

**February 8, 2011
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053**

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

ABSENT WITH NOTICE: Karyl Spiller-Walsh

ABSENT WITHOUT NOTICE:

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

The Chairman opened the meeting at 7:05 pm.

The Chairman indicated that the minutes from the January 11, 2011 meeting will be tabled until Karyl Spiller-Walsh is present.

Minutes:

On a motion made by Tom Gay and seconded by Chan Rogers, the Board voted unanimously to accept the minute from January 25, 2011. (Andy Rodenhiser abstained from vote as he was not present.)

Member Tucker wants to make sure that the abutter name is correct within the minutes. Susy Affleck-Childs will verify that this is correct.

MAPC District Local Technical Assistance Grant Application (DLTA):

Consultant Carlucci informed the Board that at the last SWAP meeting, there was a discussion about the SWAP communities submitting an application for MAPC's DLTA program. The SWAP communities need to revisit their parking regulations and the current needs of their communities. The proposal involves MAPC reviewing the Town's parking regulations and creating a model parking bylaw that would focus on reducing the amount of impervious surface required for parking facilities, establish alternative dimensional parking requirements for unconventional vehicles, allow reduction in parking requirements for businesses that are pedestrian accessible, and take into consideration the existing parking requirements for commercial facilities.

The Board agrees to support this initiative and will send a letter of support of this initiative. Susy will prepare the letter of support on behalf of the Board and send it to MAPC.

On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to send a letter to support the initiative for the DLTA program relating to the parking bylaw.

Consultant Carlucci informed the Board that MAPC is also providing a program for the purchase of bike racks. This program is for the installation of the bicycle racks throughout the town with the criteria being that the racks must be on public land. MAPC funds are used to reimburse the Town for the cost of the bike racks. The Town is responsible for the cost of shipping and installation.

The Board would like a letter sent to the schools informing them about this program. It was further communicated that the park commission be informed about this program.

Affleck-Childs will handle communicating this information to the various departments.

Consultant Carlucci indicated that he will put together a flat rate cost estimate to prepare the application.

The Chairman asked for comments from the public.

PUBLIC HEARING CONTINUATION - Charles River Village OSRD:

The Chairman opened the continued public hearing for Charles River Village OSRD.

The Chairman wanted it noted in the record that member Karyl Spiller-Walsh is not present. Spiller-Walsh recently got out of the hospital. She is aware of the need to review the tape under the Mullin Rule and will do so. We did check with Town Counsel whether we are able to close the hearing before Spiller-Walsh provides the certification. It was communicated by Counsel that if the Board chooses to close the hearing, the certification can be presented after.

Susy Affleck-Childs suggested that the contents of the packets be noted into the record.

Enclosed within the packet.

1. Letter from Attorney Donald Quinn who is representing the applicant with attachments.
2. A letter dated January 31, 2011 from Attorney Valkevich in response to the letter from Attorney Quinn.
3. A letter dated February 3, 2011 from Attorney Valkevich representing Beth McDonald.
4. Mullins Rule Certifications from Tom Gay relative to the January 11, 2011 meeting and a Mullins Rules certification from Bob Tucker relative to the December 14, 2010 meeting. These certifications indicate that both members have viewed the video tapes and read the minutes.
5. A letter was received dated February 4, 2011 from Robert Daylor of Tetra Tech Rizzo
6. A letter dated February 8, 2011 from Attorney Valkevich in response to the Daylor letter dated February 4, 2011.

The Chairman asks if the Board if they have any questions.

Attorney Valkevich requests that his letter be read into the record.

The Chairman notes that they are in receipt of the letter and does not feel the document needs to be read into the record.

Chairman asks if the Board members have any further questions for the applicant with the new information presented. The Chairman asks if the applicant has any further information that they would like to present.

Mr. Yorkis informed the Chairman that at the last meeting he informed the Board that the application is complete. The only document that Mr. Yorkis encourages the Board to discuss is relative to the letter from Mr. Daylor (Tetra Tech Rizzo) dated February 4, 2011.

Attorney Valkevich wants to reserve the right to be able to answer any items which may come up from this discussion relative to this meeting.

The Chairman responds to Mr. Valkevich asking if there is any new information he would like to present to the Board.

The Chairman asks if the Board is comfortable with the information which has been presented thus far.

Affleck-Childs asks the Board if there are any other things you may need before you begin the deliberation stage.

Member Tucker wants to make sure that we can consult with Counsel to provide clarification about what is acceptable and not after the public hearing is closed. There are a number of issues which need clarification.

Affleck-Childs indicated she had asked Counsel about this. She reports that the Board can discuss this matter with Counsel after the public hearing is closed.

The Chairman asks Susy Affleck-Childs and Consultant Carlucci if they have any comments about what else may be needed.

Both Affleck-Childs and Consultant Carlucci indicated no.

Abutter Ken Bancewicz, owner of 223 Village Street, wanted to clarify to the Board what he believes to be a misrepresentation of the facts as they relate to his property. He has had the opportunity to read the letter from Robert Daylor of Tetra Tech Rizzo dated February 4, 2011. He takes issue with the reference to the property line. In relation to the 1863 layout of the way, there has been reference to the John Kearns having received damages. After further research, Mr. Bancewicz comments that although Whitney and Kearns received money for fencing, only Whitney received additional "damages". It was further communicated that in 1863, there already existed a "right of passage" across the eastern portion of the Kearns property. An award for damage was not necessary. This point has no impact on the Charles River Village development. He wants to make sure that his property line is not going to move in reference to his deed. The damages were paid to Whitney, not to Kearns. He further wants to see his property line indicated in the plan.

The Chairman asked if Mr. Bancewicz has supplied his deed.

Mr. Bancewicz indicated that he has provided his deed. Mr. Bancewicz further supplies a copy of the letter to the Board which represents his verbal comments.

(See Attached)

Abutter, Beth McDonald:

Ms. McDonald read a letter dated January 27, 2011 from the Charles River Neighborhood Alliance.

(See Attached)

Member Rogers provides clarification in relation to the letter which was read by Ms. McDonald who indicated that the Board was appointed. Member Rogers explains that the Planning Board is elected and not appointed by the Board of Selectmen. Some of the Board members have run unopposed. Member Rogers further explains that this is an OSRD application. This procedure is to approve subdivision with conditions. He has not been part of disapproving a subdivision for the 15 years he has served on a Planning Board. He further explains that Massachusetts is the only state that has a public hearing process to subdivide its land. This gives citizens the belief that the abutter can stop these projects and keep the developer out.

Abutter Beth McDonald indicates she is not opposed to the development. She is opposed to the density and the safety of street. The cost is on the abutter. Why does the abutter have to bear the cost of proving where the end of this street is? The Town needs to know where the legal end of Neelon Lane is and how long the street is.

The Chairman noted that the only effect is on the open space.

Attorney Valkevich indicated that based on the Guerriere and Halnon plan, the potential location and end of the road is not known.

The Chairman informed all that it is the Board's responsibility to collect the information and it remains to be seen whether there is clarity. The Board cannot figure this out until the hearing is closed. The Board will then make a determination and will follow the process of making a decision.

The Chairman encourages any of the abutter to run for a position on the Board. He clarifies that none of the members of the Planning and Economic Board are appointed but elected by the citizens. This is a thankless job. The members are volunteers who also work on other boards and committees. He indicates it is a personal assault that some of the abutters feel the Board did not hold a fair process and we have not answered your questions.

Abutter McDonald apologized for her misunderstanding of the Board members being appointed instead of elected.

The Chairman further explains that some of the answers relative to drainage and blasting will not be addressed until further research is done by the engineers. It is the applicant's risk if they cannot support what is on the plan. This applicant is to provide a plan on how to protect that area.

Abutter McDonald wants to know if she can still know what happens when the drainage work or blasting takes place.

Member Tucker informs Ms. McDonald that permits will need to be sought from the Police and Fire Department when the blasting takes place. If blasting is to be done, surveys will need to be completed. This is a liability issue and it is not new to this type of project.

The Chairman indicated to Ms. McDonald that a preblast survey would need to be done.

Affleck-Childs explained to the abutters that once the public hearing is closed, the Board has up to 90 days to deliberate and craft a decision. During that time, the Board will go through all the criteria, standards and all the information which was presented. The discussion will occur amongst the Board, but after the public hearing is closed. Out of the discussion will come the decision.

Mr. Yorkis wanted it noted that there is a statement in the letter Ms. McDonald read that he disagrees with. The letter notes that neither Mr. Yorkis nor Mr. Claffey have made an effort to work with any of the neighbors. He communicates that this is a total misrepresentation of the facts.

Abutter, Ms. McDonald explains that the only time that Mr. Yorkis reached out to her was two days prior to the hearing. She met at his office and he had plans that showed a cul-de-sac on her property. This is when the spite strip discussion started. She explains that she did not want a cul-de-sac idea. She feels Mr. Yorkis has not reached out to us.

Abutter, Mrs. Kaplan responds that she also does not believe that Mr. Yorkis has worked with the abutters. She asks Mr. Yorkis, who called the meeting when she met with him? She asked for it. Mrs. Kaplan further explains that she wanted a copy of the plan, but Mr. Yorkis indicated that she needed to meet at his office to get a copy of the plan. At no point did he ask to talk about the street or radius. It is her opinion that they did not try to work with her.

Mr. Yorkis notes that the sentence in the letter from the Neighborhood Alliance says that "he made no effort to work with the abutters". He disagrees and has made an effort to work with individuals. Mr. Yorkis believes that this is misrepresentation. There have been many discussions with the abutters. Reasonable people can meet and make a reasonable solution.

Abutter Joanne Kramer communicates that her property abuts this property but she has never been contacted by anyone. She has never been consulted. Her main concern is that there are going to be five houses abutting her backyard. It is her opinion that this is excessive and absurd.

Abutter McDonald wants to know what is considered "working" with the abutters. She did not want a cul-de-sac on her property.

Mr. Yorkis responded that Ms. McDonald approached us and wanted frontage for three lots (on her property). She asked Mr. Yorkis to provide a plan which provided frontage for three lots. This was the plan which was presented to her. This was a request by Ms. McDonald. She wanted to provide lots to her children. This is a statement of fact. This was done so she could subdivide her property.

Mr. John Claffey responded that Ms. McDonald contacted them due to the fact that the back property is land locked. They discussed the 50 foot strip. He would not spend his money to draw up a plan on someone else's land without her permission. He would not spend money on this.

Abutter McDonald responds that the first meeting she had with Mr. Yorkis was amicable. She did not give him permission to draw the plans.

The Chairman asks if Mrs. McDonald was trying to get three lots from her property.

Ms. McDonald responds that prior to the meeting, she had a meeting with Mr. Yorkis and he put the cul-de-sac on her property to break it up into two lots. Ms. McDonalds indicates that she never had a conversation about three lots with Mr. Yorkis.

Mr. Yorkis responds that McDonald's recollection is false.

The Chairman wanted to know if Attorney Valkevich represents the Charles River Neighborhood or Ms. McDonald individually.

Attorney Valkevich responds that the Neighborhood alliance and Ms. McDonald have similar interests, but he does not formally represent the Alliance but he does represent Ms. McDonald.

Mr. Claffey wants clarification since the letter references at "our own expense" Is Attorney Valkevich representing Ms. McDonald, or the Alliance, or both?

The Chairman clarified that he represents Ms. McDonald.

Abutter McDonald indicated that some of the abutters have given money toward the legal bills.

Member Gay wanted to note that Ms. McDonald had attended a Planning and Economic Board on April 27, 2010, and Ms. McDonald was present to speak with the Board informally about subdividing her land. Mr. Gay further explains that the Board was shown a drawing with a cul-de-sac on her property. There was also a sheet which noted the waivers which were sought. This plan referenced the (L) design.

Ms. McDonald responds that she was going to do this concept as a private road.

Member Rogers wanted to point out that Fisher Street is 18 ft wide and has 100 houses that feed into Fisher St. There also are 70 houses on Fisher Street.

Abutter Kaplan wanted to know what is the radius on Fisher Street.

