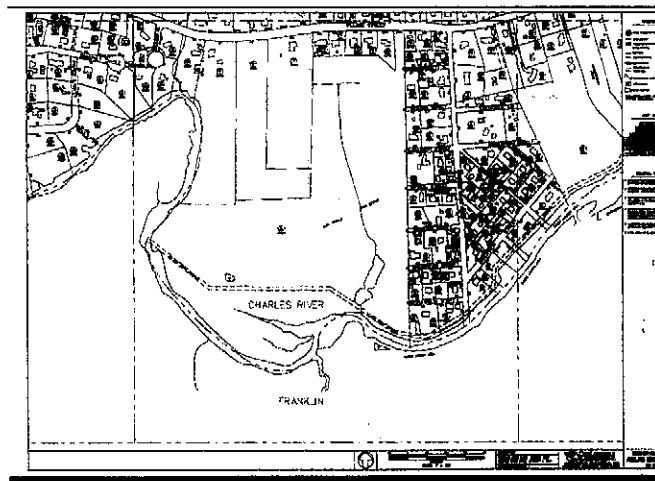


CHARLES RIVER VILLAGE
OPEN SPACE RESIDENTIAL
DEVELOPMENT
THE SURROUNDING
AREA

EXISTING DEVELOPMENT SURROUNDING THE PROJECT LOCATION



THE ASSESSORS MAP TODAY



NEELON LANE

- TOWN OF MEDWAY OFFICIALLY HAS NEELON LANE LISTED AS A PUBLIC WAY
- TOWN OF MEDWAY HAS RECEIVED STATE AID FOR NEELON LANE GOING BACK TO THE 1970S
- TOWN OF MEDWAY HAS IMPROVED AND MAINTAINED NEELON LANE
- ATTORNEY THOMAS J. VALKEVICH QUESTIONED THE PUBLIC STATUS OF NEELON LANE AT THE AUGUST 24 PLANNING BOARD MEETING ON BEHALF OF MARY E. MCDONALD
- THE APPLICANT RETAINED ATTORNEY F. SYDNEY SMITHERS, ESQ .

NEELON LANE

ATTORNEY SMITHERS REVIEWED THE FOLLOWING:

- WARRANT FROM MARCH 25, 1863 FOR TOWN MEETING HELD OF APRIL 6, 1863.
- TOWN MEETING MINUTES FROM APRIL 6, 1863
- EXISTING CONDITIONS PLAN FOR NEELON LANE PREPARED BY O'DRISCOLL LAND SURVEYING
- CONTEXT AND ANALYSIS PLAN FOR CHARLES RIVER VILLAGE

NEELON LANE

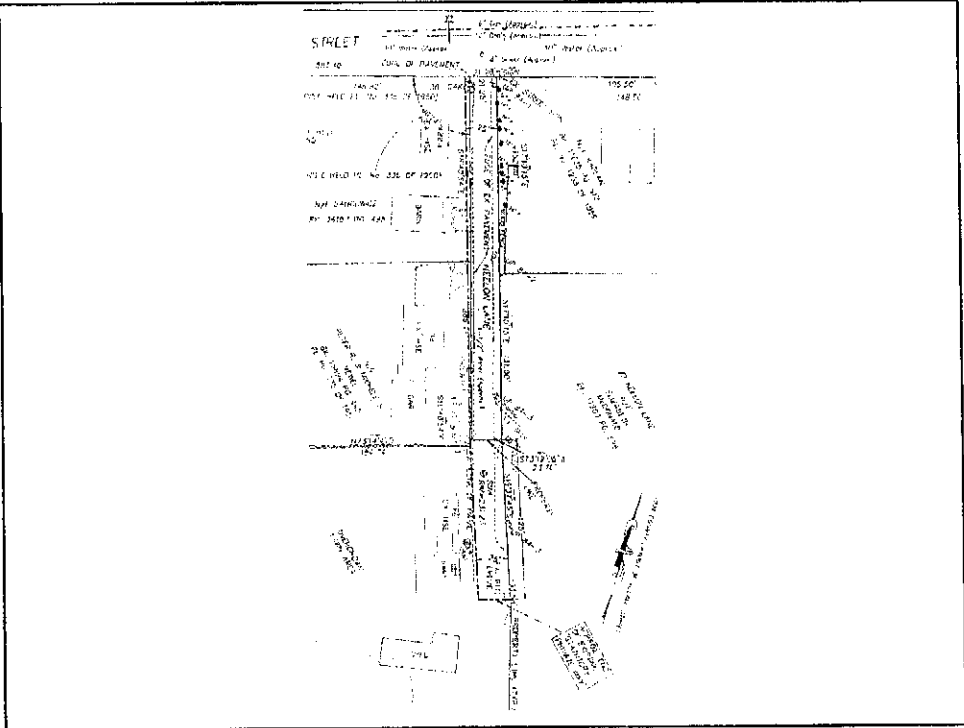
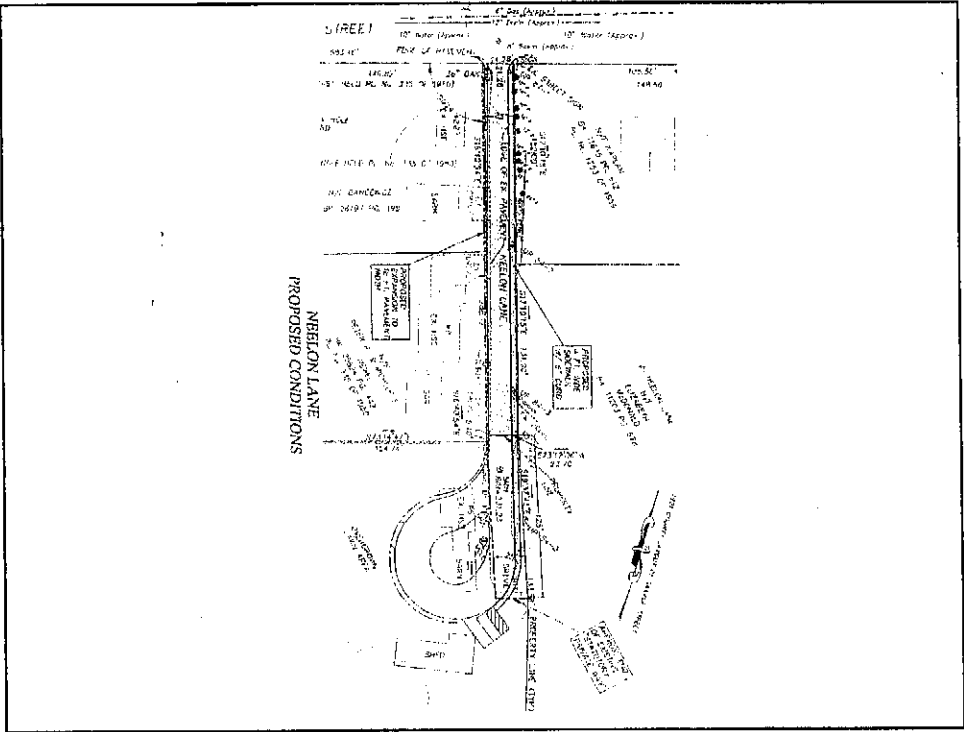
ATTORNEY SMITHERS HAS CONCLUDED THE FOLLOWING:

- "THE SELECTMENS' LAYOUT, UPON ACCEPTANCE AT TOWN MEETING, CREATED A STATUTORY PRIVATE WAY."
- THE FACT THAT NEELON LANE IS A STATUTORY PRIVATE WAY OBTAINS ANY OPPORTUNITY TO OBTAIN AN ANR ENDORSEMENT FOR LOTS ABUTTING NEELON LANE.
- "THE FACT THAT THE TOWN OF MEDWAY HAS MAINTAINED, IN PART, NEELON LANE AND HAD RECEIVED STATE REIMBURSEMENTS FOR SOME OF ITS EXPENSES, DOES NOT CHANGE THE FACT THAT NEELON LANE IS A STATUTORY PRIVATE WAY."
- "NEELON LANE WAS LAID OUT AS A PUBLIC EASEMENT OF PASSAGE TWENTY-FIVE FEET IN WIDTH AND EXTENDING SOUTHERLY FROM WHAT IS NOW VILLAGE STREET (FORMERLY OLD HARTFORD ROAD) AN UNSTATED DISTANCE TO A FENCE OPPOSITE THE SOUTHERLY SIDE OF A BARN ON NEELAND'S LAND."

NEELON LANE

ATTORNEY SMITHERS ALSO CONCLUDED:

- "WE HAVE BEEN ADVISED THAT THE BARN AT 6 NEELON LANE IS LIKELY THE FORMER NEELAND BARN. WE THEREFORE CONCLUDE THAT NEELON LANE EXTENDS FROM VILLAGE STREET SOUTHERLY TO ABOUT THE POINT SHOWN ON THE CONTEXT PLAN AS 'EX. BIT. DRIVEWAY.'" WE CONCLUDE THAT NEELON LANE EXTENDS ABOUT 125 FEET FURTHER SOUTH FROM THE POINT LABELED 'END OF EXISTING PUBLIC R.O.W.' ON THE CONTEXT PLAN."
- "AS A PUBLIC EASEMENT OF PASSAGE TWENTY FIVE FEET IN WIDTH, THE ENTIRE WIDTH OF THE EASEMENT MAY BE APPROPRIATED FOR PUBLIC PASSAGE. AS SUCH, THE ENTIRE 25 FOOT WIDTH MAY BE OCCUPIED BY THE INSTALLATION OF PAVED TRAVELED WAYS, SIDEWALKS, STORM DRAINAGE AND MUNICIPAL UTILITIES. THE PAVED TRAVELED WAY MAY BE LOCATED ANYWHERE WITHIN THE 25 FOOT WIDTH OF THE EASEMENT, ON EITHER SIDE, OR CENTERED."
- "THE OWNER OF THE FORMER NEELAND LAND MAY BE CHARGED WITH THE REASONABLE EXPENSE OF ALTERATION, IMPROVEMENT, PAVING OR INSTALLATION OF UTILITIES IN NEELON LANE."
- "TO THE EXTENT THE PROPOSED CUL-DE-SAC IS OUTSIDE THIS LIMITS OF NEELON LANE AS ORIGINALLY LAID OUT, THE TOWN SHOULD REQUIRE THAT IT BE GRANTED AN EASEMENT OF PUBLIC PASSAGE IN THE CUL-DE-SAC AND ANY LAND ADJACENT TO IT NEEDED FOR MAINTENANCE, STORM DRAINAGE AND SNOW STORAGE."



SAFETY CONCERNS

The Planning and Economic Development Board is in receipt of three communications:

1. From the Medway Fire Department Chief stating, "Upon review of the preliminary plans, I have not problem or issue with the width of Neelon Lane. The design of the circle is suitable for emergency vehicles, in and out of the complex. The width and materials of the emergency access road off of Cherokee Lane are acceptable. The placement of fire hydrants on Neelon Lane, within the complex, and on the access road in from Cherokee Lane is acceptable."
2. From Sergeant/Safety Officer Watson of the Medway Police Department stating, "The width of the roadway complies with the rules for a development of that size. See attachment of (Norfolk County Land Subdivision Rules and regulations for Medway). The Medway Police Department feels that this is an adequate width for such a development. I would recommend that a no parking sign be placed on the East side of Neelon lane 20 feet from the intersection of Village Street as to comply with our Towns By-law. This would enable emergency vehicles the ability to make the turn onto Neelon lane without any obstruction such vehicles."

SAFETY CONCERNS

3. From Conley Associates, traffic engineers stating, "Conley Associates, Inc. researched the American Association of State Highway and Transportation Officials (AASHTO) publication, "A Policy on Geometric Design of Highway and Streets" to determine the minimum width recommended for a roadway with a daily traffic volume of approximately 150 vehicles. Exhibit 5-5, 'Minimum Width of Traveled Way and Shoulders' states that with a design speed of 40 mph or less, an 18 foot roadway can accommodate up to 400 vehicles per day. Therefore, the proposed widening of Neelon Lane to 18 feet meets the minimum recommended roadway width. In fact, according to ITE, there would need to be approximately 42 single family homes in order for a wider roadway to be recommended."

Copy

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

RECEIVED
AUG 24 2010
TOWN OF MEDWAY
PLANNING BOARD

August 24, 2010

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

RE: Charles River Village Open Space Residential Development (OSRD)
Application for OSRD and Affordable Housing Special Permits

Dear Board Members:

Please be advised that I 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 and subsurface matters at the meeting.

Of utmost concern is the access to the site over Neelon Lane. Neelon Lane, according to the terms of the document recorded in 1863, was laid out as a private way. (see copy of acceptance document attached) As such, it not the same as a public way in many respects. The applicable statutes at the time created this kind of way, which became known as a "statutory private way". The applicable statutory reference is Chapter 82 of the General Laws, sections 21 through 24 (this being the laws in effect in 1863, the date of the layout by the Medway Selectmen. Of importance is the fact that such ways have a different legal status than a public way. There is also a question as to whether the layout should extend to the point where the Nealand (Neelon) house was or where the barn was. There appears to have been a correction of overwrite changing "house" to "barn" and the layout as shown on the existing plan may be inaccurate.