Member Rogers communicates that it does not matter, since those are the design standards. The Town does not own the land (at Village and Neelon Street) so we cannot put a radius on the corners. The Planning Board approved these projects (off of Fisher Street) in the past. There is not a problem. We are not playing favorites. Massachusetts has these archaic laws which allow the abutter to think they can stop these types of developments.

Abutter Kaplan notes you want to the best you can do with what you are given. She disagrees that this is the best use of land.

Member Rogers responds that if we could make it perfect, we would. This is the system we have, so we need to work it. There is a high cost for development in this state. We also have the highest cost of land development in the entire country. The MAPC came out with a study that in 2030, the State will suffer finding enough people to work in MA.

Abutter Kaplan wanted to know who she should call when there are accidents in front of her property.

Abutter McDonald commented that a development coming out onto Fisher is different from a development coming out onto Village Street. This is the second busiest street in town.

Chairman Rodenhiser wanted to know if this is a factual statement or an opinion made by Ms. McDonald.

Abutter McDonald responds that this is her opinion.

The Chairman wanted to know what her basis for fact is.

Abutter McDonald thinks that this (Village Street) is one of the busiest streets. It is her belief that someone is less likely to get hit coming out onto Fisher St. This is not an equal comparison.

Member Rogers notes that the standards are good when you have possession of land for this type of development with proper turning radius. We do not own this property on both sides of the property. The Planning Board has approved other projects on other similar substandard streets. The Board is not being prejudiced; it is the only thing we have to work with. Abutters do not have the right to stop a developer from using their land. In other states you do not need to go through this process.

The Chairman informed all that this land has been vacant for many years. He further explains that any person could have bought this land and tried to develop it.

Abutter Kramer would like a copy of the plans as they were redrawn, more specifically the plan showing the abutters houses where they really are.

Affleck-Childs indicated that she can get a copy of those for Mrs. Kramer.

Member Tucker indicates that the exact location of the houses is usually done when engineers are allowed to go on the abutters and adjacent properties which would require getting permission from the homeowners. He has not heard this occurring during these proceeding. The engineer would need to do this physically on site and mathematically. It is his understanding that this has not been done.

Engineer Faist explained that he presented an aerial photograph and super imposed a plan on it along with a sketch plan. He did not go on the properties to gather this information; he gathered it from the Medway Assessor maps.

Abutter McDonald informs the Board that her house is not shown on the plans.

Engineer Faist indicates that he does not believe that it is a requirement to show the location of all the abutters' houses.

The Chairman indicates that the information was submitted in the public hearing process.

The Board is comfortable with how this information was presented.

The Chairman asks if any of the members want to make a motion to close the public hearing.

On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to close the public hearing.

The Board determined it will begin deliberations on Tuesday, February 22, 2011 at 8:00 pm.

Affleck-Childs indicated that Town Counsel will be available on February 22, 2011 to attend the Board meeting. It was suggested that the Board come up with any legal questions and provide those to Affleck-Childs ahead of time so that counsel will be prepared.

Affleck-Childs informed the Board that she will have a signed Mullins Rule certification statement from member Spiller-Walsh by this date.

Affleck-Childs informs all that the procedure moving forward is such that once the public hearing is closed, it is not time for the abutters to provide further testimony or statements. That portion of the process is closed.

Citizen Planner Training Collaborative:

There is a conference on Advanced Tools and Techniques for Planning and Zoning on Saturday, March 19, 2011 in Worcester.

Oak Grove Feasibility Study:

There will be a meeting on February 15, 2011 at 7:00 pm for the Medway's Oak Grove/Bottle Cap Lot Area. This meeting will be held at Medway High School.

Zoning Board of Appeals:

The Town of Medway Zoning Board of Appeals has filed a decision on January 19, 2011 denying the request for modification of the 40 B permit for Fox Run Farm. The 20 day appeal date is February 14, 2011. At this point the Building Department will not issue any further building permits for this until the applicant provides the performance security required by the Planning Board.

Affleck-Childs indicated that the construction inspection money for this development has been tapped out and she will be contacting Tetra Tech to prepare a further estimate.

People GIS:

The Board is in receipt of a memo dated January 19, 2011 from Kevin Flanders, President People GIS. The memo is in relation to GIS Action Plan noting findings from the GIS needs Assessment. There will be three training sessions with the software.

(See Attached)

The Route 109 Committee will be meeting tomorrow evening, February 9th.

Revisions to OSRD Bylaw:

The Board is in receipt of a draft of proposed revisions to the OSRD Bylaw. The most recent revision date is January 7, 2011.

(See attached.)

The Board is also in receipt of an email from Paul Yorkis indicating his comments relative to the proposed draft changes to the OSRD Bylaw.

OSRD Bylaw:

Under the section,

Purpose and Intent it was recommended to change the following:

e) eliminate the text “to discourage sprawl”

k). change “diversity” to “diversify”

Pre-Application Phase:

a). add including presentation of a preliminary site context and analysis plan prepared with input from a registered landscape architect.

The Board discussed the presentation of a preliminary site context and analysis plan prepared with input from a registered landscape architect. The sentence included reviewing potential trails and trail connections, presenting a preliminary design concept for handling stormwater runoff and discussing potential mitigation measures. There was discomfort with how this section was worded. Mr. Yorkis was uncomfortable with the word “design” is being used. Consultant Carlucci will rework this section.

c). **Meeting with abutters (pg. 3)** – It is highly recommended. . . .

The Board was in agreement that something can be highly recommended, but it does not hold them accountable. This can be ignored. The Board agreed to not add this language to the bylaw. .

5. Four-Step Design Process (pg. 3):

Some of the members questioned why we are limiting completion of the 4 step decision process to only Registered Landscape Architects. It suggested that the team approach be used. It was agreed that a team approach be used but that the team had to include a landscape architect.

a). **Identify Conservation Areas (pg. 3)** - The specific features.

This entire bolded section will be deleted.

d). Draw in Lot Lines – (pg. 4)

The Board would like to see lot changed to parcel and the rest of the bolded sentence relative to condominium projects deleted.

c) Concept Plan – (pg. 4)

There was discussion about the term pedestrian circulation. The wording “circulation” needs to be changed. The word “ways” was suggested.

d. Design Plan- (pg. 4)

It was recommended that the last sentence be deleted relative to the drainage systems.

b). Maximum number of OSRD dwelling units (pg. 5)

The Board had a discussion about the formula which determines the maximum possible number of OSRD dwelling units. Mr. Yorkis indicated that the formula does work. There was some uncertainty regarding the bonus units (as a result of the Affordable Housing requirements). Member Gay suggested that we set a maximum density on the whole site. He wants definable rules and does not want to leave room for interpretation. He likes standards. There are other ways to do this. Member Gay wants to get rid of the uncertainty. Expand and combine a maximum that does not create an excess and eliminate the term of the bonus. Setting a maximum overall density was discussed. This section will remain as written at this time.

The Board will finish reviewing the document at the next meeting.

Zoning Bylaw Amendments 2011 Annual Town Meeting.

This will be discussed at a later date.

Adjourn:

On a motion made by Bob Tucker, and seconded by Tom Gay, the Board voted unanimously to adjourn the meeting at 10:30 pm.

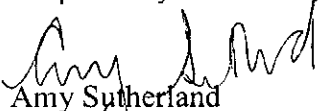
Future Meetings:

The next meetings scheduled are:

- Regular Meeting February 22 & March 8 & 22, 2011
- Oak Grove Feasibility Study – Tuesday, February 15, 2011
- 2011 Annual Town Meeting – Monday, May 9, 2011

The meeting was adjourned at 10:30 PM.

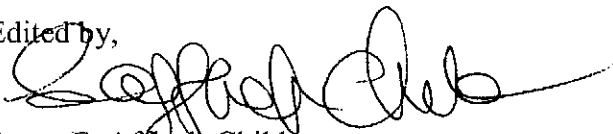
Respectfully Submitted,



Amy Sutherland
Meeting Recording Secretary

*Minutes of February 8, 2011 Meeting
Medway Planning & Economic Development Board
Approved February 22, 2011*

Edited by,

A handwritten signature in black ink, appearing to read "Susan E. Affleck-Childs". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Susan E. Affleck-Childs
Planning and Economic Development Coordinator

Donald P. Quinn, P.C.

Counsellors

Donald P. Quinn

Danielle Justo

32 Court Street, Plymouth, MA 02360

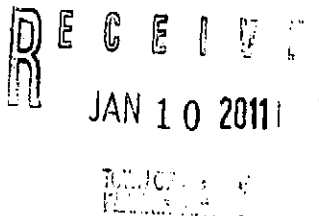
Telephone (508) 830-0400, Fax (508) 830-0058

Email dquinn@dpqpc.com

djusto@dpqpc.com

January 7, 2011

Town of Medway
Planning and Economic Development Board
155 Village Street
Medway, MA 02023
ATTN: Andy Rodenhiser, Chairman



Re: Charles River Village Open Space Residential Development
Neelon Lane Legal Analysis

Dear Chairman Rodenhiser:

Our office has been retained by John Claffey, Proponent of the above-captioned OSRD, to review the recommendations of Tetrattech Rizzo ("Tetrattech") made by letter dated December 10, 2010. Tetrattech recommended that the PEDB has enough information to act upon petitioner's OSRD application at this time. It also opined that while the exact east-west location of Neelon Lane remains in question, it is not an issue to be decided by the PEDB.

Tetrattech suggested that the PEDB may condition its approval of the project in one of two ways:

- 1) provide a condition that absolves the PEDB from any responsibility to adjudicate the Neelon Lane location matter. It would be the responsibility of the individual parties to take any further action regarding its location; or
- 2) provide a condition requiring that the parties resolve the dispute prior to its construction.

With respect to TetraTech's first condition, it is our opinion that the PEDB has no responsibility to adjudicate the Neelon Lane location matter because it is a private title issue between the Proponent and certain abutters. This matter should be independently resolved. PEDB is not required to analyze and determine title issues which might arise between proponents and opponents of a project. Its responsibility is to comply with the special permit provisions of M.G.L. c.40A and the Town's related bylaws in order to reach a decision based upon reasonable factual evidence produced during the course of its

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deliberation. Its decision should be based upon consideration of the evidence produced by its own investigation or offered by the proponents or opponents of the project. It has the ability to exercise discretion in reaching its decision. In the event an aggrieved party were to appeal your decision, the PEDB's unwillingness to decide a private title issue should be unassailable.

We respectfully suggest that to adopt Tetrattech's second condition (requiring the parties to resolve the alleged title issue before commencement of construction) would unduly delay the commencement of the project and probably cause the Proponent to abandon it. We do not think it is within the purview of the PEDB to mandate that a petitioner take affirmative action to cure an alleged potential title issue. It is up to an aggrieved party to address any Neelon Lane title issue directly in an appropriate forum, such as a court with competent jurisdiction over the matter. A final court resolution of the alleged title issue could take years to obtain. The Proponent would not be able to retain control of his land option for that length of time. Imposing this condition would, in effect, be handing a victory to the project's opponents.

Multiple Methods to Fix Location of Private Way

Your special permit decision-making process has been delayed due to opponent's efforts to discredit the location and length of Neelon Lane. Neelon Lane has been in continuous existence since at least 1863 without dispute. In reality, the permitting process attack on the location of Neelon Lane reflects opponent's desire to kill the entire project. This diversionary effort has caused survey experts to submit and analyze technical data in an effort to exactly locate the lane by survey. We submit that this is not an engineering problem, but a title issue in which PEDB should not be involved.

Survey plans are only one way to determine the location of ways. The location of a way can also be made by investigating the words contained in deeds and other public records. We have done so and believe that there is sufficient evidence in the Norfolk Registry of Deeds and other public records to fix the location of Neelon Lane. We believe that the records of both the Registry and the Selectmen provide sufficient information to fix both the location and width of Neelon Lane, notwithstanding the absence of a specific recorded stand-alone survey of the Statutory Public Way. Our rationale for reaching this conclusion is set forth in the following analysis.