"A "statutory" private way is not a "public way" or a way "maintained and used as a public way" for the purposes of the subdivision control law (G.L. c. 41, Sections 81L and 81P), *Casagrande v. Town Clerk of Harvard*, 377 Mass. 703 (1979), and hence the division of land abutting on a statutory private way requires compliance with the definitive subdivision process and frontage on a statutory private way does not qualify for an ANR endorsement." **Complex Title Issues 2001 –19.03 Massachusetts Continuing Legal Education, Massachusetts Highway Law by F. Sydney Smithers, Esq.**

As a Land Division under Part T.,2.,c it would appear that the access does not qualify. Further, the proposal considered as a condominium project the access over Neelon Lane is questionable for a number of reasons beyond subdivision control.

The accepted private way is only twenty five feet wide and without any radius at its corners intersection with Village Street, and without sight line easements or other provision for safe access to that road. Clearly, the traffic impact of 13 three bedroom homes, with one or two cars, and multiple daily trips, with heavy usage during morning and evening commuting hours, and potentially hundreds of trips per week, together with delivery and service vehicles, including commercial trucks, create safety issues that warrant denial of any proposal that envisions Neelon Lane as its primary access. This is especially true given the fact that the parcel to be developed abuts Cherokee Lane on its westerly boundary, a conforming public way, which was obviously intended as future development access to the subject parcel, as was envisioned by prior boards.

Also relevant are certain issues regarding the nature of the existing way. Given its nature as still a private way, even if subject to public access, the usage of the way historically has permitted unlimited access by abutting owners over the entire length of their frontage on the way, and parking and standing on the way as long as passage was not prevented. The proposal requires changes to the usage which are not just up to the developer, as it has been established over generations. For the Town to impose such restrictions on a parcel that is not part of the ownership parcel of the developer is beyond the Boards authority, and would require additional takings by the town of the rights of abutting owners, or their mutual consent.

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, which impact can be mitigated by accessing the site over the existing public way Cherokee Lane, instead of over the accepted private way of Neelon Lane.

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 board does not have the authority to alter the nature of the accepted private way as to existing rights of abutters on said way.

Finally, the plan as drawn 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 and I note that previous versions of the developer's proposal actually laid out his cul de sac **on** the McDonald parcel, without permission. 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. I note that if the private accepted way in fact extends to the barn, as may be the case, it would also require changes to the plan.

Respectfully submitted.

Thomas J. Valkevich

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

September 28, 2010

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

RE: Charles River Village Open Space Residential Development (OSRD)
Application for OSRD and Affordable Housing Special Permits
Hearing date September 28, 2010

Dear Board Members:

Please be advised that I 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 have concern 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 ask if the Board has a public disclosure on file as to this relationship as to this matter.

Of utmost concern is the access to the site over Neelon Lane. Neelon Lane, according to the terms of the document recorded in 1863, was laid out as a private way. (see copy of acceptance document attached) As such, it not the same as a public way in many respects, nor treated as a strictly private way in critical aspects. The applicable statutes at the time created this kind of way, which became known as a "statutory private way". The applicable statutory reference is Chapter 82 of the General Laws, sections 21 through 24 (this being the laws in effect in 1863, the date of the layout by the Medway Selectmen. Of importance is the fact that such ways have a different legal status than a public way. There is also a question as to whether the layout should extend to the point where the Nealand (Neelon) house was or where the barn was. There appears to have been a correction or overwrite changing "house" to "barn" and the layout as shown on the existing plan may be inaccurate.

"A "statutory" private way is not a "public way" or a way "maintained and used as a public way" for the purposes of the subdivision control law (G.L. c. 41, Sections 81L and

81P), *Casagrande v. Town Clerk of Harvard*, 377 Mass. 703 (1979), and hence the division of land abutting on a statutory private way requires compliance with the definitive subdivision process and frontage on a statutory private way does not qualify for an ANR endorsement." **Complex Title Issues 2001 -19.03 Massachusetts Continuing Legal Education, Massachusetts Highway Law by F. Sydney Smithers, Esq.**

As a Land Division under Part T.,2.,c it would appear that the access does not qualify. Further, the proposal considered as a condominium project the access over Neelon Lane is questionable for a number of reasons beyond subdivision control.

The accepted private way is only "twenty five feet" wide under the terms of the layout in 1863, (copy attached) and of questionable width and length on the ground, as was indicated previously by applicants engineers. This is also confirmed by my client's surveyor, as shown on a certain sketch entitled "Conceptual layout of Town Accepted Private Way Known as Neelon Lane in Medway, Massachusetts." The exact dimensions, title issues, and length, as well established usage and possible prescriptive rights in Neelon Lane are in issue. The McDoanld family has used access extending close to 200 feet beyond the length of Neelon Lane as shown on the proposal for decades, and the proposed plan eliminates such established access. See Sketch areas highlighted in yellow and engineers notations. These rights are further addressed below.

In addition, the width of the way, the lack of radius at its corner intersection with Village Street, the lack of sight line easements or other provision for safe access to that road are not conducive to the envisioned development. Clearly, the traffic impact of 13 three-bedroom homes, with one or two cars, and multiple daily trips, with heavy usage during morning and evening commuting hours, and potentially hundreds of trips per week, together with delivery and service vehicles, including commercial trucks, create safety issues that warrant denial of any proposal that envisions Neelon Lane as its primary access. This is especially true given the fact that the parcel to be developed abuts Cherokee Lane on its westerly boundary, a thirty foot wide public way, which was obviously intended as future development access to the subject parcel, as was envisioned by prior boards. A traffic study should be required given the fact that the volume of traffic likely to be generated by the units, and the limited width of Neelon Lane, on their face, clearly demonstrate the inadequacy of Neelon Lane as safe and convenient access. Given the limitations of the statutory private way, and density of the proposed housing, the board's discretion to require a traffic study should surely be exercised on the side of safety.

Also relevant are certain issues regarding the nature of the existing way. Given its nature as still a private way, even if subject to public access, the usage of the way historically has permitted unlimited access by abutting owners over the entire length of their frontage on the way, and parking and standing on the way as long as passage was not prevented. The proposal requires changes to the usage in a manner that is not just up to the developer, and beyond any of the Board to change. For the Town to impose such restrictions such as "no standing", "no parking" or curb cuts on a parcel, that is not part of the ownership parcel of the developer is beyond the Boards authority, and would require additional takings by the town of the rights of abutting owners, or their mutual consent.

The problems with the use of Neelon Lane include the fact that any proposal that would suggest the installation of utilities or sidewalks would not be permissible. The language of the layout document provides only for safe passage of carriages. Any other uses would have to be created by some other means. As a statutory private way, this way does not fall within the purview of MGL Chapter 187 Section 5, which would extend the installation of utilities to private ways. Those private ways included under Chapter 187 Section 5, only include , it has been held by the Courts, are ways :

“ “for travel not laid out by public authority or dedicated to public use, that are wholly the subject of private ownership...” *Barlow v. Chongris*, 38 Mass App Ct. 297, 299” as cited in a certain article prepared by Chicago Title Insurance Company, entitled “Understanding Paper Streets” as it appears at worcesterdeeds.com.

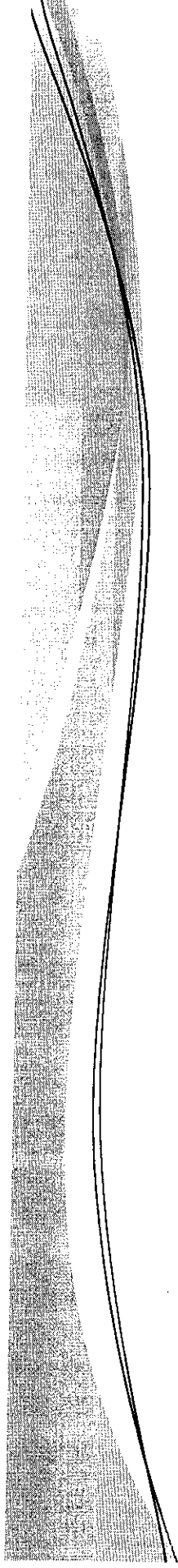
That Article concludes:

“According to the language in *Barlow* it would appear that Section 5 would not apply to statutory private ways since they are laid out by a public authority.” *Understanding Paper Streets*, Chicago Title Insurance Company, as reproduced at worcesterdeeds.com.

The acceptance document reproduced and attached and highlighted, clearly states that the Selectmen have “laid out” ...” a private way””convenient for carriages” Thus any plan calling for installation of utilities and sidewalks clearly exceeds the nature of the layout, and would thus be impermissible, and not extended by the statute at MGL Chapter 187, Section 5.

Additionally, the plan as proposed fails to recognize the usage by the McDonald family of the land in question beyond, the length of Neelon Lane for decades, well long enough to establish the current owner, Beth McDonald and perhaps others, prescriptive rights over the subject parcel to access her property. The Layout clearly denies Ms McDonald of the historical use well beyond the “house” of Neelon (aka Neeland) and in fact beyond the barn , for access and turning around. Any development not continuing the access as it shown on the ground now would necessitate action to formalize such rights in McDonald. The acceptance document clearly is unclear as to whether the private way extends to the “barn” of Neeland/Neelon, and the overwriting rather clearly begins with the letter “b.”

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.



Charles River Neighborhood Alliance

Issues & Concerns

About

**Charles River Village
Proposed OSRD Development**

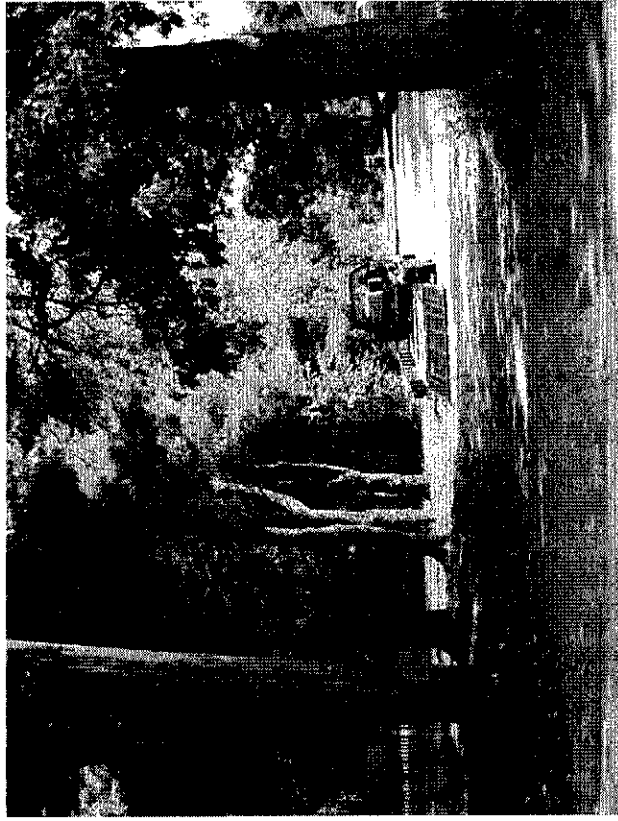


Legal Issues

- ❖ Neelon Lane –
 - ❖ listed as a Statutory Private Way
 - ❖ Width & length of street not established by CRV engineers/surveyors as of previous meeting
 - ❖ Exact location of street not established by CRV LLC
 - ❖ ***Shouldn't this information be known before CRV can move forward with any plans?***

- ❖ Neelon Lane – 21E not applied for and MA DEP concerns about leak from 55 gallon drums not addressed by town or Mr. Yorkis who has reports of drum contents. Nearby well possibly affected. Leaks not reported to fire chief. Out of state (Hudson, N.H.) hazardous waste contractor used.

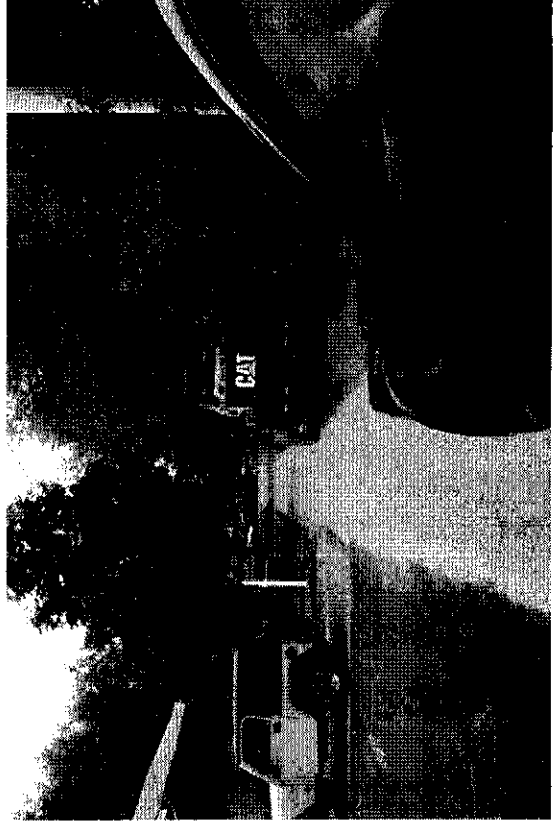
Safety Issues



Neelon Lane from Village St.;
Parked landscape trailer.

8 ft. wide trailer parked – SAFE
2-way STREET? This is the width
of a fire truck.

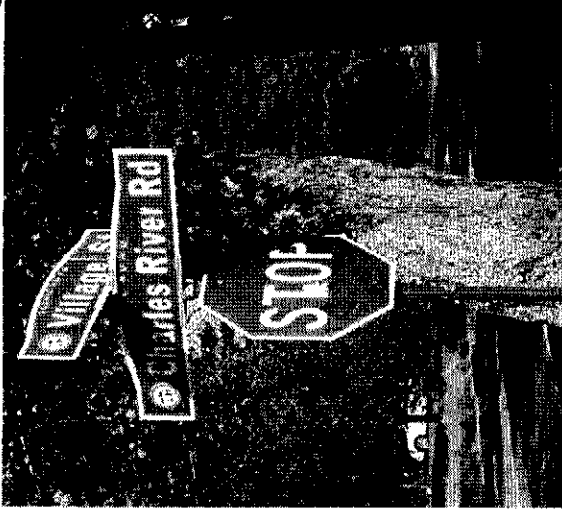
❖ **Neelon Lane** – CRV
would overburden
an already narrow
lane.



Safety Issues

Charles River Rd. neighborhood concerns:

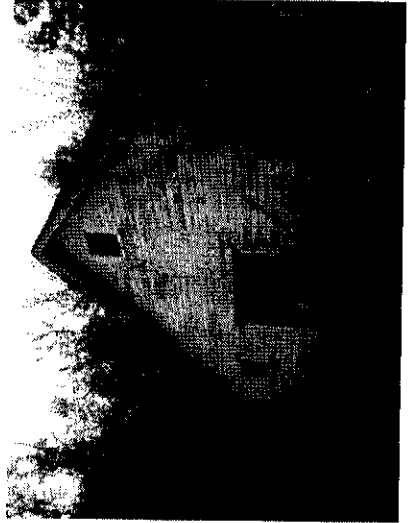
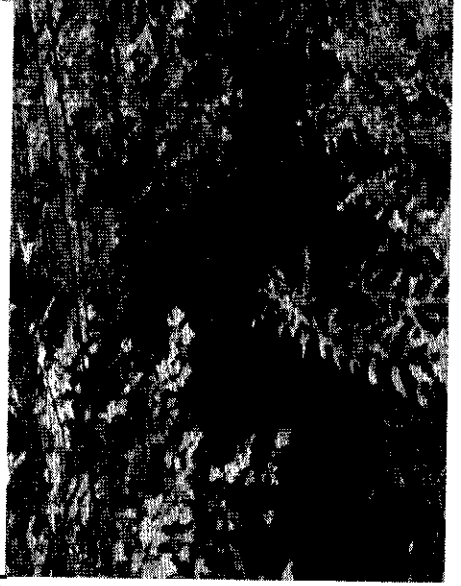
- Existing congested traffic area would worsen. Three streets converge near Cherokee Lane.
- Emergency access concerns
- Existing water issues would worsen



Cherokee Ln. homes affected by CRV

Safety Issues

- **Independent Traffic Study** – needed to address Neelon Lane, Cherokee, Massapoag & Charles River Rd. safety issues and concerns.
- **What are CRV's plans for #6 Neelon Lane** – (abandoned farmhouse/barn/chicken coop)
 - Fire Hazard to neighboring homes
 - **Open Uncovered well is dangerous to area children**
 - Need a varmint control plan prior to demo of structures
 - Broken windows need to be boarded up to keep kids out of farmhouse & barn locked.



17:48



Environmental Concerns

- Existing chemical spill on property NOT addressed with MA DEP and NOT mentioned on Land Subdivision – Form F (item 20) “ Has the site ever been used for the disposal of hazardous waste? Has a 21E study been conducted for the site?” listed as **NO** answer

Out-of-state hazardous waste company used to remove 55 gallon drums from chicken coop and barn in March 2010. Both Mr. Yorkis & Mr. Zoulias mentioned that the barrels had leaked into the soil. Barrels removed at night in a heavy rainstorm.

**A-ZOULIAS
ENVIRONMENTAL
ENTERPRISES, LLC**
a-zenvironmental.com

134 Musquash Road
Hudson, NH 03051

→ Tel: 978-697-0943
Fax: 877-774-2954
azeellc@yahoo.com

William “Bill” Zoulias
Principal



Environmental Concerns (cont'd)

- **WATER CONCERNS –**
 - **Bond for damages** – washouts/flooding from high water tables; clay and ledge and too many square feet of impermeable surfaces for this fragile property – Should the town be responsible for the environmental damage?
 - **Snow storage** – what is CRV's plan?
 - How will they keep the salt from the river and neighboring well?
 - See Federal Salt Study (Arthur D. Little Report)– concerns about effects of road salt on the drinking water from roads & driveways on Charles & Lake Populatic and the towns drinking water
 - Existing algae problems due to salt & phosphorous build-up in river (per CRWA, DEP & EPA)
 - Existing water run-off problems from this property onto Massapoag St. that town has not addressed. What will happen when the land is cleared of vegetation?

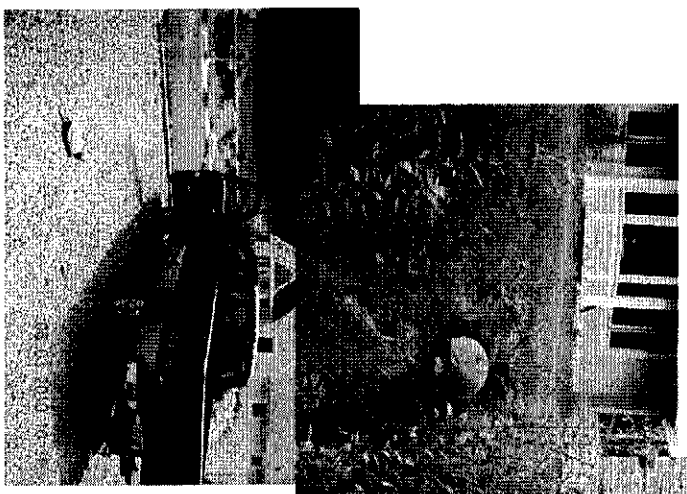


Environmental (cont'd)

- **Blasting** – Need to insure that company is bonded & well insured. (site Wakefield, MA case). Damage to nearby homes and well could be prohibitively expensive. **WHO PAYS FOR THE DAMAGES?** (Nearby underground home and artesian well; Cherokee, Massapoag, Massasoit and Charles River Rd. homes are built on ledge.)
- **Geological Study** – Need an independent firm who can testify to EPA & DEP accurately with soil study and test holes regarding soil types. Questionable answer to Development Impact Report (Form – F) Item #9
“Predominant soil type(s) on site ? Soil type
Woodbridge fine sandy loam 3-8% slope; ? **WHO VERIFIES THIS FOR ACURACY?**

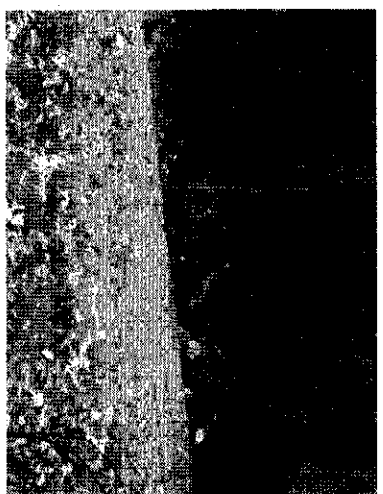
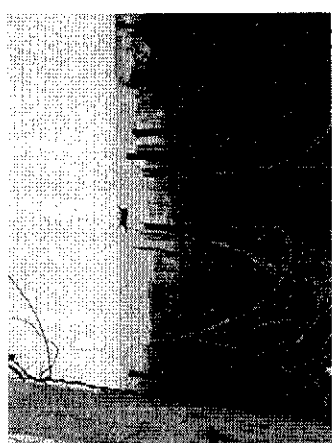
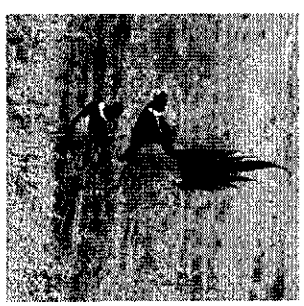
Environmental Concerns (cont'd)

Snapping turtles annual egg-laying



• **Natural Wildlife Corridor** – the variety of animals that use this ENTIRE property for reproducing, grazing, nesting, hunting, etc is vast. This is a partial list:

HERONS, RED-TAIL HAWKS, BARN OWLS, SCREECH OWLS, FISHER CATS, TURKEYS, RIVER OTTERS, WHITE TAIL DEER, FOX, WEASELS, RACCOONS, SKUNKS, BADGER, COYOTES, BATS, GROUNDHOGS, PHEASANT, POSSUMS, SNAPPING TURTLES, PAINTED TURTLES, DUCKS & GEESE. This section of the Charles River has 4 different types of trout.



Charles River Village

Issues & Concerns

- What is the benefit to the citizens of Medway and the abutters?
 - Is a dark wooded area that is steep and hard to access such a great gift?
 - Is it a reason to allow this OSRD to move forward?
 - Who will really use this?
 - Who will maintain it?
- Why 22 waivers? What is the benefit to the homeowners? The abutters? The town?
- Doesn't safety matter?
- If Mr. Yorkis's West St. project has **an 18 ft. street width ONE WAY with sidewalks**, what makes his CRV project acceptable?

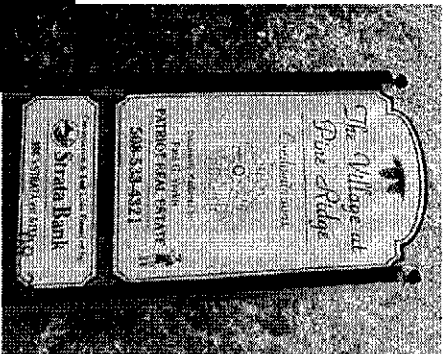


Williamsburg Project
West St.

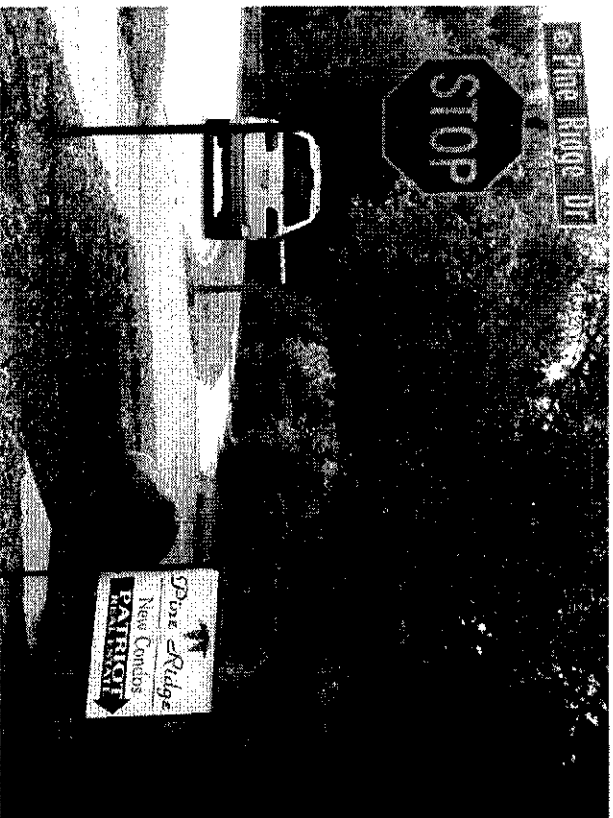


"Rainwater Garden"
or detention pond

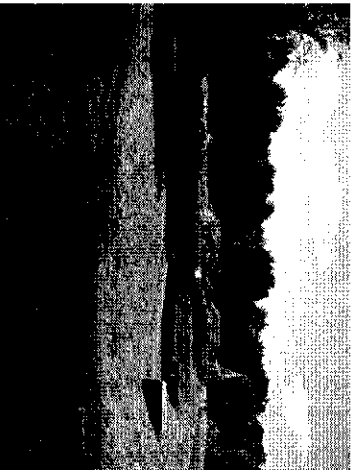
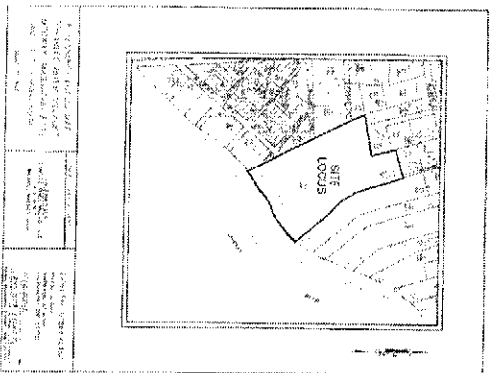
Charles River Village Issues & Concerns (cont'd)



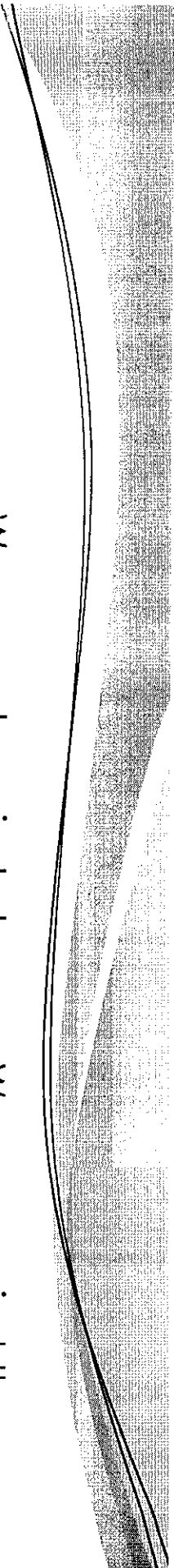
- **STREET WIDTH CONCERNS**
If Mr. Yorkis's Pine Ridge Development has 24 ft. wide streets and X number of units, why would 18 feet 2-way sidewalks be acceptable?