Legal Analysis

Over 150 years ago three abutting landowners were parties to the initial dispute over the use of what is currently known as Neelon Lane: namely Charles Whittier, Francis Neelon, and John Kearn. We attach a Permitting Plan (Exhibit A) which highlights the historical location of the Whitney Parcel in green, the Neelon Parcel in blue and the Kearn Parcel in pink. Neelon Lane is highlighted in yellow. Historically, Neelon Lane has been referred to as Wilson's Lane, Neelon's Lane and Neelon Lane. They all refer to the same Statutory Private Way.

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In 1950, the Kearn Parcel was divided into two house lots, (See 1950 Plan attached as Exhibit B). In 1959, the section of the Whittier Parcel which abuts Neelon Lane was subdivided into Lots 1 and 2 (see 1959 Plan attached as Exhibit C).

To bring abutting ownership up to date, the two house lots created from the Kearn Parcel are now owned by Kenneth and Kerry Bancewicz (223 Village Street) and Peter and Michele Newell (2 Neelon Lane). The Neelon Parcel and Neelon Lane are now in control of the Proponent. The portions of the Whitney Parcel are now owned by Daniel and Marielanna Kaplan (Valley Street) and Mary Elizabeth McDonald (9 Neelon Lane).

In 1856, the Neelon Parcel had no direct frontage on the Boston and Hartford Old Road (now called Village Street). However, it benefited from two rights of way for access to and from Village Street. The first right of way was created by reservation in a deed from Eleazer Morse, a prior owner of the Neelon Parcel, to John Kearn described as follows:

“Reserving to myself and to my heirs and assigns the right of passage over the easterly side of said premises [the Kearn Parcel] next to land of [Charles B.] Whitney as have been recently granted and used for that purpose.”

The Neelon Parcel also benefited from an additional right of way over the Kearn Parcel described as follows:

“a right of way is mutually granted and guaranteed on the easterly side of these premises [Neelon Parcel abutting Whitney] and of land of Morse [Kearns Parcel] lying northerly thereof.”

It is clear from Registry records that the easterly side of the Kearn Parcel (which abuts the Whitney Parcel) was subject to both rights of way. Following his 1856 acquisition of the Neelon Parcel, Neelon utilized these mutually granted rights of way to pass and repass over the easterly side of the Kearn Parcel to Village Street. Possibly, while using the right of way, Neelon may have “meandered” or otherwise trespassed over the Whitney Parcel. At any rate, it appears that a disagreement arose between Neelon, Kearn and Whitney as to the width and use of these rights of way. The dispute was submitted to the Medway Selectmen for resolution, resulting in their 1863 decision to lay out and accept a 25 foot wide Statutory Private Way (see opinion of Sidney Smithers, Esq., dated September 21, 2010). The Selectmen’s decision created a 25 foot wide Statutory Private Way over the land of both Whitney and Kearns. Both Kearns and Whitney were monetarily compensated as a result of that decision.

The Selectmen’s decision to lay out and accept a Statutory Private Way appears to have cured the problem. To this day, the Neelon Parcel enjoys the benefit of the two

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underlying rights of way as well as the Statutory Private Way. In the 147 years following the creation of Neelon Lane as a Statutory Private Way, we have found no evidence in the Registry to reflect a continuation or revival of the earlier dispute. Since the 1863 layout, a travelled way (which is now paved) has been maintained over both the Whitney and Kearns Parcels to provide access and egress between Village Street and the Neelon Parcel. The only reason that a challenge to the location has arisen at this time is because it is a pawn in the chess game being played currently before your governmental body.

Deeds Using "Bounding" Descriptions

Historically, using the words "bounded by" in recorded deeds are very important words relating to an abutter's right in ways. The words "bounded by" or "bounding on" have significant legal relevance. The historical meaning of "bounding" on a way was codified in 1972 by M.G.L. Ch. 183, Sec. 58 attached as Exhibit G.

Also, according to the conveyancer's bible, *Crocker's Notes on Common Forms*, Section 178,

"When land is described as bounding on...way, if the grantor is the owner of the adjoining land over which such...way is described as laid out, [the owner]...and all person claiming under her...are estopped from setting up any claim or doing any acts inconsistent with the grantee's use of such street or way. This is sometimes referred to as the doctrine of easement by estoppel."

The current owners of Lots 1 and 2 on the 1959 Plan (Kaplan and McDonald) claim through Whittier, the grantor, and are thus estopped from setting up any claim or doing any acts inconsistent with Proponent's use of Neelon Lane.

In several of the deeds in the Whittier Parcel chain of title the words "bounded by Wilson's Way" were used. It is clear from the 1863 Selectmen's layout that a portion of the Whittier Parcel was within Neelon Lane. See for example, an 1878 deed from Fisher to Plummer recorded with the Registry in Book 579, Page 559 (the "Plummer Deed") attached hereto as Exhibit D. Most importantly, the Plummer Deed description was substantially carried forward by Schofield Brothers Engineering, Inc. in its preparation of the 1959 Plan for the then owner William S. McDonald. To further drive the nail into the coffin, the 1959 owner conveyed Lot 1 on the 1959 Plan to LeBlanc specifically using the words "bounded by Neelon's Lane" (see deed attached as Exhibit E). Likewise, the deed of Lot 2 from Katherine McDonald to its current owner, Mary Elizabeth McDonald, specifically referred to the 1959 Plan and the *frontage* utilized to justify and create Lot 2 was *131 feet along Neelon Lane*.

We are of the opinion that having used Neelon Lane as required frontage on the 1959 Plan for the purposes of creating Lot 2, the owner of Lot 2 is now estopped from arguing that she is uncertain about its location. If the Neelon Lane frontage did not abut

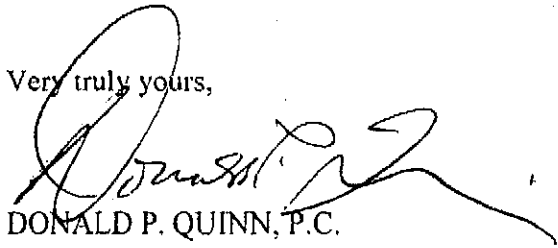
Andy Rodenhiser, Chairman, PEDB
January 7, 2011
Page 5 of 6

Lot 2, then her present house lot was improperly subdivided. She should be estopped from arguing to the contrary.

Finally, because the easterly sideline of Neelon Lane coincides with the westerly boundary of Lots 1 and 2 on the 1959 Plan, the Registry records have provided a *fixed location* for the easterly sideline of Neelon Lane. There is no dispute that Neelon Lane is 25 feet wide; therefore the westerly boundary of Neelon Lane is 25 feet to the west of the Lot 1/Lot 2 boundary lines. It has been demonstrated by survey that the current traveled portion lies within 25 feet of the Kaplan/McDonald westerly boundaries. (See O'Driscoll Existing Condition Plan revised 12/14/10 attached as Exhibit F.) Therefore, the westerly sideline of Neelon Lane is 25 feet from the Lot 1 and Lot 2 boundaries on the 1959 Plan.

Hopefully, this technical legal discussion will assist the PEDB in reaching the conclusion that a location can be fixed by words in recorded documents as well as surveys. We have significant research data and Supreme Judicial court decisions to support our conclusions. Please do not hesitate to have your consultants or agents contact us with any question or comments.

Very truly yours,


DONALD P. QUINN, P.C.

DPQ/dmj

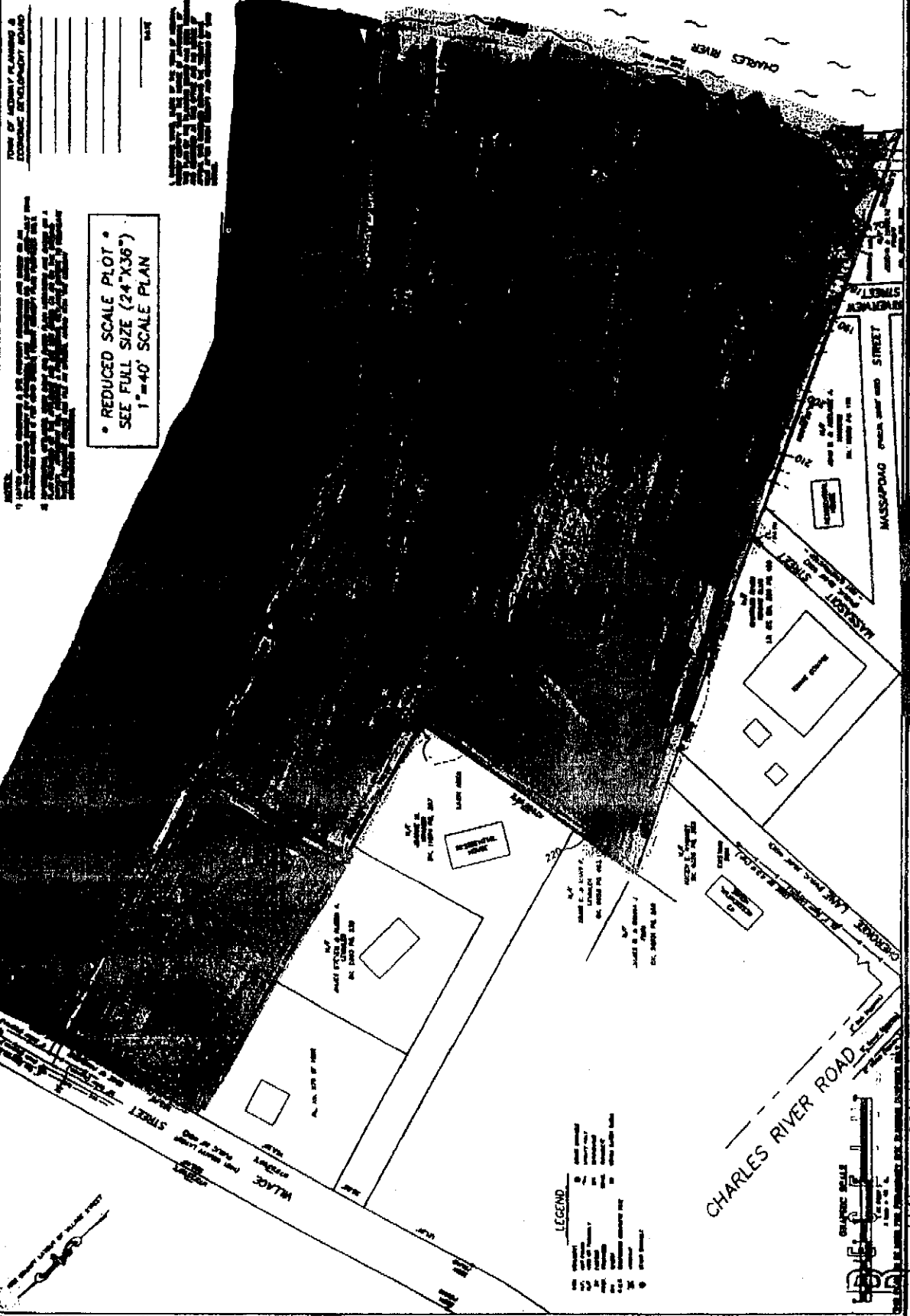
cc: Robert Daylor, P.E.

RECEIVED
JAN 10 2011

CONTEXT & ANALYSIS PLAN
CHARLES RIVER VILLAGES - OSRD
PROJECT NO. 01A-1346
ISSUED BY: 02/07
DATE SCALE: 1"=40'
DATE REVISED: 2/28/10

PREPARED FOR:
Charles River Villages, LLC
P.O. Box 1
Malden, MA 02148

FAST ENGINEERING, INC.
1000 State Street
Malden, MA 02148
Tel: 617-254-1100
Fax: 617-254-1101
www.fast-engineering.com



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

TOWN OF MALDEN PLANNING & ECONOMIC DEVELOPMENT BOARD

NOTES:
1. THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION.
2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE TOWN OF MALDEN AND THE STATE OF MASSACHUSETTS.
3. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE TOWN OF MALDEN AND THE STATE OF MASSACHUSETTS.