Charles River Village Issues & Concerns (cont'd)

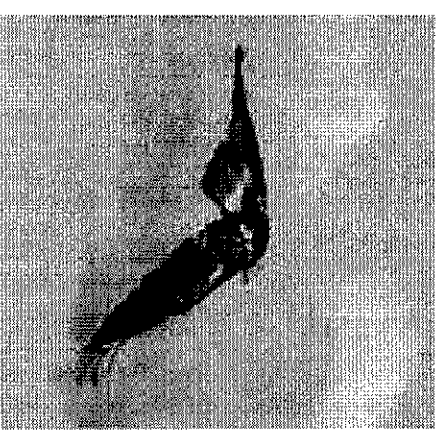


- **What is the Benefit of the OSRD to Medway, the abutters and Charles River neighborhood?**
- **Where is the park entrance to enjoy the Open Space?**
- Safety issues
- Overburdened streets
- Environmental concerns with water, wildlife, pollution (light, noise, salt & phosphorous run-off from impermeable surfaces
- Poor drainage plans; mosquito ponds
- Emergency access through Cherokee Ln. Gated? Locked?
- **Buffer Zones should not be counted as Open Space.**
- Buffer Zones should run the length of the property for all abutters
- **Parking spaces for OSRD should be within CRV & not affect abutters**

- 
- We are not against change. We are against the reckless, irresponsible development of one of the most pristine and fragile sections of the Charles River that leaves little benefit to the townspeople of Medway, or the environment.



Charles River Neighborhood Alliance



RECEIVED
SEP 20 2010

**TOWN OF MEDWAY
PLANNING BOARD**



**Town Of Medway
Open Space Committee**
155 Village Street
Medway, Massachusetts 02053

Tina Wright, Chairman
Jim Wickis, Vice-Chairman & Clerk
Bruce Hamblin
Patrick McHallam
Glenn Murphy
John Schroeder
Jim Sullivan

September 14, 2010

Re: Recommendations regarding the proposed Charles River Village OSRD

Dear Members of the Medway Planning and Economic Development Board:

On Thursday, September 9, 2010, several members of the Open Space Committee met with representatives of the Charles River Village development team and walked the site to gather information and perspective for the Open Space aspects of this project. Several Committee members had also attended the presentation at Sanford Hall by the development team and had walked the parcel previously.

The Committee recognizes that discussions and approval of this application are still in process. From that perspective, the Committee would like to offer the following recommendations, which were developed from its meeting on the evening of September 9, 2010 after the site walk, and were based upon the drawings provided at that time and with abutters in attendance.

1. There is a .28 acre parcel of land, located at the terminus of Neelon Lane, and is proposed as open space for this project. The Committee believes that this piece of land does not meet the standards of the OSRD regulations (not contiguous to the other open space piece) and is not considered suitable as a parking access for open space purposes.
2. The Committee requests confirmation that the fifteen foot buffer around the perimeter of the project is not to be counted as open space.
3. The Committee would like to recommend that two parking spaces be provided to allow for reasonably contiguous access to the open space parcel. Two areas have been suggested: near or at the rain water garden or by the cart path on the western corner of the proposed development.
4. The Committee asks the board to consider requesting the developer define and gravel 2 parking spaces that are currently in use, informally, by the Tennis Club, in addition extending that path to Massasoit Street and the parking area. We also request consideration be given to having the cart path be included in the open space and that it be maintained in good working order as part of the maintenance plan..



**Town Of Medway
Open Space Committee**
155 Village Street
Medway, Massachusetts 02053

Tina Wright, Chairman
Jim Wickis, Vice-Chairman & Clerk
Bruce Hamblin
Patrick McHollam
Glenn Murphy
John Schroeder
Jim Sullivan

5. The Committee recommends, if possible, the use of native plant varieties on the grounds and in the proposed rain garden. Plant species suggestions are included in the attachment.

We recognize that changes may be made to the proposed development as it moves through the planning and approval process. The Open Space Committee would like the opportunity to review those changes and amend or adjust our recommendations if those vary in any way from the proposed drawing provided on September 9, 2010 to the committee.

Thank you for your consideration. We appreciate the opportunity to consult with you on these matters.

Sincerely,

Tina Wright
Chairman

Jim Wickis
Vice Chairman/Clerk

Native Plant Suggestions for Medway

Developed by the Medway Open Space Committee, 2010

Trees*

<i>Acer pensylvanicum</i>	Striped Maple
<i>Acer rubrum</i>	Red Maple
<i>Acer saccharum</i>	Sugar Maple
<i>Betula alleghaniensis</i>	Yellow Birch
<i>Betula nigra</i>	River Birch
<i>Betula papyrifera</i>	Paper Birch
<i>Carpinus caroliniana</i>	Hornbeam or Blue Beech
<i>Chamaecyparis thyoides</i>	Atlantic White Cedar
<i>Fagus grandifolia</i>	American Beech
<i>Fraxinus americana</i>	White Ash
<i>Fraxinus pensylvanica</i>	Green Ash
<i>Juglans nigra</i>	Black Walnut
<i>Nyssa sylvatica</i>	Black Gum
<i>Ostrya virginiana</i>	Ironwood
<i>Picea glauca</i>	White Spruce
<i>Platanus occidentalis</i>	American Sycamore
<i>Sassafras albidum</i>	Sassafras
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus coccinea</i>	Scarlet Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus rubra</i>	Red Oak
<i>Quercus velutina</i>	Black Oak
<i>Tilia americana</i>	Basswood
<i>Tsuga Canadensis</i>	Hemlock
<i>Ulmus americana</i>	American Elm (blight-resistant variety)

Shrubs/Understory Trees

<i>Amelanchier canadensis</i>	Shadbush
<i>Amelanchier laevis</i>	Allegheny/Smooth Serviceberry
<i>Aronia arbutifolia</i>	Red Chokeberry
<i>Aronia melanocarpa</i>	Black Chokeberry
<i>Cercis canadensis</i>	Redbud A good substitute for Sargent Cherry
<i>Clethra alnifolia</i>	Pepperbush
<i>Cornus alternifolia</i>	Pagoda Dogwood
<i>Cornus florida</i>	Flowering Dogwood
<i>Cornus sericea</i>	Redtwig Dogwood
<i>Crataegus phaenopyrum</i>	Washington hawthorn
<i>Hammamelis</i> spp.	Witchhazel
<i>Ilex glabra</i>	Inkberry
<i>Ilex opaca</i>	American Holly, can be a substitute for other evergreens
<i>Ilex verticillata</i>	Winterberry

<i>Itea virginica</i>	Sweetspire
<i>Juniperus virginiana</i>	Red Cedar
<i>Kalmia latifolia</i>	Mountain Laurel
<i>Lindera benzoin</i>	Spicebush
<i>Morella pensylvanica</i>	Bayberry
<i>Rhododendron maximum</i>	Rosebay Rhododendron
<i>Rhododendron periclymenoides</i>	Pink Azalea
<i>Rhododendron prinophyllum</i>	Early Azalea
<i>Rhododendron viscosum</i>	Swamp Azalea
<i>Salix discolor</i>	Pussy Willow
<i>Sambucus canadensis</i>	Elderberry
<i>Thuja occidentalis</i>	Arborvitae, Northern White Cedar
<i>Vaccinium angustifolium</i>	Lowbush Blueberry
<i>Vaccinium corymbosum</i>	Highbush Blueberry
<i>Viburnum dentatum</i>	Arrowwood
<i>Viburnum Nudum</i>	Witherod or Possumhaw
<i>Viburnum trilobum</i>	Highbush Cranberry

Groundcovers**

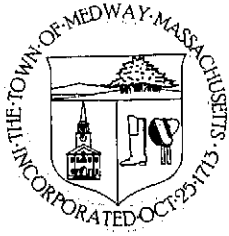
<i>Juniperus horizontalis</i>	Creeping juniper
<i>Arctostaphylos uva-ursi</i>	Bearberry
<i>Heuchera americana</i>	American Alumroot

*The listed trees are recommended for any non-street use. However, relatively few trees can withstand the severe growing conditions alongside streets. Please see the list developed by the Medway Tree Warden for trees that can be successful on street edges.

**Native groundcovers that require relatively little maintenance are limited but the three listed are good choices. If using a non-native groundcover, such as *Pachysandra* or *Vinca*, have a physical barrier (sidewalk, lawn, etc) between the plants and unmanaged land.

Note 1: the above plant species are suggestions only. There may be other native species a landscaper or home gardener may wish to use.

Note 2: cultivars of the above species are completely acceptable and are often a good choice for their particular characteristics.



TOWN OF MEDWAY
DEPARTMENT OF PUBLIC SERVICES
MEDWAY, MASSACHUSETTS

*Entrusted To
Manage The
Public
Infrastructure*

RECEIVED
AUG 23 2010

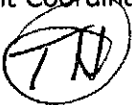
THOMAS M. HOLDER
DIRECTOR

DAVID D'AMICO
DEPUTY DIRECTOR

TOWN OF MEDWAY
PLANNING BOARD

MEMORANDUM

To: Susan Affleck-Childs, Planning and Economic Development Coordinator

From: Thomas Holder, Director | Department of Public Services 

Date: August 23, 2010

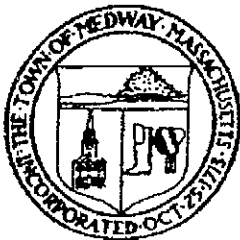
RE: **Neelon Lane – Project Development**

It is understood that a project named Charles River Village is being planned for property at or near Neelon Lane, Medway. This project is proposed to include thirteen residential units located within a built-to-be-private development. In hearing of the proposed development concept at a presentation held August 12th, there are a number of infrastructure components to the project that need verification.

1. The project calls for connecting the existing water lines on Neelon Lane and Cherokee Lane to provide for a looped water distribution system. Verification that adequate fire flow rates are available from both the existing water lines and planned water pipes servicing the development should be made to ensure proper fire fighting capabilities. If it is determined that adequate flows cannot be achieved, the project needs to include provisions for water system upgrades to meet required fire flows.
2. The project is planned to construct a sanitary sewer system that will discharge to the Town's sewer system at an existing manhole located at the end of Cherokee Lane. It needs to be verified that the proposed sewer system is designed to meet invert grades at the referenced manhole to allow for gravity sewer flow throughout the project.
3. The project calls for the extension of the existing public way on Neelon Lane to include a circular cul-de-sac with a landscaped center roundabout. It needs to be verified that the travel path is sized to an appropriate radius to allow for turning movements of any anticipated vehicles and equipment such as firefighting apparatus, snow plows, and garbage haulers. Snow storage along Neelon Lane and within the cul-de-sac should also be identified.
4. It needs to be verified that, this being a planned private development, the operation and maintenance of any and all stormwater infrastructure including discharge characteristics will be the responsibility of the homeowners association.

Thank you for the opportunity to bring awareness to these issues and please continue to involve the Public Services Department during this planning process.

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



Town of Medway
DESIGN REVIEW COMMITTEE
155 Village Street
Medway MA 02053
508-533-3291
drc@townofmedway.org

RECEIVED
SEP 23 2010

TOWN OF MEDWAY
PLANNING BOARD

September 17, 2010

TO: Medway Planning & Economic Development Board
Re: Charles River Village

On Monday, September 13th, The DRC met with Paul Yorkis, in regards to the development proposal for the *Charles River Village* Open Space Residential Development. We reviewed plans and artist renderings of the potential architectural aesthetic that the proposed dwellings in the OSRD will feature. The illustrations were only single views of the homes, and, as such, the DRC cannot make any recommendations at this time based on the lack of detail that was presented to us at the meeting. The presentation was lacking:

- Architectural plans detailing all four views of the proposed structures
- Landscape plan detailing suggested rain garden plan
- Buffer zone landscape architecture plan
- Development signage plan
- Lighting design plan

We suggest that the applicant return to the DRC at a future date with a more comprehensive presentation.

Sincerely,

Matthew Buckley

Chairman, Medway Design Review Committee

Design Review Committee Members

Matthew Buckley, Chairman

Julie Fallon, Vice-Chairman

Karyl Spiller-Walsh, Planning & Economic Development Board Liaison

Rachel Walsh, Corresponding Secretary

Mary Weafer, Recording Secretary

Gary Jacob Associate Member

Report of September 9, 2010 Site Visit – 6 Neelon Lane

The Medway Planning and Economic Development office scheduled a site walk of the property for the proposed Charles River Village residential development at 6 Neelon Lane to take place at 5:30 pm on Thursday, September 9, 2010. The gathering location was the end of Neelon Lane. The purpose of the site walk was to acquaint the members of the Medway Open Space Committee with the proposed open space parcels. The Planning and Economic Development Board had requested the Open Space Committee's input regarding the proposed open space for this development proposal. The site walk was NOT a continuation of the Planning and Economic Development Board's public hearing which had started 8-31-10.

The site visit was properly posted with the Medway Town Clerk as a meeting of the Open Space Committee. The notice of the site walk was also circulated to the allied Medway land use boards/committees which were invited to attend. The Medway Planning and Economic Development Coordinator contacted several adjacent abutters about the site walk as had been promised during the 8-31-10 public hearing.

Present were:

- Open Space Committee members Jim Wickis, John Schroeder & Pat McHallam
- Planning and Economic Development Board members Andy Rodenhiser, Chan Rogers and Karyl Spiller-Walsh
- Charles River Village development team members John Claffey (applicant), Paul Yorkis (official representative), David Faist (engineer), Dan O'Driscoll (land surveyor) and Lowell Robinson (landscape architect).
- 12-15 abutters/neighbors including Beth McDonald, Richard and Susan DiIulio, Elaina Kaplan
- Medway DPS Director Tom Holder
- Medway Engineering Consultant Dave Pellegrini from Tetra Tech Rizzo
- Medway Conservation Agent Karon Skinner-Catrone

As the group was gathering, applicant John Claffey became concerned about the size of the group. Paul Yorkis asked who had the authority to invite non Town officials to the site walk. He asked Mr. Claffey if he would allow those not formally associated with the Town of Medway to walk the site. They were concerned about their liability due to the number of people and the heavily wooded nature of the site. Mr. Claffey determined that he would not permit non-Town personnel to enter the property to participate in the site walk.

The neighbors were upset and angry at not being allowed access to walk the property with Town officials. The abutters had many questions they wanted answered about Neelon Lane and associated access issues.

The Town officials and the development team walked south from the end of Neelon Lane toward the established cart path, turning right and traversing the property from east to west toward Massasoit Street. Where the property meets Massasoit, members of the Open Space Committee proceeded southerly along Massapoag to Riverview. Other walkers proceeded off site to Cherokee Lane where they were met by several abutters who owned property there including Barbara Ryan.

Topics discussed included parking options for public access to the open space, roadway connections, and other possible property improvements including the nature of the emergency access through Cherokee Lane. .

At the conclusion of the site walk, members of the Open Space Committee reconvened at the Medway Senior Center on Oakland Street to discuss the project further and to develop their recommendations to the Planning and Economic Development Board.



PROPERTY LOCATION

No	Alt No	Direction/Street/City
6		NEELON LN, MEDWAY

OWNERSHIP

Owner 1:	Owner 2:	Owner 3:
ACQUAFRESCA MICHAEL &	CAROL SUPERIOR EXECUTRIX OF	
Street 1: HELEN GRUDZINKAS		
Street 2: 282 PURCHASE STREET		
Town/City: MILFORD		
S/Prov: MA	Cnty:	Own Occ:
Postal: 01757		Type:

PREVIOUS OWNER

Owner 1:	ACQUAFRESCA HELEN B. &
Owner 2:	
Street 1:	6 NEELON LN.
Town/City:	Medway
S/Prov:	MA
Cnty:	
Postal:	2053

NARRATIVE DESCRIPTION

This Parcel contains 8. Acres of land mainly classified as ONE FAMILY with a(n) COLONIAL Building Built about 1890. Having Primarily VERT BRD Exterior and ASPHALT SHNG Roof Cover, with 1 Units, 1 Baths, 0 HalfBaths, 0 3/4 Baths, 7 Rooms, and 3 Bdrms

OTHER ASSESSMENTS

Code	Description	Amount	Com. Int
------	-------------	--------	----------

PROPERTY FACTORS

Item Code	Descr	%	Item Code	Descr
Z			U	ALL PUBLIC
0			1	
n			1	

LAND SECTION (First 7 lines only)

Use	Description	LUC	No of Units	Depth / PctdUnits	Unit Type	Land Type
101	ONE FAMILY		43996		SF Site	SITE
101	ONE FAMILY		304484		SF Excess	EXCESS

IN PROCESS APPRAISAL SUMMARY

Use Code	Building Value	Yard Items	Land Size	Land Value	Total Value	Legal Description
101	90,600		8,000	133,800	224,400	
Total Card				8,000	133,800	Entered Lot Size
Total Parcel				8,000	133,800	Total Land
Source: Market Adj Cost				Total Value per SQ unit/Card: 198.23		Parcel: 198.23
				Parcel ID 1D-33		Land Unit Type:

PREVIOUS ASSESSMENT

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Assesd. Value	Notes
2011	101	PV	86,900		8	133,800	220,700	220,700	growth
2010	101	FV	78,500		8	133,900	213,200	213,200	CONV
2009	101	FV	84,400		8	141,000	226,200	226,200	CONV
2008	101	FV	90,400		8	149,100	240,300	240,300	CONV
2007	101	FV	96,800		8	163,800	261,200	261,200	CONV
2006	101	FV	98,300		8	163,800	262,900	262,900	CONV
2005	101	FV	94,000		8	133,200	228,000	228,000	CONV
2004	101	FV	85,100		8	121,000	206,900	206,900	CONV

SALES INFORMATION

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Assoc PCL Value
ACQUAFRESCA HEL	16973-237		8/7/2002	X	100 No	No			
	05949-353		1/1/1900	X	0 No	No			

TAX DISTRICT

PAT ACCT. 742

BUILDING PERMITS

Date	Number	Descr	Amount	CO	Last Visit	Fed Code	F. Descr	Comment
10/8/1993	93-313	DET STRU		C				
1/1/1900	SS	SPLIT/SU		C				
1/1/1900	SS09-4	SPLIT/SU		C	11/25/2008			ac fm 1D-33-107 &

ACTIVITY INFORMATION

Date	Result	By	Name
8/7/2002	REVIEWED	TB	TB
7/31/2002	MEASURED	BB	BB
7/31/2002	INSPECTED	BB	BB

Total ACH/A: 8.00000	Total SF/SM: 348480.00	Parcel LUC: 101	ONE FAMILY	Prime NB Desc: RES	Database: AssessPro	Total: 133,720	Spl Credit: 10,961	Total: 133,800
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See pages 140
re: Neelon Lane

March 23, 2010

**Medway Planning and Economic Development Board Meeting
Medway Town Hall
155 Village Street**

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

ABSENT WITH NOTICE: John Williams

ABSENT WITHOUT NOTICE:

ALSO PRESENT: Susy Affleck-Childs, Planning and Economic Development Coordinator
Gino Carlucci, PGC Associates
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:03 pm.

CITIZEN COMMENTS

Mr. Yorkis presented the Board with information regarding three options for the Neelon Lane property.

The first plan showed the right-of-way from Village Street on Neelon Lane. This right-of-way would be for an 18' wide paved surface. The P cul-de-sac would provide the ability for the vehicles to turn around.

The second plan shows that the P cul-de-sac can be constructed entirely on land that is part of the purchased property. There will be no change to the open space.

The third plan shows that the P-cul-de-sac which would be built by the applicant on adjacent property owned by Beth McDonald. This would have adequate frontage. There will be a new fire hydrant on Neelon Lane, along with a twenty foot utility easement connecting to Cherokee Lane. A new fire hydrant would be located at the end of Cherokee. A ten foot wide gravel pathway would be used for emergency vehicle and pedestrian access. The third plan has been reviewed by the Town of Medway Fire Chief Paul Trufant and the Police Sergeant Jeff Watson.

Mr. Yorkis also communicated that he has met with all three parties whose driveways are located on Neelon Lane. He also informed the Board that the exact width is not 100% clear at this point.

The Board members had comments in regard to the plans. Member Rogers indicated that he is not opposed to this, but a lot is going on with this plan. Member Gay is not sure about the presented options, but he is concerned about Neelon Way and the flip flop of the turn around.

Mr. Gay informed Mr. Yorkis that he would like to make sure that the same kind of information is presented on all the plans and that the proposals are consistent.

Chairperson Rodenhiser noted that the road and right of way width is of concern, along with the access for emergency vehicles. Another concern is the traffic going down the street. Member Spiller-Walsh would like the design to allow for some vista views by some creative stacking of units. Member Tucker noted that there is too much to fit in at this property.

Abutter Kaplan of 221 Village Street was concerned about the width of the street.

The Chairman informed the abutter that those issues will be addressed once the official submittal is presented to the Board.

PROPOSED ZONING ARTICLES

The Board reviewed the draft articles for Green Communities Work – Definitions. Affleck – Childs will be presenting these definitions to the Energy Committee at their meeting on Wednesday evening. The definitions have been reviewed by Town Counsel. The Board was in agreement with the definitions as presented in the draft of March 17, 2010. The Board is also comfortable with the amendments to the Medway Zoning Bylaw, Section V. Use Regulations, Sub-Section M., Industrial I Zoning District by adding items j and K to paragraph #1, and subsection N, Industrial II by deleting e) in paragraph 1 and replacing it with the noted revision. Items h) & i) in paragraph #1. Under Industrial III Zoning District items g & h will be added to paragraph #1 under allowed uses.

The section in relation to the Site Plan Review was reviewed and it was noted that the inclusion of a definition was recommended.

Article Pertaining to Sign Regulations:

The Board reviewed the sign definitions and would like the Section regarding Temporary Banner Type (20) to indicate 32 square feet instead of 24 square feet. The discussion continued in relation to the exempt signs. It was recommended that under (23) Contractor's temporary lawn sign that these not exceed a total of 4 square feet and not the 12 square feet proposed. The Board was comfortable with the "Now hiring" signs. Under (25), Signs for community based organizations, it was suggested that there not be a maximum of six signs per organization. In relation to the temporary product promotional signs, member Tucker questioned if the Board wants to regulate this? The Chairman concurred asking if the Board really wants to limit at this time. After discussion, it was suggested that this be removed. The Board was comfortable with numbers (27) and (28). The discussion next moved to the prohibited signs. Under (k), it was recommended that the word outside be included. The Board would like it indicated that signs are prohibited for Home Based Occupations/Home Based Businesses.

Sign Standards – All Zoning Districts:

The Board was comfortable and agreement with the highlighted suggestions as presented in Sections a), j), l), m), q), r), and s). Under Section m), member Gay wanted to make sure that the

Charles River Village
Informal
1-26-2010
Neelon Lane

January 26, 2010

**Planning and Economic Development Board
Medway Town Hall - 155 Village Street**

BOARD MEMBERS PRESENT: Andy Rodenhiser, Bob Tucker, Thomas Gay, Karyl Spiller-Walsh, Chan Rogers

ABSENT WITH NOTICE: John Williams

ABSENT WITHOUT NOTICE:

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

The Vice Chairman Tucker opened the meeting at 7:03 pm.

BOARD BUSINESS:

Minutes:

January 12, 2010:

• On a motion made by Tom Gay, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from January 12, 2010 with the noted revisions.

January 19, 2010:

• On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to accept the minutes from January 19, 2010 with the noted revisions. (NOTE - These minutes will have as an attachment, the draft decision of Williamsburg Condominium OSRD Definitive Draft Decision as noted in minutes).