JAN 10 2011

3

132337

BK 11635PG612

RECEIVED
JAN 10 2011

MASSACHUSETTS QUITCLAIM DEED SHORT FORM (INDIVIDUAL)

I, Norman J. A. LeBlanc

of 221 Village Street, Medway, Norfolk County, Massachusetts

being unmarried, for consideration paid, and in full consideration of ONE HUNDRED FIFTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$153,500.00)

grant to Daniel M. Kaplan and Marielaina Kaplan, husband and wife as tenants by the entirety, both of 221 Village Street, Medway, Massachusetts, with quitclaim covenants

all of my right, title and interest in the land in Medway, Norfolk County, Massachusetts, described as follows:

The land with the buildings thereon, situated in Medway, Norfolk County, Massachusetts, on the southeasterly side of Village Street and being shown as Lot No. 1 on the plan hereinafter referred to, bounded and described as follows:

NORTHWESTERLY: by Village Street, One hundred forty-eight and 50/100 (148.50) feet;

NORTHEASTERLY: by land now or formerly of Harold Wheeler, One Hundred fifty-two (152) feet;

SOUTHEASTERLY: by Lot No. 2 as shown on said plan, One hundred forty-eight and 50/100 (148.50) feet; and

~~SOUTHWESTERLY: by [redacted], One hundred [redacted] feet;~~

Containing 22,570 square feet of land, all according to said plan.

All of said boundaries are shown on a plan entitled, "Plan of Land in Medway, Mass., property of William S. McDonald, October 21, 1959, Schofield Brothers, Reg. Civil Engineers" recorded with Norfolk District Registry of Deeds, Book 3776, Page 530.

Being the same premises conveyed to the Grantor by deed of William S. McDonald et ux recorded with Norfolk County Registry of Deeds in Book 3776, Page 530.

Executed as a sealed instrument this 20 day of Dec, 1996

Norman J. A. LeBlanc
Norman J. A. LeBlanc

RECORDED
NORFOLK COUNTY REGISTRY OF DEEDS
DECHAM, MA

CERTIFY
Barry T. Hannon
BARRY T. HANNON, REGISTER

The Commonwealth of Massachusetts

Norfolk, ss.

Dec 20, 1996

Then personally appeared the above named NORMAN J. A. LEBLANC and acknowledged the foregoing instrument to be his free act and deed, before me

Edmund V. Connor Jr.
Edmund V. Connor Jr., Notary Public
My Comm. Exp.: 7-22-99

CANCELLED

DEC 20 1996

DEEDS REC. 17
NORFOLK
12/20/96

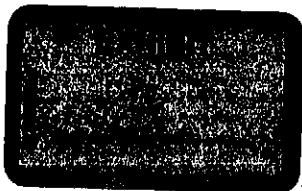
TAX 699.96
CHCK 699.96

36974817 13:20
EXCISE TRX

EXHIBIT
E

Property Address: 221 Village Street, Medway MA 02052

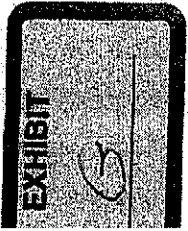
NORFOLK COUNTY
96 DEC 20 PM 1:24



§ 172. Bound on way. General Laws c. 183, § 58, first enacted in 1971, and on its terms generally retroactive for unregistered land, provides as follows:

Every instrument passing title to real estate abutting a way, whether public or private, watercourse, wall, fence or other similar linear monument, shall be construed to include any fee interest of the grantor in such way, watercourse or monument, unless (a) the grantor retains other real estate abutting such way, watercourse or monument, in which case, (i) if the retained real estate is on the same side, the division line between the land granted and the land retained shall be continued into such way, watercourse or monument as far as the grantor owns, or (ii) if the retained real estate is on the other side of such way, watercourse or monument between the division lines extended, the title conveyed shall be to the center line of such way, watercourse or monument as far as the grantor owns, or (b) the instrument evidences a different intent by an express exception or reservation and not alone by bounding by a side line.

RECEIVED
JAN 10 2011
TOWN OF ...



General Laws c. 183, § 58, first enacted in 1971, and operative for unregistered land, provides as follows:

passing title to real estate abutting a public or private watercourse, wall, fence or near monument, shall be construed to the interest of the grantor in such way, without prejudice to the grantor, unless (a) the grantor retains such way, watercourse or monument, (b) if the retained real estate is on a division line between the land granted and shall be continued into such way, monument as far as the grantor owns, or real estate is on the other side of such monument between the division line and title conveyed shall be to the center watercourse or monument as far as the instrument evidences a different interest, except by reservation and not by a side line.

RECEIVED
JAN 10 2011

I, Norman J. A. LeBlanc

of 221 Village Street, Medway, Norfolk

being unmarried, for consideration paid, and in full consideration of THOUSAND FIVE HUNDRED DOLLARS (\$153,500.00)

grant to Daniel M. Kaplan and Marielaina Kaplan, husband and wife of 221 Village Street, Medway, Massachusetts,

all of my right, title and interest in the land in Medway, Norfolk follows:

The land with the buildings thereon, situated in Medway, Norfolk Southeastly side of Village Street and being shown as Lot No. bounded and described as follows:

NORTHWESTERLY: by Village Street, One hundred forty feet; by land now or formerly of Harold V

SOUTHEASTERLY: by Lot No. 2 as shown on said plan (148.50) feet; and

SOUTHWESTERLY: ~~by Village Street, One hundred fifty~~

Containing 22,570 square feet of land, all according to said plan.

All of said boundaries are shown on a plan entitled, "Plan of L. William S. McDonald, October 21, 1959, Schofield Brothers, Inc. Norfolk District Registry of Deeds, Book 3776, Page 530.

Being the same premises conveyed to the Grantor by deed of William S. McDonald, dated October 21, 1959, Book 3776, Page 530.

Executed as a sealed instrument this 20 day of

Norman J. A. LeBlanc
Norman J. A. LeBlanc

The Commonwealth of Massachusetts

Norfolk, ss.

Then personally appeared the above named NORMAN J. A. LeBlanc, who being duly sworn, depose and say that he is the person who executed the foregoing instrument to be his free act and deed, before me

[Signature]
My Co

Property Address: 221 Village Street, Medway MA 02052

699.96
13:20
TAX

CANCELLED

ST.

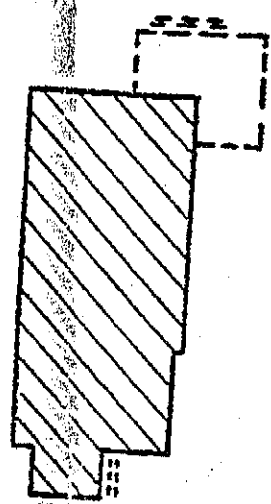
VILLAGE

PIPE

146.82

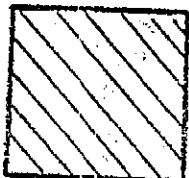
90' PIPE

LOT A
21,525.59 FT.



143.00

LANE



153.73

PIPE

90' PIPE

(PRIVATE WAY)

NS

SCALE 20' = 1"

PLAN OF LAND
IN

FT.

FOOT

S 42° 58' 22" W

S 21° 02' 00" E

250.56

400.11

248.11

Remains of F. Stone Wall

Center of Round Well

LOT 2
2 ACRES ±
40,291 ± s.f.

95.02
N 45° 09' 16" W

70.00
N 39° 10' 10" W

51.66

N 30° 17' 50" W

166.25

N 15° 15' 40" W

133.58

N 19° 37' 40" W

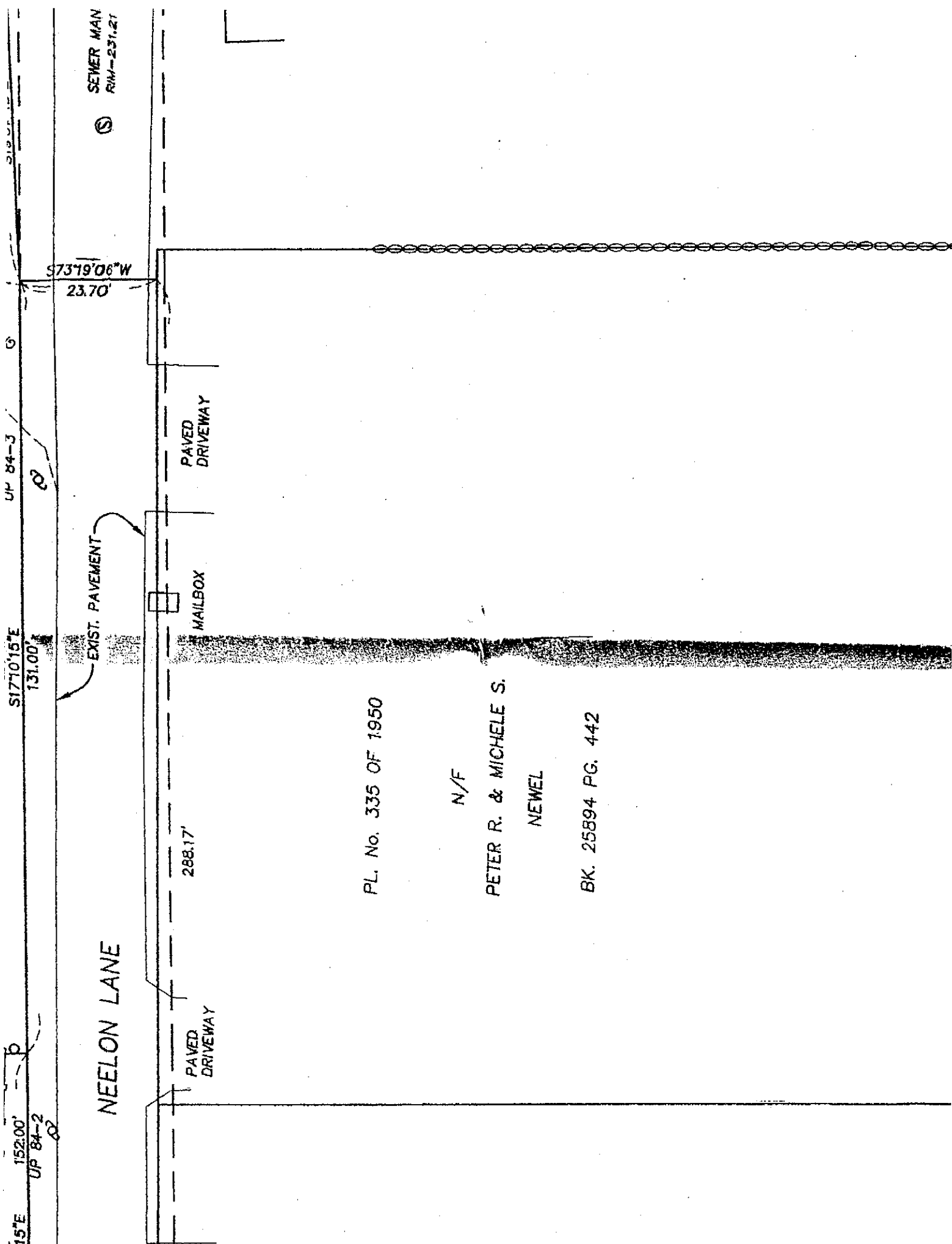
36" MAPLE ON LINE

36" MAPLE ON LINE

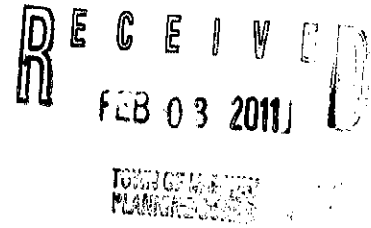
LESLIE

Approval of
Control Loc
Medway Plc

Joseph
Harold
Allen



*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*



January 31, 2011

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

VIA email:

RE: Charles River Village Open Space Residential Development (OSRD)
Application for OSRD and Affordable Housing Special Permits
Hearing date February 8, 2011

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 as revised through December 30, 2010. 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.