Construction Update:

Williamsburg:

Consultant Pellegrini noted that a site visit was done on January 26, 2010. There is clearing and grubbing taking place on site. The contractor is cleaning up and disposing of scrap metals including old tires and computers. These items are being disposed of properly. The erosion control measures are in place. The big boulders are being stock piled. There is currently no breaking up of the asphalt on West. St. Mr. Yorkis communicated to Consultant Pellegrini that he will be meeting with the DPW about the street opening permits. Mr. Yorkis will also be seeking a permit for utilities.

Applegate Modification:

Susy Affleck-Childs reported that Mr. Costello has submitted an application to modify the Applegate Farm Definitive Subdivision decision; the plan was endorsed in late January 2007. The three year window per the Town of Medway Subdivision Rules and Regulations will expire

in three days thus the reason for modification. A Public Hearing will need to be held and abutters will need to be notified.

Daniels Wood II Subdivision Plan Modification:

CERTIFICATE OF ACTION:

A draft Certificate of Action had been emailed to board members; copies were distributed. A copy of the 1-25-10 draft decision is attached to these minutes.

The Applicant is seeking an extension for the Planning Board's deadline for a Certificate of Action on the proposed modification.

- **On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to grant the applicant's request for an extension until March 12, 2010 for the Certificate of Action for the Modification to the Daniel Wood II Definitive Subdivision Plan & Certificate of Action.**

The Board began its review of the draft decision.

The Board is comfortable with the noted history on Sections I, II, III. The top section on page two represents the old plan. There will be clarity provided on the roadway Station numbers.

IV. MODIFICATION DESCRIPTION:

Susy Affleck-Childs informs the Board, that the language of the modification description was taken from the original written description as presented by the applicant.

The Board had a lengthy discussion about whether to keep the word natural in connection with the drainage text included in items A. and B of the Modification Description. Member Spiller-Walsh would like to add language to clarify "the project". She would like to specify where the run off will be going. She would also like the word "natural" to be taken out since it is not a term or definition of the Town of Medway.

- **On a motion made by Chan Rogers and seconded by Tom Gay, the Board voted to take out the word natural in Modification Description A but not B. Karyl Spiller-Walsh voted no. Vote passes.**

Member Gay would like the new lot change noted.

Member Spiller Walsh made a motion to eliminate on page 2. Section (D) to the Modification Description. There was no second to the motion. The motion fails. This will stay as written.

Susy Affleck-Childs informed the Board that they did not prepare Findings on the original Daniels Wood II decision. Affleck-Childs visually showed on the plan that the modification only pertains to one Lot and parcel.

V. PROCEDURAL SUMMARY:

The Board was in agreement with section V. Procedural Summary on page 3.

VI. EXHIBITS – PLANS and DOCUMENTS:

The Board is satisfied with the Section entitled Exhibits – Plans and Documents on page 4 as written. The only revision on page 5 will be to include the revised memo date from the Medway Fire Chief Paul Trufant.

VII. PUBLIC HEARING SUMMARY:

The Board was in agreement with this section.

IX. PROJECT EVALUATION CRITERIA:

Susy Affleck-Childs will come up with draft language to the findings within each section. These will need to be reviewed by Town Counsel. Under 5.16.7 Consistency with the purpose of the Subdivision Control Law, member Spiller-Walsh does not feel the project is consistent with the Subdivision Control Laws.

X. WAIVERS:

The applicant will be seeking an additional waiver relative to stormwater management.

ACTION OF WAIVER FINDINGS:

Action on the Waiver Findings will be done at a later date.

ACTION OF WAIVER REQUEST:

Action on the Waiver Request will be done at a later date.

XI. CONDITIONS:

The Board was in agreement with Sections noted Specific Conditions and Ownership/Maintenance, Mitigation. The Section entitled Timeable for Completion should note that the normal duration will be 3 years. The Section entitled Plan Revisions requires a second sheet to be added to the plans which will be added to show and clarify the drainage easements.

LEGAL DOCUMENTS:

All copies of the Deeds, Easements, and Private Roadway Agreement will need to be reviewed by Attorney Murray, Susy Affleck-Childs, and Legal Counsel.

9. Recording of Plans and Documents:

The Board is comfortable with the wording of this section.

10. Maintenance Responsibility During Construction:

The Board is comfortable with the wording of this section.

11. Building Permits:

The Board is comfortable with the wording of this section.

Mr. Yorkis wants to remove the requirement that the Roadway Binder Course be completed before a building permit is issued. The Board communicated that a waiver needed to be submitted and it is too late since the public hearing is closed.

12. Performance Security:

B. Alternative Performance Security:

Mr. Yorkis is concerned that the individual who purchases this will have a substantial burden to come up with the money for the performance security. Susy Affleck-Childs reminds the Board that security of some sort must be put in place to protect the Town. The language on page 13 will need to be clarified.

13. Project Completion:

The Board is comfortable with how this section is written.

General Conditions:

The Board is comfortable with how this section is written.

Next Steps – The Board will discuss this again at the March 9th meeting.

Request for Informal Discussion Neelon and Cherokee Lane:

Susy Affleck- Childs informed the Board that Paul Yorkis & David Faist would like to have an informal discussion about a possible OSRD development. This project is located between the ends of Neelon and Cherokee Lanes (site of the previously approved but expired Charles River Acres OSRD project).

Mr. Yorkis & Mr. Faist began their presentation informing the Board that this project is on a 7.7 site adjacent to the Charles River located between the ends of Neelon and Cherokee Lanes. This is a site of the previously approved but expired Charles River Acres OSRD project. Mr. Yorkis communicated that there is a different applicant who is putting together some preliminary ideas.

Mr. Faist provided a historical overview. The OSRD Special Permit was issued on October 20, 2006. The former developer (KDEE Realty) has not pursued the project due to financial difficulties and the decline of the real estate market, thus the permit expired and there has been no activity for two years. The old approval was for six single family detached homes and two duplex buildings for a total of ten residential dwelling units.

Mr. Yorkis is considering having single family condominiums and not duplexes. A draft of a series of architectural designs was provided showing the cottage style homes.

Member Spiller-Walsh communicates that Cherokee appears to be the logical access (and not Neelon Lane). She was also inquiring about if it may be possible to do 2 or 2 1/2 story units and remove the single family concept.

Vice Chairman Tucker communicated that the plan looks as though they are trying to maximize the number of units. Once all the calculations are available, the Board can address the impacts.

Member Rogers notes that both of the two concepts of access have significant issues. Consultant Pellegri explains that a traffic engineer would be able to come up with the pros and cons of the access concept ideas.

Mr. Faist presented a sheet noting the minimum width of traveled way for specified design volume per ASHTO standards. The Board discussed that this will need to be further substantiated. The plan would need to be verified by a licensed surveyor. It is premature to make the exact specifications. Mr. Yorkis has had informal discussion with several of the abutters. They are aware of what is informally taking place. The restrictions are the pavement width; improve the rounding, trees in the front, and the existing pavement. One of the ideas is to have the Town water line looped. This discussion was helpful in exploring different possibilities.

Birch Hill:

Ms. Ellen Rosenfeld communicated that the Hunter Lane is 100% complete. The signs have been installed and the gate valves are done. In regards to Ivy Lane, the As-Builts have been provided, and the potholes have been filled, and the fire hydrants have been raised. There was an issue with a small parcel being deeded to the wrong neighbor. She communicated that as long as there are two separate lots, it doesn't really matter who owns it. The Board would like two letters from Ms. Rosenfeld noting that the required items have been addressed. Once the letters are received and items checked, the money will be released. Susy Affleck-Childs informed the Board that it has been difficult working with Ms. Rosenfeld.

Other Business/Reports

Gino Carlucci informed that Board that there was a follow-up meeting in regards to the discussions regarding a Casino in the metro-west/swap area. Various towns will be writing a joint letter to communicate the comments and concerns. A key issue is to make sure that local zoning is not infringed upon. The letter will also make note of the economic impacts, traffic, and housing. Member Rogers noted that Milford is looking to change the Zoning to allow and potentially accept casino type resort development.

- **On a motion made by Karyl Spiller-Walsh, and seconded by Tom Gay, the Board voted unanimously to adjourn the meeting at 10:00 pm.**

Future Meetings:

The next meetings scheduled are: **February 9 & 23, 2010.**

The meeting was adjourned at 10:00 pm.

Respectfully Submitted,

Amy Sutherland
Meeting Recording Secretary

Edited by Susy Affleck-Childs
Planning and Economic Development Coordinator



MEDWAY TOWN CLERK

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

MARYJANE WHITE, CMMC

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

NOTARY PUBLIC

I, Maryjane White, Town Clerk of the Town of Medway certify that Neelon Lane is an accepted street in the Town of Medway. Neelon Lane was accepted by the Town at a Town Meeting held April 6, 1863

A true copy Maryjane White.....

TOWN CLERK

DATE August 19, 2010.....

RECEIVED
AUG 24 2010

TOWN OF MEDWAY
PLANNING BOARD

3years.



MEDWAY TOWN CLERK

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

RECEIVED
AUG 24 2010

TOWN OF MEDWAY
PLANNING BOARD

MARYJANE WHITE, CMMC

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

NOTARY PUBLIC

CERTIFICATION

I, Maryjane White, Town Clerk of the Town of Medway hereby certify the following as my transcription of the Town Meeting record dated April 6, 1863. I also certify that Neelon Lane is on the list of accepted streets furnished to me when taking office as Town Clerk in 1991.

On Petition of Luther Metcalf and others we the Subscribers Selectmen of Medway have laid out the use of Francis Neeland and others in passing from the house of said Neeland to the old Hartford road (so called) a private way, on conditions that said Neeland shall remove the fence of Charles B. Whitney and reset the same on the easterly side of the proposed way, and also that he shall build and construct said way in such a manner, that it shall be safe and convenient for carriages.

Said way to be located partly on land set apart for a way by J. W. B. Wilson deceased, partly on land of said Neeland, and partly on land of C. B. Whitney and bounded as follows;

Beginning at the easterly end of the wall in front of the house of the heirs of John Karnes at the old Hartford road, and running southerly in a straight line to the easterly front in the picket fence separating land of said heirs, from land of said Neeland, and thence running in the same direction to a fence opposite the southerly side of said Neeland house, and to be twenty five feet wide on the easterly side of said line.

And we award to C.B. Whitney as land damage the sum of twenty dollars (\$20.00) and for fencing the sum of twenty dollars (\$20.00). We also award to the heirs of John Karnes the sum of ten dollars for fencing to be paid by the town.

Dated at Medway this twenty sixth day of March in the year 1863.

Wm Daniels
Simeon Fisher
G. Partridge Selectmen of Medway

DATE August 24, 2010
A true copy
ATTEST Maryjane White

The Petition of Luther McCall and others we the
 Subscribers Selectmen of Medway have laid out for the
 use of Francis McCalland and others in passing from
 the house of said McCalland to the old Hartford
 road (so called) a private way, on conditions that
 of said McCalland shall remove the fence of C. B.
 Whitney and reset the same on the easterly side
 of the proposed way, and also that he shall build
 and construct said way in such a manner, that
 it shall be safe and convenient for carriages.

Said way to be located partly on land set
 apart for a way by J. B. Wilson deceased, partly on
 land of said McCalland, and partly on land of
 C. B. Whitney and bounded as follows,

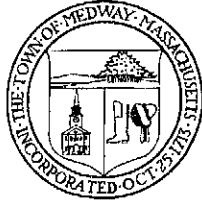
Beginning at the easterly end of the wall
 in front of the house of the heirs of John Herries at
 the old Hartford road, and running southerly
 in a straight line to the easterly front in the picket
 fence separating land of said heirs, from land of
 said McCalland, and thence running in the same
 direction to a fence opposite the southerly side of
 said McCalland's land, and to be twenty five feet
 wide on the easterly side of said line.

and we award to C. B. Whitney as land
 damage the sum of twenty dollars (\$20.00) and for
 resetting the sum of twenty dollars (\$20.00) We also award
 to the heirs of John Herries the sum of ten dollars
 for passing to be paid by the town.

Witness our hands and seals at Medway this
 thirtieth day of March in the year 1863.

RECEIVED
 AUG 12 2010
 TOWN OF MEDWAY
 PLANNING BOARD

Wm. Daniels }
 Simon Fisher }
 C. Partridge }
 Selectmen
 Medway



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

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

REVISED DRAFT – September 23, 2010

ADAPTIVE USE SPECIAL PERMIT DECISION
Steinhoff Realty Trust for 146 Main Street
SPECIAL PERMIT – _____

Name/Address of Applicant: Steinhoff Realty Trust
133 Main Street
Medway, MA 02053

Name/Address of Owner: Steinhoff Realty Trust
133 Main Street
Medway, MA 02053

Designer: The H.L. Turner Group
27 Locke Road
Concord, NH 03301

Plan Date: June 11, 2010, last revised _____, 2010

Project Location: 146 Main Street

Assessor's Reference: MAP 5, Parcel 5/264.