1. Letter opinion of Mr. Donald P. Quinn dated January 7, 2011:

There is no dispute that Neelon Lane was laid out as a "statutory private way". The applicable statutory reference is Chapter 82 of the General Laws, sections 21 through 24 (this being the law 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 private way, and a different legal status than a public way. This has been covered at length before the Board. Mr. Quinn's research duplicates material discovered and considered by Guerriere and Halnon in their research. (see signed and stamped report of Guerriere & Halnon, previously submitted). Of particular importance are the terms of the actual layout document, which references particular fences and monumentation that does not exist today and apparently has not existed for decades. Mr. Quinn's research makes no particular reference to those monuments. It should be noted that the language of the layout must control, as it was laid out pursuant to a statute. It is exactly what the Town described that constitutes Neelon Lane as a statutory private way, and over that layout the Inhabitants of the Town of Medway are entitled to have access along with the parties named and their successors in interest. Subsequent plans by various surveyors may be

helpful in a determination of where the roadway may have been used, but usage of a way laid out by public authority cannot alter the official layout. Possible mistakes by subsequent surveyors are, in this case, still mistakes. Since a municipality can only acquire rights in private property by strict compliance with the statutory procedures, the taking document must control. Likewise, a municipality can only relinquish rights in real estate by compliance with statutory procedures. Proper authorization of the inhabitants of the municipality is required for either action, necessitating a Town Meeting Vote under modern statutes. Mr. Quinn's assertion that this is a private title matter is inaccurate. It clearly involves all the inhabitants of the Town of Medway. I cite the applicants' other expert, Mr. F. Sydney Smithers' letter to this Board dated November 4, 2010:

“ The public at large has the right and easement to use Neelon Lane, a statutory private way...” (page 1)

Unfortunately, given the absence of any of the physical monuments cited and the lack of clarity in the language used in the layout, Mr. Quinn's analysis is not conclusive as to the location of the statutory private way. Mr. Quinn relies on an analysis of previously referenced accesses in this area. The recitation that the statutory private way lies “partly on land set apart for a way by ...Wilson” is ambiguous in that it could be interpreted in two ways, and depending on which interpretation is meant; it does not identify how much of the new layout overlaps the Wilson “way”. The specific description in the layout incorporates references “to a fence opposite the southerly side of said Neelons Barn.” The fence apparently no longer exists, and the Town's engineering expert has determined that such terminus may be beyond the southerly side of the existing barn on the property by several yards. (see the proponents revised plan dated December 10, 2010) The extended layout roughly coincides with the area shown as “Snow Storage” on said plan. I note that if that area is indeed part of Neelon Lane, it must be at all times left open for public access, which would prohibit snow storage. Neelon Lane was laid out as twenty five feet wide referencing a missing fence and the way was located “partly of land of Whitney “ (Ms McDonald's predecessor in title).

The survey matters that address these issues have been duly presented to this Board by the signed and officially stamped letter of Guerriere & Halnon dated November 12, 2010. That analysis shows the boundary line of Whiney property on the East and the line of Neeland and Kearns on the west runs down the of center area Neelon Lane, so called. And that the interpretation that the east boundary of Neelon Lane IS the Whitney boundary is incorrect. The description in the 1863 layout is consistent with that interpretation. Guerrire and Halnon also state that a court determination of the exact location of Neelon Lane is necessary to determine it's location on the ground. This Board also consulted their own survey experts, Tetra Tech, and that expert concurred. The language in the layout of 1863 cannot be located on the ground without extrinsic evidence and judicial determination. The title report of Mr. Quinn does not place the description on the ground, nor locate the missing monumentation. His sketches add nothing to placing on the legal description in the taking on the ground.

For the Planning Board to allow this plan to proceed as submitted is not in the best interest of the abutters to Neelon Lane who will be required to undertake a judicial determination for their benefit in the future. Any such judicial action will, of necessity, involve the abutters, the applicant's owner and/or the applicant **and the Inhabitants of the Town of Medway** who are parties interested and indeed essential to any such determination. The town's interests would be by and through the Selectmen. Mr. Quinn's references to the various plans of record may be of interest in such determination, but the surveyor's analysis previously submitted cites the discrepancies of the record materials.

I also note that Mr. Quinn's analysis of the "history" of usage under the Heading of "Legal Analysis" includes certain fanciful "meanderings" of Neelon. This does little to resolve the issue of the description, or of whether or not, or how far, the layout extends over Whitney (now McDonald and Kaplan) land. His opinions about subsequent references to bounding on a way are likely to be mistaken interpretations of the 1863 Layout by the Town. I believe when Mr. Quinn cites the "Whittier" parcel he means "Whitney". Mr. Quinn also suggests that all previous rights of way are included in the 1863 description, which is not all clear from the record.

Finally, Mr. Quinn's citation of MGL Ch 183 Section 58 is not on point. Since 1863, the boundary on Neelon Lane can only mean the statutory private way laid out in 1863. Errors by private parties as to where the location of the Town layout lies do not change the layout of this private way. Its location was established pursuant to the enabling statute creating such statutory private ways, and by the description used by the Selectmen. The fact of the matter is that the Layout of Neelon Lane may be further onto the Whitney side or further onto the opposite side. Private parties cannot alter the public layout of a duly laid out public way. This statute **refers to the relationship of grantors and grantees** under certain circumstances. The issue here is the location of a municipal layout. No citation is given to support the proposition that private parties can alter the public layout. It appears that the issue of municipal approvals for subdivision or ANR approvals arose from the approving authority's relying on inaccurate surveying. Hopefully, that problem can be avoided by a judicial determination of the Location of Neelon Lane. The statute in question pertaining to estoppel has no bearing on this issue.

There remains an issue of the length of Neelon Lane. Assuming that the length is consistent with the Planning Board's Engineers, the question of the location of the easterly sideline of the layout is in question. I note that an extension of that sideline based on the Guerriere & Halnon Sketch attached to their signed and stamped submission dated November 12, 2010, to include the Tetra Tech extended end point of Neelon Lane would lie within Land of Whitney (now McDonald). The Tetra Tech submission suggests a gap between Neelon Lane and McDonald land near the end of such extension. It is obviously imperative that the exact location of Neelon Lane be determined, as it is essential for the proper determination of frontage on the statutory private way, and the extent of public access. Such information is also essential to the determination of square footage available to the applicant for all OSRD requirements.

2. Suitability of Neelon Lane for primary access to the site and project.

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. This Board has not adequately addressed the issues of safety and suitability of the access. The Board has a request for some twenty two waivers, largely concerned with waiving the typical rules for access and roadways in the Town of Medway to permit access over Neelon Lane. That many waivers suggest in themselves substantial departure from Town Standards for access. See also the report of Gillon Associates, Traffic and Parking Specialists, (previously submitted), citing deficiencies in the use of Neelon Lane.

The Board has cited the inadequacies of numerous, old Town of Medway public ways to justify the use of Neelon Lane. The appropriate standards have even been cited by Mr. Smithers, applicants counsel as follows:

“It is usual for town permit granting authorities to condition their approval of development plans upon the installation of or upgrading of adequate public access, utilities, lighting other features necessary **to provide for the health and safety not only of the occupants of the development, but occupants of ways impacted by such development**” “emphasis added (See letter of Mr Smithers dated November 4, 2010 at page 5.

The record is replete with evidence of the inadequacy of Neelon Lane for access to the project (See Gillon Associates report previously cited) It should be noted that the petitioner has represented that a road width of 18 feet is what is on the ground and proposed to be used in the development of this project. The petitioners own plan by Faist Engineering entitled “Village Street – Neelon Lane Proposed Conditions Sketch” revise date 12/29/10 is based upon a twenty five foot ROW with 21.28 feet at the Village Road terminus. The location of this way has not been determined or at least has not been accurately determined. If the actual on the ground location of the statutory public way could be three or four feet more easterly or westerly than as shown, the petitioners could be including land in this plan not owned by them or not included within the bounds of the statutory private way. This is why the judicial determination of the way is required.

The inadequacy of the Village Street access/egress point is patently obvious in the applicant’s submitted plan, cited above. The radius dimensions of 13 feet and 15 feet are unable to accommodate more than passenger vehicles, and assumes one is hugging the edge of the roadway. The testimony of applicant’s own engineer, Mr. Faist

acknowledges that a truck or truck sized personal vehicle would have to wait on Village Street for a passenger vehicle to exit. I also note the signed and stamped report of Gillon Associates, Traffic and Parking Specialists dated November 15, 2010 and on file with the papers in this matter, as follows:

“The narrow roadway pavement width coupled with a short turning radius at the Village Street intersection will require the turning of large vehicles to travel over the center line of the roadway into the path of opposing traffic. Thus, the pavement width should be widened, and a larger radii provided.” Page 1

Mr. Gillon adds:

“The Board should also consider the ramifications and implications of granting these proposed physical features. Once minimum widths are waived on one project, here will be other developments that cannot be built without waivers coming forward claiming similar hardships” page 2

Finally, the question of public safety approvals for such a sub-standard primary access were filed based on prior renditions of the submission and must be based on a final concept.

3. Other matters

There are numerous reasons that this project submission is deficient, as pointed out in the submission of the Charles River Neighborhood Alliance letter dated November 9, 2010. The issues raised, inter alia, question whether or not this submission meets the minimum standards for required upland, and other dimensional relationships, which must be reconsidered after a **definitive** layout of Neelon lane is provided.

Conclusion

The approval of this submission without a definitive, judicial determination of the location of Neelon Lane should be denied. To approve this development without such determination does not address the legitimate rights, obligations and ability to make future plans of the current and future owners of parcels on and near Neelon Lane nor of the Inhabitants of the Town of Medway, all of which interests this Board must consider. Such a judicial determination, whether by trial on the merits or, if possible, by submission of relevant factual data and an agreed upon layout assented to by all interested parties, including the Town of Medway, is an absolute pre-requisite to proper planning and permitting this project.

Thomas J. Valkevich
Attorney for Mary E. McDonald

Cc: Board of Selectmen
Town of Medway

*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*

February 3, 2011

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

RECEIVED
JAN 04 2011

TOWN OF MEDWAY
PLANNING & ECONOMIC DEVELOPMENT BOARD

VIA email:

RE: Charles River Village Open Space Residential Development (OSRD)
Application for OSRD and Affordable Housing Special Permits
Hearing date February 8, 2011

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 as revised through December 30, 2010. I have several additional matters and questions pertaining to the proposed concept plan that I plan to ask at the meeting of February 8, 2011, and submit by today as requested by the board.

1. Mr. Carlucci has stated in the past that the OSRD formula for the number of units is not a guaranteed number. The affordable housing bylaw requires that 15% of the units be affordable to qualify for those provisions. Doesn't this board have the authority to determine whether or not the projects number of units should be less to comply with the OSRD concept, and then compute the affordable housing bonus?

2. Have the calculations of all dimensional and open space requirements for an OSRD proposal been calculated using the possible maximum length and width of Neelon Lane pursuant to the Engineering date, especially that of Tetra Tech which suggests that the lane could extend to a certain line of trees past the existing barn location where the fence described in the 1863 layout may have been? If not, why shouldn't that calculation be based on that possibility, absent a judicial determination of the location of Neelon Lane? Shouldn't calculations allow for **ALL potential locations of Neelon Lane**?

3. Mr. Carlucci has pointed out in the past that section 7.1 of the subdivision rules and regulations requires that "Reasonable provisions shall be made for extensions of pavement and utilities to adjoining properties". The evidence before this board is conflicting as to the layout of Neelon Lane and the frontage of the McDonald Parcel, and

without definitive judicial determination Neelon Lane may extend further and could lie on Land of Whitney (now McDonald) for its entire length on that side. What provision has this board made, or will this board make for such eventuality? Shouldn't this board provide for more efficient use of land in the future development of the Town, especially the parcels lying to the east of the subject project, which include several large parcels lying between the Charles River and Village Street?

4. Aren't sidewalks required along the entire frontage of OSRD tracts along "existing Town Ways"...and since the public has a right of way over Neelon, aren't such required on so much of the applicant's owner's parcel as abuts Neelon Lane? How can that location be determined without a judicial determination of the location of Neelon Lane?

These questions are in addition to requesting consideration of all the matters in my letter dated January 31, 2011. Thank you.

Respectfully submitted,

Thomas J. Valkevich

RECEIVED
JAN 20 2011

TOWN OF MEDWAY
PLANNING BOARD

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

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

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

- 1. I am a member of MEDWAY PLANNING AND ECONOMIC DEVELOPMENT BOARD
- 2. I missed a public hearing session on the matter of CHARLES RIVER VILLAGE OPEN SPACE RESIDENTIAL DEVELOPMENT which was held on JANUARY 11, 2011
- 3. I have reviewed all the evidence introduced at the hearing session that I missed which included a review of (initial which one(s) applicable):
 - a. _____ audio recording of the missed hearing session; or
 - b. X video recording of the missed hearing session; or
 - c. X a transcript of the missed hearing session.

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

Signed under the pains and penalties of perjury this 20 day of JANUARY, 2011.

Thomas A. Gay
Signature of Board Member

Received as part of the record of the above matter:

Date: January 20, 2011

By: Susan E. Gifford

Position: Planning + Economic Development Coordinator

RECEIVED
JAN 25 2011

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

TOWN OF MEDWAY
RECORDS SECTION

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

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

1. I am a member of Planning & Economic Development Com.

2. I missed a public hearing session on the matter of
Charles River Village OSRD
which was held on December 14, 2010

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

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

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

Signed under the pains and penalties of perjury this 25 day of January, 2002011



Signature of Board Member

Received as part of the record of the above matter:

Date: January 25, 2011

By: Sophia Chelle

Position: Planning & Economic Development Coordinator



TETRATECH

RECEIVED
FEB 04 2011

TOWN OF MEDWAY
PLANNING & ECONOMIC DEVELOPMENT BOARD

February 4, 2011

Town of Medway
Planning & Economic Development Board
155 Village Street
Medway, MA 02023

Re: Neelon Way Attorney letters

Dear Members of the Board:

We have reviewed the letter of the Applicant's attorney, Mr. Quinn, dated January 7, 2011 and a rebuttal letter by the attorney for the abutter Ms. McDonald, Mr. Valkevich, dated January 31, 2011. As part of our professional training and development as engineers and land surveyors we have become familiar with the laws and rulings regarding access rights in and over private and public ways. Such laws not only rule legal practice but influence the professional practice of land surveying.

However that professional practice does not provide a basis for offering legal opinions, nor do our comments in this matter constitute a legal opinion. Having said that, we offer the following comments for the Board's consideration.

1. There is no dispute that Neelon Way is a "statutory" public way laid out by the Selectmen and approved by the Town Meeting in 1863.
2. There is no dispute that the way was laid out over the lands of then John Kearns (Wilson), Charles Whitney and Francis Neeland (Neelon) and that the 1863 owners were compensated in this private way.
3. There is no dispute that the way is 25 feet wide, straight and extends to a point "opposite the southerly side of said Neelon's barn".
4. There is no dispute that the successor owners to Kearns (Wilson), Whitney, and Neelon have rights of access and, in several cases, frontage on Neelon lane.

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



TETRA TECH

5. There is no dispute that the monuments described in the 1863 layout no longer physically exist and thus cannot be recovered by surveying methods to retrace the description of the layout in the field.
6. The Quinn letter cites legal reasons to "fix" the eastern sideline of Neelon Way along the western boundary of the now Kaplan land and at least for 131 feet the western boundary of McDonald land. This is because their title describes their boundaries as "bounding on" the way. In fact, McDonald's frontage after the 1959 division of the former Whitney parcel exists only on Neelon Way.

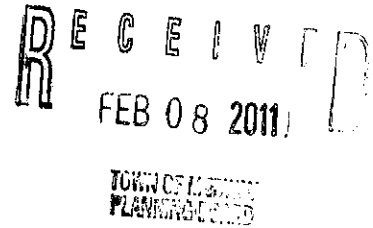
Mr. Quinn's letter is well reasoned; but obviously has not "fixed" the location to Mr. Valkevich's satisfaction. However, the Quinn solution preserves all of the record boundaries of the Kaplan and McDonald properties. The applicant's latest plan also extends Neelon Way to a straight line to a point southerly of the Neelon Barn which, in our opinion, fits the best evidence on the ground of the old fence line in the layout. While Mr. Valkevich continues to find that the 25 foot way is not suitable to provide the primary access to the project, his client Mrs. McDonald has not lost any rights or frontage from the Quinn opinion.

In our opinion, this location dispute should not affect the Board's decision regarding the Applicant's rights, the abutter's rights and the Public's right of access in the 25 foot wide Neelon lane. They are not in dispute. The Board can decide whether to allow the Charles River Open Space Residential Development to proceed to the definitive submission on the merits of the proposal as they would on any other property having rights in a way laid out by the Selectmen.

Very truly yours,

Robert F. Daylor, P.E., PLS
Senior Vice President

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



February 8, 2011

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

VIA email and delivered in hand to meeting

RE: Charles River Village Open Space Residential Development (OSRD)
Application for OSRD and Affordable Housing Special Permits
Hearing date February 8, 2011

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 letter submitted by Tetra Tech letter dated February 4, 2011.

1. The issue to be determined is the location of Neelon Lane as laid out by the Selectmen in 1863. The surveying information previously submitted by Tetra Tech determined that a court of competent jurisdiction would be the Land Court for determination of that matter. That remains true and not disputed by my client. The location of the way is the issue that was to be addressed by the Engineers. That location has not been determined by the Attorney Quinn title work. Mr. Daylor's discussion of loss of frontage or rights is NOT the issue. The issue may in fact be determined to move the way to the east as was posited by the Guerriere and Halnon expert opinion. The issue is where the public's right of access lies based on the 1863 description, References to Neelon Lane after 1863 may well be based on suspect engineering, and do not change the taking in 1863 which must control.
2. Mr. Daylor's concluding paragraph, although purporting to support allowing a decision to go forward of the Charles River OSRD in fact supports the opposite. The planning board is not dealing with "any other property having rights in a way laid out by selectmen" because in this case, the location of the way cannot be definitively laid out on the ground without judicial determination. Mr. Daylor cited no other such case where the location on the ground of a selectmen's layout was in question. The Daylor conclusion in his letter of February 4, 2011 is contradictory to his previous conclusion, without reasoned analysis of the survey matters he was asked to address. There IS a dispute that is unresolved...the location of Neelon Lane on the ground and the concomitant issues

that a final judicial determination may have on rights of the abutters thereon, including the applicant, and all the other parties fronting on Neelon Lane.

Respectfully submitted,

Thomas J. Valkevich

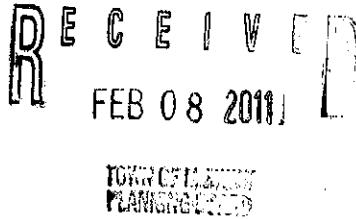
Charles River Neighborhood Alliance

(Formed by residents of the neighborhoods of Neelon Lane and Charles River Road)

Mission: To ensure that the neighborhood is treated with care and developed responsibly

January 27 2011

Town of Medway
Board of Selectmen
155 Village Street
Medway, MA 02053



RE: Proposed Charles River Village Open Space residential Development

Dear Members,

We, the **Charles River Neighborhood Alliance**, are very concerned about the proposed Charles River Village OSRD development that is before the Planning and Economic Development Board for approval on February 8th.

There are many grave issues with this whole development that have not been addressed by Chairman Andy Rodenhiser and most of the board. We have been constantly overlooked at board meetings for commentary regarding issues of public safety and the legal width and length of Neelon Lane, a way that all inhabitants of the Town of Medway have access over. We have consulted with a professional traffic engineer, (John Gillon), a professional developer, engineer with Planning Board experience (John T. Sarkis), an engineering firm (Guerriere & Halnon) and an attorney (Thomas J. Valkevich) at our own expense. (see attached documentation and reports) We, as taxpayers, expect the same courtesy and recognition, which has been shown for Mr. Yorkis, the applicants spokesperson, and his client, Mr. Claffey the applicant who is an agreed purchaser from the current owners, with the sale apparently subject to approval by the PEDB. Some of the board members repeatedly state that Mr. Yorkis and Mr. Claffey have the right to develop 13 units. The Open Space issue is very questionable. The developer has asked for 22 waivers which is unheard of for this type of development. Requesting waivers, especially this many, makes this discretionary, not a matter of right. A special permit is also not a matter of right.

We do not feel that this has not been a fair and open process. Some of the abutter's homes are not represented correctly or are not shown at all after several requests. Contrary to Mr. Yorkis' statement at the last meeting before the PEDB neither Mr. Yorkis nor Mr. Claffey have made an effort to work with any of the neighbors. When we were all invited to go through a walk-through of the property last summer, to voice our concerns, Mr. Yorkis refused to allow the large group of concerned citizens on the property.. There were approximately 20 residents that came for this meeting. Neither Mr. Yorkis or Mr. Claffey own the property. They provided no documentation establishing their authority to prevent our view the property. Once again, this was done in a secretive manner without the public participation. Our concerns are justified. Most of us have lived here over 10 years and have legitimate concerns about the scope, density and sub-standard access to this project.

When the CRNA has presented our list of concerns to be read into the minutes of the meeting, we were told that most of these issues would be addressed at a later time. A number of the concerns, which cite the appropriate

sections of the zoning bylaws that apply, concern the very nature of the concept being proposed. Isn't now the correct time to address these concerns before the project is approved and allowed to move forward? These are legitimate concerns that have not been addressed. We feel that we have been denied due process regarding the open meeting laws. I note that when Mr. Yorkis submitted a list of questions by email to the board, the board's agenda for the meeting, after an initial brief discussion of newly presented engineering matters, consisted entirely of addressing Mr. Yorkis' questions in the order submitted. This was at a meeting well after the Association's questions had been presented and never addressed.

We would like to make you aware of our concerns with the following documentation:

all of which have been submitted

- (1) The list of 14 questions (see attached document A) that we, the CRNA, submitted to the PEDB **two months ago** have not been addressed or allowed in public discussion.
- (2) Report from Guerriere and Halnon Engineering, a **professional survey and engineering firm**, stating that this matter needs to be resolved in land court.
- (3) Report and drawings (2) of a standard allowed development as a comparison for density purposes prepared by John Sarkis, a **professional developer with engineering background**.
- (4) Report and qualifications of John Gillon, a **professional traffic engineer** with an explanation of what is a safe street width and radius onto Village St. from Neelon Lane for public safety.
- (5) Letters to the PEDB for each meeting from **Attorney Tom Valkevich** along with his professional qualifications.

Mr. Yorkis and Mr. Claffey's issues take up most of every meeting. We are told that our concerns will be taken up at another time. It is our understanding that Boards, such as the PEDB, are appointed to represent the citizens of Medway and certainly the abutters of this project in their consideration of an applicant's proposal. We do not feel that there is any aspect of the law which states that the Planning Board should favor a developer over the citizens of Medway, the good of the town and the environment.

We been told at public hearings by a member of the Planning Board that Mr. Yorkis and Mr. Claffey have the right to build this OSRD develop on this property. It was also stated by a member of the board that "we have to approve this or they will sue us." An OSRD is by **special permit** and only when the developer has proven that he has complied with all of the rules. We are asking for an answer to each of our 14 questions that we had submitted to the board **two months ago**, before the process goes any further.

The Planning and Economic Development Board serves as appointees by the Board of Selectmen to represent the citizens of Medway in a fair and equitable way and certainly not to favor a developer. The many issues that should be prioritized by this board are the concerns of abutters and citizens, impact on schools, public safety, serious environmental issues on one of the most fragile areas of the Charles River. The severe impact of construction vehicles, noise, blasting, safety issues, the upheaval of wildlife and their natural habitat, run-off into the Charles River from 13 homes on 2.3 acres with over 25% impermeable surfaces at the edge of the Charles River Gorge are matters of the utmost concern to the abutters and the Town.