Zoning: Agricultural Residential II and Adaptive Use Overlay District

Purpose: Substantially renovate the existing 1,632 sq. ft. residential structure on the property and construct a 2-story, 7,045 sq. ft. addition to the north of the existing structure, all space to be used for professional offices.

This is a decision of the Planning and Economic Development Board of the Town of Medway, MA (hereinafter “Board”) on the July 1, 2010 petition of Steinhoff Realty Trust (hereafter “Applicant”) of 133 Main Street, Medway, MA 02053, for an Adaptive Use Special Permit for property located at 146 Main Street presently owned by Steinhoff Realty Trust of Medway, MA. (hereinafter “Property”). The Special Permit is sought pursuant to *SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District of the Town of Medway Zoning Bylaw (last amended November 19, 2007)* and other relevant provisions of the *Zoning Bylaw* in order to allow the Project as described below.

This Decision includes the following sections:

- I. *Project Description*
- II. *Decision of the Board*
- III. *Procedural History*
- IV. *Supplemental Materials*
- V. *Findings*
- VI. *Waivers*
- VII. *Conditions, Limitations*
- VIII. *Appeal*

I. PROJECT DESCRIPTION

The Petitioner seeks to modify the most recent previous single family residential use of the subject property at 146 Main Street. The Applicant is the current owner of the .7 acre parcel. The Applicant proposes to develop an 8,677 sq. ft. building through renovation and new construction, all to be used for professional offices. The project includes three components:

- renovation/reconstruction of the existing building
- construction of a new 2 story, 7,045 sq. ft addition
- extensive site improvements including drainage, parking, lighting, and landscaping and connections to Town water and sewer services.

The plan for the development of this property is shown on *Steinhoff Office Building, 146 Main Street, Medway, MA* prepared by the H.L. Turner Group of Concord, NH for Steinhoff Realty Trust. The plan was originally dated June 11, 2010 and was revised June 30, 2010 and

The applicant intends to develop this project as a LEED compliant and energy neutral building and will incorporate both solar and geothermal heating devices.

II. DECISION OF THE BOARD - After reviewing the application and information gathered during the public hearing process and considering all the evidence, the Medway Planning and Economic Development Board, at a duly posted meeting on September 28, 2010, voted to grant by a _____ vote, an Adaptive Use Special Permit to Steinhoff Realty Trust for the subject property at 146 Main Street, Medway, MA. as represented in the hearing and shown on the plans, subject to the waivers, conditions, safeguards and limitations granted herein. This special permit is general and runs with the land. It is the decision of this Board, as evidenced by its vote herein, that the aforesaid Property is a proper parcel to be developed under *SECTION V. USE REGULATIONS, Sub-Section W.*

Adaptive Use Overlay District of the Medway Zoning Bylaw (as amended June 6, 2005) in that it meets all the requisite site development standards and special permit criteria.

Voting Planner Board Member

Grant/Not Grant

Karyl Spiller-Walsh
Andy Rodenhiser
Cranston Rogers
Robert K. Tucker
Thomas A. Gay

III. PROCEDURAL HISTORY

On July 1, 2010, Steinhoff Realty Trust filed an application for an Adaptive Use Special Permit with the Board and the Medway Town Clerk. The application consisted of:

- an Adaptive Use Overlay District Special Permit application dated July 1, 2010.
- an Adaptive Use Overlay District (AUOD) Plan titled Steinhoff Office Building dated June 11, 2010, revised June 30, 2010 prepared by The H.L. Turner Group, Inc of Concord, NH.
- a project narrative
- a drainage report dated Jun 11, 2010, revised June 30, 2010 from The H.L. Turner Group; and
- a certified abutters list.

Upon the Board's receipt of the Applicant's petition, a Public Hearing was scheduled to commence July 27, 2010 in the Sanford Room of Medway Town Hall, 155 Village Street, Medway, MA. Notice of the public hearing was posted with the Town Clerk at Medway Town Hall on July 1, 2010 and on the Town of Medway web site. The required legal advertisement was published in the *Milford Daily News* on July 13 and 19, 2010. Notice was also sent by registered mail to all parties of interest and abutters and the Planning Boards of all adjacent towns on July 6, 2010.

On July 6, 2010, a memo from the Board soliciting comments on the application and plan was distributed to the Board of Selectmen/Town Administrator, Assessors, Conservation Commission, Department of Public Services, Design Review Committee, Historical Commission, Inspector of Buildings, Fire Department and Police Department. The memo indicated that the public hearing was scheduled to begin on July 27th and requested review comments by that date. Review letters were received from the Economic Development Committee and the Design Review Committee.

The plans and all associated application materials were reviewed against the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District, the Medway Site Plan Rules and Regulations, the Medway Subdivision Rules and Regulations, the Water/Sewer Department Rules and Regulations and good engineering practices. Tetra Tech Rizzo, the Town's Consulting Engineer provided review memos dated 6/24/10, 7/22/10, 8/5/10 and 8/25/10. PGC Associates, the Town's Consulting Planner, also provided review letters dated 7/22/10 and 8/26/10. As review letters were issued, the plans were modified to address the identified concerns and deficiencies which resulted in revised plans dated August 4, 2010 and _____.

The public hearing commenced on July 27th and was continued to August 24, 2010 when the hearing was closed. Present for both public hearing sessions were members Andy Rodenhiser, Karyl Spiller-Walsh, Cranston Rogers and Tom Gay. Member Bob Tucker missed the July 27th hearing but was present for the August 24th hearing. Mr. Tucker did provide a Mullen's Rule certification that he had viewed a videotape of the July 27th hearing. Also present were Dave Pellegri of Tetra Tech Rizzo, the Town's Consulting Engineer and Gino Carlucci, the Town's Consulting Planner

Richard Steinhoff, the petitioner, was present at both sessions of the public hearing. Jim Spaulding of The H.L. Turner Group, attended the 7/27/10 session. Abutters and residents of the adjacent neighborhood attended the public hearing; they asked questions and provided opinions about the proposed development:

- Tom and Judith Giovangelo, 144 Main Street
- Ted and Elizabeth Lambert, 7 Temple Street
- Robert and Diane Piacentini, 9 Temple Street
- Vallishayee Rashmi, 25 Temple Street
- Tara Werlich, 155 Main Street
- Nancy Hamm, 10 Temple Street

The Board carefully reviewed the various plan submittals and all associated materials and information. Throughout its deliberations, the Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearings. The Board carefully analyzed the general purposes of the Adaptive Use Overlay District provision of the *Zoning Bylaw* and its specific requirements and standards as well as the requirements of Section 9 of Chapter 40A, M.G.L. specifically relating to Special Permits in making its findings, conditions of approval and decision.

IV. SUPPLEMENTAL MATERIALS

Documents

- Review Memorandum dated August 26, 2010 from the Medway Design Review Committee
- Letter of support dated August 23, 2010 from the Medway Economic Development Committee
- Response letter dated July 1, 2010 from The H.L. Turner Group, Inc. in response to the Tetra Tech Rizzo review dated 6/24/10.
- Response letter dated August 10, 2010 from The H.L. Turner Group, Inc. in response to the Tetra Tech Rizzo review dated 7/22/10 and the PGC review dated 7/22/10.
- Written communication received July 27, 2010 from Richard Steinhoff regarding the status of small wind power generation on the site.
- Request for waivers received August 17, 2010.

Plans

- Revised plans Steinhoff Office Building dated August 4, 2010 by The H.L. Turner Group, Inc.
- Revised Landscape Plan dated _____ by Carolyn Cooney & Associates.
- Revised Lighting Plan dated _____

IV. FINDINGS - Based on the evidence and testimony presented at the public hearings as documented in the application materials and detailed record of this case, the Board makes the following findings regarding this application in accordance with *SECTION V. Sub-Section W. Adaptive Use Overlay District of the Town of Medway Zoning Bylaw (last amended November 19, 2007)*.

1. The Subject property, located at 146 Main Street, is located within the Adaptive Use Overlay District. The property has 165.95 feet of frontage on Main Street. *(This complies with the Zoning Bylaw requirement for a minimum of 50 feet of Main Street frontage for an adaptive use project.)*

2. The primary building existing on the parcel at the time of application was constructed in 1880. *(This complies with the Zoning Bylaw requirement for the site to have on it an existing building constructed before June 28, 2004.)*

3. The proposed use of the Property for offices for business and professional uses is allowed pursuant to *SECTION V, USE REGULATIONS, Sub-Section W, 3. b)* of the *Medway Zoning Bylaw (as last amended November 19, 2007)*. Overall, the subject parcel is in a portion of Main Street in which residential, professional and commercial uses historically and presently co-exist.

4. The Project preserves the overall residential character of the buildings along this stretch of Main Street/Route 109. The change in use of the existing vacant and deteriorated residential structure to an office for professional businesses will establish a new economic viability for the existing structure.

5. The Project as proposed includes improvements to the existing historic residential building which has gone into extreme disrepair over recent years and does not presently enhance Main Street as a building of its age and character should. Planned work includes replacement of the siding, gutters and woodwork to maintain and enhance the structure's original architectural integrity and installation of modern services. The Medway Design Review Committee has provided significant input to the overall building and site design, working diligently to achieve a design for the new office structure that is substantively residential in character and compatible with the existing structure's architecture. The design of the addition as it has evolved is now compatible with the existing structure and the residential character of the adjacent properties. The combination of the building improvements and landscaping plan enhances the aesthetic appeal of the primary building and the site. The impact of the project on Main Street's visual character is positive.

6. A professional landscape plan has been prepared. Extensive landscaping is planned to enhance the existing structure and its new addition. The proposed landscaping serves as a buffer zone to adjacent residential properties on the east, north and west of the subject parcel.

7. The site is adequate for the proposed use for professional offices.

8. Parking – The applicant has proposed to provide 29 off-street parking spaces. All proposed parking is shown to be at the rear and side of the building. The proposed parking layout has been adjusted to ensure that there is the required 50 feet between the first parking space and the edge of roadway pavement on Main Street. The applicant has adjusted the layout to include ___ “compact car” spaces along the eastern edge of the parking lot which have reduced dimensional requirements. Visitor and handicap accessible spaces are labeled on the plan. The Board finds that the provision of 29

parking spaces is adequate for the proposed uses of the site and the 8,677 sq. ft. size of the building @ one space per 300 sq. ft of gross floor space.

9. Lighting – As initially presented, the parking lot lighting plan was not residential character as it included 14’ tall light posts. Subject to condition# ____, the light posts shall be reduced to 10’ in height. A photometric analysis has been conducted and shows that _____.

10. Vehicular Access - Provisions for traffic are adequate based on the Property’s proposed use. Sole vehicular access to this site shall be provided from Main Street. Although no new curb cuts are being added, the existing 12’ wide curb cut is being expanded to 24”. The Board finds this enlargement is necessary to ensure safe access into and egress from the property.

11. Pedestrian and Bicycle Access – The proposed provisions for pedestrian and bicycle accesses are adequate based on the building and the site. The property already has an existing sidewalk across the front of the property along Main Street. The plans show the construction of a new sidewalk from the front door of the building to that existing Main Street sidewalk. In addition, a sidewalk will be installed alongside the entrance driveway up to the main entrance of the new addition on the east façade of the building. A bicycle rack to accommodate 5 bicycles is also provided.

12. Provision of Utilities - The provisions in the Project for utilities, including sewerage disposal, water supply and stormwater management are adequate. The stormwater management design was reviewed by Tetra Tech Rizzo, the Town’s consulting engineer. The Project provides for adequate on-site retention and treatment of stormwater in compliance with Massachusetts’ Stormwater Management Policy and the Board’s Subdivision Rules and Regulations. The sewer and water connections were reviewed by the Medway Department of Public Services and determined to be adequate.

13. The proposed Project complies with the purposes of *SECTION V. USE REGULATIONS, Sub-Section W. Adaptive Use Overlay District of the Medway Zoning Bylaw (as amended June 6, 2005)*. The Project implements certain goals of the Medway Master Plan including encouragement of economic development, protecting small town character, and preserving historic sites.

V. WAIVERS – The applicant has requested waivers from the following sections of the *Site Plan Rules and Regulations*

The applicant has requested a waiver from the following section of the *Subdivision Rules and Regulations*

The applicant has requested a waiver from the following sections of the *Adaptive User Overlay District Rules and Regulations*

VIII. CONDITIONS/SAFEGUARDS/LIMITATIONS OF APPROVAL

1. The property shall not be altered or used except for a maximum of 8,677 sq. ft. of professional office space. No other use of this building is permitted. Any other uses will require the filing of a new special permit application.
2. Plan Endorsement - The Medway Planning & Economic Development Board shall endorse its approval of the Adaptive Use Special Permit on all sheets of the Steinhoff Office Building plan for 146 Main Street. Within 30 days after the Board files this Special Permit decision with the Town Clerk, the Applicant shall submit a final AUOD plan reflecting all required revisions for the Board’s endorsement.

The endorsed Adaptive Use Overlay District (AUOD) Plan is considered part of the Special Permit and shall be recorded therewith. Prior to Board endorsement, the Steinhoff Office Building plan for 146 Main Street shall be revised as follows:

- A. Title Sheet – Update index to include all sheets in the plan set.
 - B. Title Sheet – Remove list of abutters
 - C. Title Sheet – Add reference that the plan is also subject to an Adaptive Use Overlay District Special Permit to be recorded with the plan.
 - D. Sheet C2.1 Site Lighting Plan shall be revised. Light fixtures shall not be more than 10 feet tall so to achieve a more residential character.
 - E. Sheet L1 Landscape Plan shall be revised to specify the installation of evergreen plantings at the base of the free-standing building development sign..
 - F. Landscape plan along the northern boundary of the property adjacent to ___ Temple Street shall be revised _____.
3. This approval is conditioned on project completion in full compliance with the Steinhoff Office Building plan for 146 Main Street, as last revised _____, as may be further revised as a condition of this permit.
 4. Parking – The Project shall include at least 29 parking spaces, which shall be a permanent condition of this permit.

5. Lighting must comply with the Medway Zoning Bylaw, Section V. B. 3. The exterior parking lot lights shall be turned off by 9:30 p.m.
6. The applicant shall make no further site improvements/changes that would alter the site's drainage patterns or characteristics as indicated on the plan approved by the Board.
7. Collection of garbage and domestic trash shall be the responsibility of the applicant subject to Board of Health *Rules and Regulations*.
8. The hours of operation for professional offices in this building shall be limited such that there will be no customer access to the building after 9:30 p.m.
9. This Special Permit shall lapse unless exercised within two years of its recording.
10. No expansion, addition, nor any change of use(s) of any building or portion of the property at 146 Main Street shall be permitted without an amendment to or issuance of a new Adaptive Use Special Permit by the Board.
11. Inclusion of a design for the free-standing development sign as shown on Sheet A5.2 does not constitute approval of the sign by the Town of Medway Building Department.
12. Wind Turbines - The Steinhoff Office Building plan shows possible locations of wind turbines as the applicant expects to install small wind electric generation turbines on this property in the future. The Board's approval of this permit and the plan does NOT constitute an approval of either the future use or location of such small wind system turbines on this property. After the building is constructed and location testing is completed, the applicant is required to apply to the Zoning Board of Appeals for a special permit to install small wind energy generation devices on this property and shall review such plans with the Medway Design Review Committee at that time.
13. Construction Inspection
 - A. Duly authorized agents of the Town of Medway including but not limited to members of the Planning and Economic Development Board and its agents, staff or consultants shall have the right to enter upon the property at any time to inspect the site to ensure compliance with the terms and conditions of this Special Permit.
 - B. The Department of Public Services will conduct inspections for any construction work occurring in the Town's right-of-way in conjunction with the Town of Medway Street Opening/Roadway Access Permit.
 - C. The applicant shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Planning Board within 5 days of inspection.
 - D. In the event the applicant seeks an occupancy permit before all site plan work is satisfactorily completed (see _____ herein), the Applicant shall establish

a construction inspection account with the Medway Planning & Economic Development Board. The Applicant shall pay a construction inspection fee to the Town of Medway in an amount to be determined by the Board. The funds may be used at the Board's discretion to retain professional outside consultants to inspect the site, identify what site plan work remains to be completed, prepare a bond estimate, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion* (see item 15 herein). Depending on the scope of professional outside consultant assistance that the Board may need, the Applicant shall be required to provide supplemental payments to the project's construction inspection account, upon invoice. Any funds remaining in the applicant's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the applicant.

14. During Construction

- A. The applicant shall take all measures necessary to ensure that no excessive dust leaves the premises during construction.
- B. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Applicant shall be responsible for all clean-up of the roadway within twenty-four (24) hours of its occurrence.
- C. All erosion and siltation control measures shall be installed and observed by the Board's consulting engineer or the Conservation Commission prior to the start of construction, and maintained in good repair throughout the construction period.
- D. *Construction Time* - Construction work at the site and in the building shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. No construction shall take place on Sundays or legal holidays.
- E. *Construction Traffic/Parking* – All parking for construction vehicles and construction related traffic shall be maintained on the subject property. No parking of construction and construction related vehicles shall take place on adjacent public or private ways.

15. Project Completion

- A. This permit shall lapse after two years of the grant thereof if substantial use has not commenced except for good cause. The approved work shall be completed by the applicant or its assignees within two years of the date of plan endorsement. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration of this permit, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the special permit shall lapse and may be reestablished only after a new filing, hearing and decision.

- B. Prior to issuance of a final occupancy permit, the Applicant shall secure a ***Certificate of Completion*** from the Board and provide the ***Certificate*** to the Inspector of Buildings. The ***Certificate*** serves as the Board’s confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the construction of any required on and off-site improvements. The ***Certificate*** also serves to release any security/performance guarantee that has been provided to the Town of Medway. To secure a ***Certificate*** of Site Plan Completion, the applicant shall:
- 1) provide the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in strict compliance with the approved and endorsed site plan, and any modifications thereto; and
 - 2) submit six (6) copies of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all work shown on the original site plan and any modifications thereto. The final As-Built Plan shall also be provided to the Town in an electronic format as may be specified by the Board of Assessors.

16. Plan Compliance

- A. The Applicant shall construct all improvements in compliance with the approved and endorsed plan and any modifications thereto.
- B. No occupancy permit shall be granted until the Board has provided a written communication to the Inspector of Buildings that the project, as constructed, conforms to the approved AUOD plan and any conditions including construction of any required on and off-site improvements, have been satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of Medway, to the Board’s satisfaction, to cover the costs of all remaining work.
- C. The Board or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
- D. The Conditions of Approval are enforceable under Section. V. C. 12 of the *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine. Any work that deviates from the approved plan and permit shall be a violation of the Zoning Bylaw.

IX. APPEAL – Appeals, if any, shall be pursuant to Section 17 of Chapter 40A, M.G.L., as amended, and shall be filed within twenty (20) days after the date of filing of this notice in the Office of the

Town Clerk. After the appeals period has expired, the Applicant must obtain certified notice from the Town Clerk that no appeals have been made. Said notice must be filed with the Norfolk County Registry of Deeds with this special permit and the endorsed plan. A copy of said recording must be returned to the Town Clerk and the Board to complete the file.

The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or document received by it, and directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

**IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW, CHAPTER 40A, SECTION 11,
NO VARIANCE, SPECIAL PERMIT OR CONSTRUCTIVE GRANT OF A VARIANCE
TAKES EFFECT UNTIL RECORDED AT THE REGISTRY OF DEEDS.**

MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD

I hereby certify that 20 days have elapsed from the date of this decision and that no appeal has been filed in this office.

Attest: _____ Date _____
Town Clerk

- cc: Richard Steinhoff, Steinhoff Realty Trust
- Town Administrator/Board of Selectmen
- Board of Assessors
- Building Commissioner/Zoning Enforcement Officer
- Department of Public Services
- Design Review Committee
- Economic Development Committee
- Fire Department
- Historical Commission
- Police Department
- Zoning Board of Appeals

PGC ASSOCIATES, INC.

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Franklin, MA 02038-2648
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508.533.0617 (Fax)
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August 26, 2010

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

R E C E I V E D
AUG 27 2010

**TOWN OF MEDWAY
PLANNING BOARD**

Re: Comment on 146 Main Street AUOD special permit

Dear Mr. Rodenhiser:

I have reviewed the revised proposed Adaptive Use Overlay District (AUOD) special permit submitted by Steinhoff Realty Trust of Medway, for property at 146 Main Street. The plan was prepared by The H. L. Turner Group, Inc. of Concord, NH, and is dated June 11, 2010 with revision dates of June 30, 2010 and August 4, 2010. The proposal is to renovate an existing residential building of 1632 square feet, plus add 7045 square feet of space, all to be used for business and professional offices. I have repeated the relevant comments from my July 22, 2010 letter with new comments in **bold** as follows:

AUOD Development Standards

5. I have the following comments about the proposal's compliance with the development standards of the bylaw:
- a. The lot has an existing building.
 - b. The bylaw requires the "restoration or enhancement of the primary existing building to maintain or restore its original architectural integrity." It also allows additions that are compatible with existing buildings on the lot and that maintain the overall residential character of the district. As stated above, the DRC has already provided significant input to the design, and it appears to meet this standard. While the addition is very large, it is mostly to the rear of the existing building. Part of the addition is to the west side of the house, but the house previously had side addition that the new addition will replace.
 - c. All parking is to the rear and side as required. However, the closest space to Main Street is only 24 feet from the front lot line and 36 feet from the edge of pavement. The applicant believes this is sufficient to allow 2 cars to stack while waiting for a car to back out of a space. The situation could be improved significantly if the applicant took advantage of the compact car provision of the Zoning Bylaw. By converting 9 of the 16 spaces along the eastern edge of the parking lot, the distance to edge of pavement could be increased by 9 feet, just 5 feet short of the so-foot standard without losing a space and still leaving 20 spaces for full-size cars. The screening appears to be adequate. The bylaw also requires provisions for linked or shared parking with abutting properties. Provision is made for a future link to the property to the east.

The parking lot now shows compact spaces along the eastern edge of the parking lot. This allows the first space to be more than 50 feet back from Route 109.

- d. Lighting is required to be residential in scale and compatible with the architecture of the building. The proposed lighting is by LED fixtures, which is in keeping with the proposed LEED compliant design. However, while pole locations, a photometric diagram and a detail of the base of the poles are provided, there is no detail provided for the design and height of the poles themselves so it is not possible to determine if they are of "residential scale."

The plans include a list indicating the three types of fixtures proposed. There were also cut sheets of the pole and fixture submitted separately. I did not see a comment these in the DRC letter. Also, I still do not see an indication of the height of the poles and fixtures. The pole and fixture details should be added to the plans.

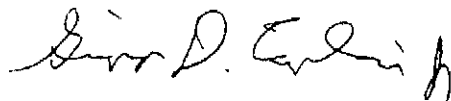
- e. New curb cuts are not allowed unless the Planning Board finds that they are necessary to ensure safe access to the property. The Main Street curb cut is being doubled from about 12 to 24 feet. The bylaw allows the PEDB to approve such an increase and the proposed widening appears to be necessary to serve the intended use.
- f. The bylaw requires that significant pedestrian and bicycle access be provided. The plan proposes a sidewalk from the front door to the existing Main Street sidewalk as well as a sidewalk alongside the entrance driveway to the main entrance on the side of the building. A bicycle rack is also provided.
- g. The proposal includes a landscape plan that appears to provide adequate screening and buffering.
- h. A parking space for each 300 square feet of gross floor space is required (unless the Planning Board finds that a lesser number is adequate). Based on the size of the proposed building, 29 spaces are required and 29 are provided.

General Comments

6. The zero carbon footprint and LEED certification is a big plus for this building since it could serve as a model for other projects in Medway. **The applicant has noted that official LEED certification is not going to be sought, but that the project will adhere to LEED standards as closely as possible.**
7. **The plans indicate a signature block for the Board of Selectmen. This should be changed to Planning and Economic Development Board and it should include lines for 5 members and it should be on every sheet.**

If there are any questions about these comments please call me.

Sincerely,



Gino D. Carlucci, Jr.



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

Fr: Dave Pellegrini, P.E.–Tetra Tech Rizzo

Re: **Steinhoff Office Building
Existing Sidewalk
Medway, MA**

Dt: 9/16/10

At the September 14, 2010 Planning and Economic Development Board hearing a draft permit decision for the 146 Main Street project proposed by Steinhoff Realty Trust was distributed. During Tetra Tech Rizzo's review of this draft document we felt that Item 11 under the "Findings" section of the draft permit decision, which summarizes the Pedestrian and Bicycle Access provided by the proposed project, warrants additional discussion among the board.

Section 205-3, D,4 of the Town of Medway Planning Board Rules and Regulations, Chapter 200- Submission and Review of Site Plans requires that "Where no pedestrian ways exist, the applicant shall create pedestrian ways and connections between streets, the proposed development, surrounding neighborhoods, and other surrounding uses providing safe access to the nearest existing pedestrian facility or sidewalk". Since there is an existing sidewalk at this location we did not recommend sidewalk construction in our original plan review comments.

There is however another requirement located in Section 205-3, D, 3 of the same regulations which states "Existing pedestrian ways shall be maintained and improved". During a site visit conducted on September 15, 2010 to specifically review the condition of the existing sidewalk, we found portions of the walk had experienced heaving or cracking and could require improvement. Improvement of the sidewalk in this particular case however may not be practical depending on the timeframe for the proposed reconstruction of Route 109 through this area.

We will be available to discuss this item at the next hearing during the continued review of the draft permit decision for this project. Pictures of the sidewalk in this location are attached to this memorandum. If you have any questions or require additional information, please don't hesitate to contact us at (508) 903-2000.