Counter to what Chairman Rodenhiser stated, we, the CRNA, are not opposed to change and the property being developed, but we do want it developed in a responsible way which takes into consideration the impact to the neighborhood and the abutters, public safety and environmental issues, property devaluation, etc. You have one chance to do this right. **Please do not take this lightly.**

We respectfully ask that you

Respectfully,

The Charles River Neighborhood Alliance

My personal concerns: (Other than those stated ^{previously} ~~above~~) —
on the ground.

- ① The actual location of Neelon Lane (agree on 25')
- ② The actual length (legal)
This needs to go before a land court to determine

I would like to see the board address all of questions that were presented

- public forum - public mtg. / beneficial to have these addressed publicly
- respectfully disagree
- Private way starts after the legal end of Neelon Lane.
- Challenge idea of straight line.

Ken & Terri Bancewicz
223 Village Street
Medway, MA 02053

February 8, 2011

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

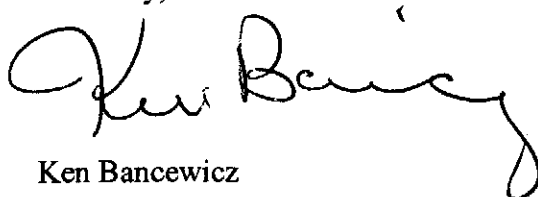
Re: Charles River Village – Neelon Lane
Proposal by John Claffey for Open Space Residential Development

Dear Mr. Rodenhiser,

In response to the February 4, 2011 letter from Tetrattech to the Planning Board regarding Nealon Lane, I must clarify what I believe to be a misrepresentation of fact as it relates to my property. In regards to the 1863 layout of the way, there have been references to John Kearns having received damages. Careful examination of the record will reveal that while both Kearns and Whitney received money for fencing, it was only Whitney who actually received damages. At the time of the 1863 layout, there already existed a “right of passage” across the eastern most portion of the Kearns property and therefore an award for damage was not necessary. Subsequent plans of land and deed calls for the affected properties evidence this, with the Kearns property maintaining ownership in the way and Whitney having the land removed for the way by the town. I believe the uncertainty as to the actual location of Nealon Lane stems largely from this misunderstanding of ownership.

I present this only to clarify the record. I do not believe that the question of ownership status of Nealon Way affects the right of the applicant to use the way as proposed nor should it affect the ability of the Planning and Economic Development Board to reach a decision. I make the statement only to insure proper record should this become an issue at some time in the future.

Sincerely,

A handwritten signature in black ink that reads "Ken Bancewicz". The signature is written in a cursive style with a large, sweeping initial 'K'.

Ken Bancewicz

PeopleGIS

January 19, 2011

GIS Committee
c/o Susan E. Affleck-Childs, Planning and Economic Development Coordinator
Town of Medway
155 Village Street
Medway, MA 02053

RE: GIS Action Plan
Town of Medway, MA

Dear Committee:

PeopleGIS is providing the following narrative to outline our findings from the recent GIS Needs Assessment conducted for the Town of Medway (Town).

We spent three and a half days in Medway, meeting with Planning, Police, Fire, Open Space, IT, Public Services, Building, Clerks, Assessing, and the Board of Health. One goal was to identify all of the needs for either MapsOnline and/or PeopleForms, the two online technologies that were implemented immediately prior to the Needs Assessment. A second goal was to determine an appropriate path towards a strong GIS program in the Town, including possible mapping layer development, training, and support.

The net result from this approach was far more than a typical needs assessment process. Given the implementation of MapsOnline and PeopleForms, we were able to identify dozens of needs that could be met immediately and we have either partially or completely satisfied those needs already. We see this approach as providing the Town with a significant head start, and we look forward to scheduling training and working with the staff more in the coming weeks to complete our current contract and continue to turn more items on our list from needs to tools.

This approach that the Town has taken makes tremendous sense. Many needs assessments take far longer, consume more budget, and result in extensive documentation that inevitably do not have the impact they were intended to. One of the major reasons for this common failure is that such efforts ignore the fact that the users of the ultimate system do not have any experience when the needs assessment is conducted. These same users have much more experience a year later, and more understanding as time passes.

So the Town decided to conduct a brief needs assessment up front, and to build as many applications with MapsOnline and PeopleForms as possible under the initial budget. This provides for early success, a quick injection of experience, and all departments learning and moving forward together.

This report will summarize our findings. This document is accompanied by a GIS Action Plan spreadsheet (Attachment A), which lists all of the needs identified. Please note that the spreadsheet shows needs for fiscal years 2011, 2012, and 2013. Fiscal Year 2011 is the current year, and current budget. This column shows all applications that PeopleGIS expects to complete (in part or in whole) under our current contract. Remaining applications are scheduled for the next few years and will be subject to discussion and planning.

Below are summaries of our findings by department.

Town Clerk

As expected, the Town Clerk's office is the home of several significant databases. Our discussions in regards to the GIS program included the following:

- Dog Registrations: This data currently resides in a Microsoft Access application originating from the City of Worcester. They like this application, but it is quickly becoming difficult to support. The staff would like to move this data into PeopleForms and enable this information to become mapping layers in various staff MapsOnline sites. We recommend that this effort take place in the next fiscal year budget so that sufficient time is expended to ensure that the functionality this department needs (such as the ability to store repetitive queries) will be put in-place.
- Business Certificates: This is a small database with approximately 88 records. We received the file from the Town Clerks and created a PeopleForm called Business Certificates. Loading the data resulted in 61 of the 88 records loading correctly, and 27 records indicating an unknown address. We will work with the staff to correct these 27 records. We anticipate adding an email alert to this form so that staff are notified weeks in advance when a certificate is approaching its due date. We also anticipate adding a receipt to this form so that the staff can hand hardcopy to the business owner.
- Underground Storage Tanks: Two forms appear to support the storage tank database, including the Application for Permit (for the Fire Dept) and Application for Certificate of Registration (for the Town Clerks Office). The staff would like to create a PeopleForm for this database and enable two receipts to automate the production of these two forms. We anticipate adding an email alert to this form so that staff are notified weeks in advance of a pending renewal.
- Vitals: The staff indicated their desire to move this database into PeopleForms as well. We did not receive this file
- Zoning Decisions: The staff mentioned it would be useful to post the zoning decisions for all staff to access when they need it. This would be a simple PeopleForm. We have not seen the format of this information as of the writing of this report, but know that Planning would like to have access to this information. We understand that the Clerk's Office maintains this information in paper form only at this time, so a move to PeopleForms would make sense. This information could then be mapped and made available in MapsOnline as well, ensuring that all staff have access to this data.

Public Services

Because the Department of Public Services (DPS) deals with all of the Town's physical infrastructure, it is easy to understand how GIS can have a profound impact on their operations. Our discussion with DPS staff clearly indicated several needs and a willingness to work with MapsOnline and PeopleForms. Below are the topics we discussed specifically.

- Water System Mapping: DPS provided us with digital mapping layers for Hydrants, Water Mains, Water Valves, and Water Tanks. These layers were entered into PeopleForms as individual data sources. These layers were also added to a DPS version of MapsOnline. Each of the PeopleForms can now be expanded to include

PeopleGIS

attribute information that DPS deems appropriate. For example, valve sizes and manufacturers, installation dates, and other data can now be added at any time DPS is ready.

- Sewer System Mapping: DPS provided us with ...
- Bing/Pictometry Mapping: DPS would like to have Bing/Pictometry mapping available to them. We recommend the integration of Bing imagery in MapsOnline. This imagery is available on the Internet, will not require huge storage space, and can be integrated with MapsOnline. Bing's oblique (bird's eye) views are actually provided by Pictometry. This is not exactly the same data as the Pictometry data Medway can obtain from the State of Massachusetts (it is slightly less clear), but it is much easier to integrate and work with.
- Hydrants Mapping:
- Water Customers Database:
- Complaint Tracking & Work Order Management:
- Flushing Regions:
- Pressure Testing/Database:
- Permits: There are several permits that are currently tracked in MUNIS that DPS would like to see in PeopleForms in order to work more closely with the information. These permits include Water Connection Permits, Sewer Connection Permits, Field & Park Permits, and Street Opening Permits. This is a common theme amongst staff. We recommend further discussion regarding the use of permit data from MUNIS.
- Athletic Fields:
- Storm Water Mapping:
- Detention Ponds:
- Pavement Management:
- Snow Plow Routes:
- Street Sign Inventory:
- Water Flushings PeopleForm:
- Backflow Preventers:
- Street Trees:
- Street Centerlines: We obtained street centerlines from MassGIS for use by DPS. This mapping layer has been setup in MapsOnline. There are many attributes already present in this database, and it has proven to be a valuable asset to many communities across the Commonwealth. Attributes have been added for Scenic Roads, and we recommend adding other attributes to continually support DPS's efforts towards street management. We recommend loading these Street

PeopleGIS

Centerlines into PeopleForms to expand the range of data management that DPS can accomplish with this layer.

- Street Moratorium Mapping Layer: This is a good example of how to use the Street Centerlines to produce more mapping products. We recommend adding a moratorium attribute to the street centerlines so that DPS can assign moratorium information using PeopleForms.
- Street Sweeping Progress:
- Sidewalk Planning Support:

Planning

The Planning Department had several needs, as follows:

- DEP File Numbers: Planning would like to link DEP file numbers to their respective properties. We recommend a PeopleForm to address this need. Conservation currently maintains this data, which we recommend be moved to PeopleForms so as to make it available to the entire staff (in MapsOnline as a mapping layer as well). There is a current list of these records on the Town's website. This list includes incomplete address information for some records, and street intersections as addresses for some other records. Therefore, it is clear that address alone will not be entirely successful for the mapping of locations for each DEP File. We recommend using address to get the PeopleForms record close, and then use the "Set Point" tool included in the map window of the form to pinpoint the actual location. MapsOnline will honor the point location created by the Set Point tool.
- Scenic Roads: Planning would like to create a mapping layer of Scenic Roads. This has been completed already by establishing a "Scenic" attribute to the new road centerlines. This layer now exists in the Town's MapsOnline.
- Historic Properties: Planning would like to map historic properties and districts. Inventories of historic properties exist. We recommend a PeopleForm be created to enter this inventory for display in MapsOnline, and polygons be drawn showing district boundaries. We have not been provided with source data for either database at the time of this document.
- Flood Zone & FIRM Maps: Flood Zone mapping was obtained from MassGIS and added to the Town's MapsOnline. No FIRM mapping data appears to exist for the Town of Medway.
- Groundwater Protection Overlay District: We received this data from the Town and have added this mapping layer to the Town's MapsOnline.
- Adaptive Use Overlay District: We received this data from the Town and have added this mapping layer to the Town's MapsOnline.
- Town-Owned Property: We setup this mapping layer in the Town's MapsOnline by turning all parcels owned by "TOWN OF MEDWAY", "MEDWAY TOWN OF", "MEDWAY HISTORICAL SOCIETY", and "MEDWAY HOUSING AUTHORITY" the color red. This query is based upon the latest data uploaded to MapsOnline by the Assessor,

PeopleGIS

therefore the mapping layer is updated as often as the assessing data is uploaded/updated.

- Housing Authority Properties: We setup this mapping layer in the Town's MapsOnline by turning all parcels with the land use code "908" the color orange. This query is based upon the latest data uploaded to MapsOnline by the Assessor, therefore the mapping layer is updated as often as the assessing data is uploaded/updated.
- Chapter 61 Properties: We setup all Chapter 61 Properties as a mapping layer in the Town's MapsOnline by turning all parcels with the land use code "601A", "0370", "718A", "0170", "8010", and "7180" the color purple. This query is based upon the latest data uploaded to MapsOnline by the Assessor, therefore the mapping layer is updated as often as the assessing data is uploaded/updated.
- Protected & Recreational Open Space: We implemented the Protected and Recreational Open Space layer available from MassGIS in the Town's MapsOnline.
- Impervious Surfaces: We implemented a mapping layer called "Impervious Surfaces" as is available from MassGIS. This mapping layer is a raster layer that comes from MassGIS's web server directly.
- Zoning Map: Planning requested the Zoning Map be added to MapsOnline. We received data from the Town's vendor in shapefile format and did add this mapping layer to MapsOnline. However, upon close inspection of the zoning boundary lines (as compared to parcel lines), it was clear that much work will be needed to enhance the quality of the zoning map to meet the Town's GIS needs. We reviewed this situation with the Planning Department to confirm these findings, and estimated approximately three days of work to improve this data layer.
- Tracks and Trails: This is a MassGIS layer that we reviewed. Unfortunately we found no trails in this data source for the Town of Medway.
- Subdivision Map: Planning would like to create a Subdivisions mapping layer. No known source of data was identified, so it would seem that this layer would need to be created from scratch. We recommend Planning sit down with a GIS person to identify parcels belonging to subdivisions, with each subdivision getting a formal name.
- Crop Evapotranspiration and Potential Evaporation Grid: ?
- Modeled Wind Speed Grids: ?
- Endangered Species: Date not found.
- Sidewalks: Streets with sidewalks was a mapping layer created from the MA DOT road centerlines discussed in the DPS review section. An attribute exists in this centerline layer indicating sidewalks on the right or left side of the street. We created a mapping layer in MapsOnline that shows all street segments that have a sidewalk on one side or the other.

Police Department

PeopleGIS

The Police Department had several needs, as follows:

- Police Department MapsOnline: We recommend that the Police Department have their own MapsOnline, and we have set that site up as part of this contract. This will enable the Police Department to secure access to their mapping data to just their own staff.
- Calls-For-Service: The Police Department is interested in mapping their calls-for-service (CFS) currently managed in their PAMET software. We spoke to PAMET and made arrangements to obtain the table structure of the database. We recommend setting up software to automate the extraction of data from PAMET and upload of this data to PeopleForms. This software could be automated to operate nightly, enabling the Police Department to be looking at their CFS in their own MapsOnline that is always less than 24-hours old.
- Public View of Calls-For-Service in MapsOnline: The Police Department discussed the possibility of providing a map of "filtered" calls-for-service for public viewing. This would be similar to the crime listings provided in local papers. This concept was not discussed at length, but the concept is documented here as a starting point.
- Police Vehicle Maintenance: The Police Department discussed using PeopleForms for the tracking of police vehicle maintenance.
- Special Conditions Database: The Police Department would like to create a database of "special conditions" or "special instructions". Information might indicate which door to enter by, whether they have a key for the residence, or other information gathered through experience with certain locations or provided by property owners. The idea is to store those small bits of information that is collected over time and might aid in certain response situations. We recommend a simple PeopleForm for this application.
- Gun Permits: This data is also in PAMET. We recommend obtaining this data through the data sharing techniques with this platform discussed above and loading this data into PeopleForms so that this data can be mapped in the Police Department's MapsOnline.

Fire Department

The Fire Department had several needs, as follows:

- Fire Department MapsOnline: We recommend that the Fire Department have their own MapsOnline, and we have set that site up as part of this contract. This will enable the Fire Department to secure access to their mapping data to just their own staff.
- Hydrants Mapping: This layer will be created and maintained by DPS. See Hydrants under their review. The Fire Department would like to ensure that the size of the main (diameter) and pressure be recorded as attributes for each hydrant. Possibly, this information could be shown in their MapsOnline through labels and colors.
- Fire Boxes: We recommend creating a PeopleForm for the mapping of each fire box, including "plugged" or "unplugged" as a status attribute. The Fire Department wants to make sure these are not left "plugged out". Possibly, the Fire Department

PeopleGIS

could set an email alarm in PeopleForms to notify someone in the department if a fire box is left unplugged for too long.

- Calls-For-Service: The Fire Department is interested in mapping their calls-for-service (CFS) currently managed in their PAMET software. We spoke to PAMET and made arrangements to obtain the table structure of the database. We recommend setting up software to automate the extraction of data from PAMET and upload of this data to PeopleForms. This software could be automated to operate nightly, enabling the Fire Department to be looking at their CFS in their own MapsOnline that is always less than 24-hours old.
- Burn Permits: The Fire Department issues agricultural burn permits, which are seasonal in nature. We recommend a PeopleForm be created to store this information and create a mapping layer to share on the Staff MapsOnline site.
- Knox Boxes: We recommend a PeopleForm be created to load all knox box locations into. The Fire Department can then use the Map Window in this PeopleForm to re-position the knox box locations as they need to.
- Propane Tanks: The Fire Department explained that propane tanks are tracked in MUNIS. We recommend this data be exported and loaded into PeopleForms so it can be used by the Fire Department and Dispatch operations.
- Blasting Permits: The Fire Department discussed the need for a Blasting Permit, which appears to be a good application for PeopleForms. Few details were provided regarding this permit.

Open Space Committee

The Open Space Committee had several needs, as follows:

- Town-Owned Parcels: This layer helps the committee focus their efforts. This layer was created in MapsOnline by PeopleGIS during our interview with the Committee. There is a desire to take this layer further and develop subcategories, including ball fields and recreation, undeveloped lots, etc. This extended effort will likely be accomplished with PeopleForms.
- Parcels Over 5 Acres In Size: This layer shows all parcels greater than five acres. This layer was completed by PeopleGIS immediately following our interview with the Committee.
- Properties that Abut Chicken Brook, Charles River, and Hopping Brook: This is a simple layer to create and upload to MapsOnline.
- Wetlands: DEP Wetlands and National Wetland Inventory were both requested by the Committee. These layers were obtained from MassGIS and setup in MapsOnline.

Building Department

The Building Department had the following identified needs:

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- Certificate of Occupancy Form: The Building Department requires Certificate of Occupancy (CO) forms for daycare centers, multi-families, and other building categories. They need a database of all CO's and the ability to print forms. We recommend they build a PeopleForm, complete with email alerts indicating those CO's that are about to become due. A PeopleForm receipt should also be created from the existing Microsoft Word document. We recommend a mapping layer be derived from this data for use in MapsOnline that shows out-of-date CO's for all staff to use.
- Abandoned Properties: The Building Department requires all owners of abandoned properties (abandoned and foreclosed) to fill out a Vacant Structures form. We recommend this form be created in PeopleForms, complete with a receipt. We also recommend a mapping layer in MapsOnline showing all such properties to support Planning and Public Safety. The Building Inspector was completing the design of a new Vacant Structures form in Microsoft Word at the time of our interview, so we have not reviewed this product as of the date of this document.
- Building Permits: The Building Department would like to map their Building Permits, which are currently being managed in MUNIS. We recommend that this data be exported from MUNIS and imported into PeopleForms in order to address this need, and we have included costs for permit data in general to be handled in this manner.

The Building Department would also like to have an online building permit application, and to have this online application receive data and forward it to MUNIS. This is a much bigger request because it begins to require significant participation from the MUNIS vendor. We are seeing similar requests from other departments in regards to permit data, and recommend that we hold a meeting to discuss this topic in general.

- Building Violations: The Building Department would like to build a database of building violations and be able to map them in order to share this data with the staff. We recommend a PeopleForm that uses an entered address to pull the ownership data from the assessor's data (also in PeopleForms) and include all of the "boiler plate" special conditions that might be attached to a violation record. Selected violations would appear in the final receipt that is printed out for a record. Unselected special conditions would not.

Assessing

Assessing had the following identified needs:

- Assessing Department MapsOnline: We recommend that the Assessing Department have their own MapsOnline, and we have set that site up as part of this contract. This will enable the Assessing Department to secure access to their mapping data to just their own staff. Assessing reviewed a MapsOnline site from Watertown, MA and expressed an interest in develop similar thematic maps (showing Parcels by Value, Neighborhoods, Zones, Buildings by Age, etc).
- 24x36 Printing: Assessing would like to see 24x36 printing option on their version of MapsOnline. PeopleGIS did add this option to Assessing's MapsOnline prior to the completion of this document.

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- Parcel Map Production: The Town should have an ArcView-based parcel map production tool so parcel maps can be produced in-house 24/7/365 on 11x17 and 24x36 paper. The option should exist for the production of PDF digital maps as well.

Animal Control

Animal Control had a few simple needs that will be addressed by PeopleForms:

- Kennel Locations: Locations can be mapped by property address, with any description and contact information added via PeopleForms.
- Inspected Barns/Livestock: Field Inspection forms can be built in PeopleForms to track these events.
- Locations of Rabid Animal Sitings: A form could be made available via the town website to aid the tracking of rabid animals in support of animal control operations.
- Locations of Dog Biting Incidents: A form could be created in PeopleForms for staff and public use enabling the documentation of dog bites, including mapping of such incidents.

Board of Health

The Board of Health had a few simple needs that will be addressed by PeopleForms:

- Wells: Well locations are documented in a spreadsheet by address. PeopleGIS created a PeopleForm called "Wells" and loaded this data. This data is also presented as a mapping layer on the Staff MapsOnline.
- Septic System Pumping Records: We understand that septic system pumping records currently exist in GeoTMS, and that the Board of Health likes using GeoTMS to manage this data. Therefore, we suggest that the Board of Health continue to use GeoTMS, but export this data from GeoTMS to a comma-separated value (csv) file for upload to PeopleForms on a routine basis so as to share this information with other departments via PeopleForms and MapsOnline.

Discussion Items

Our work with the Town has revealed a few items requiring further discussion to support appropriate decision-making, as follows:

GPS Equipment

The subject of GPS has come up several times in our discussions with the Town, even before our existing contract. The Town does have a budget to purchase GPS equipment (approximately \$10,000). However, questions remain as to which equipment to purchase. These questions seem to focus on the various levels of GPS equipment, their respective levels of accuracy, and their

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respective costs. Before we can make decisions, let's first outline three categories of GPS equipment:

Consumer-Grade GPS: Consumer-Grade GPS is available from many local consumer technology stores and/or on the Internet for costs ranging from \$50 to \$500. People use this level of GPS technology in their cars, while they are hiking, in support of geo-caching games, and other such activities. This same level of GPS is now found in most cell phones, which in turn has made cell phones the most popular GPS-enabled hardware platform that currently exists. The accuracy of this category of GPS is roughly +/- 10 ft. Therefore, if you are driving along a road, this category of GPS puts you on a map on that road, or very close to that road. Certainly, for the applications described under this category, this level of accuracy is sufficient. The GPS is helping the user find places and features already mapped.

GIS Mapping-Grade GPS: GIS Mapping-Grade GPS is generally not available through consumer technology stores, but rather from professional surveying and mapping companies for a cost ranging between \$5000 and \$10,000. In eastern Massachusetts, Maine Technical Source in Woburn, MA is one such source. GIS Mapping-grade GPS is capable of mapping objects with an accuracy of +/- 2 to 3 feet. This level of accuracy is generally considered sufficient to support most municipal GIS programs (which often have a map scale of 1"=100', resulting in a spatial accuracy of +/- 2.5 feet). The focus with this category of GPS is not to find places or features already mapped, but rather to map features accurately enough to fit with your other GIS mapping layers.

With GIS Mapping -Grade GPS, locations are mapped by standing on location for thirty seconds or more. Location data is generally not available immediately, but must go through a "post-processing" procedure where the data collected in the field is compared to local base stations and refined to reach the desired accuracy levels. Such processing generally happens hours after the field data collection.

Survey-Grade GPS: Survey-Grade GPS is also not available through consumer technology stores, but rather from professional surveying and mapping companies. Survey-grade GPS is capable of mapping objects with an accuracy of +/- 1 cm. Therefore, this level of GPS is generally more accurate than most GIS programs require. However, public works departments are purchasing this grade of GPS more often in the past few years because they are interested in determining precise locations of their infrastructure, especially the elevations of their infrastructure (such as manholes, catch basins, etc.). Elevations of manhole covers, for example, can lead to invert elevations for every pipe entering or leaving that point location, which can support modeling programs.

In addition, these Survey-Grade GPS systems can capture point data in seconds (as opposed to thirty seconds or more). Therefore, there is the opportunity for significant time savings as compared to GIS Mapping-Grade GPS.

Given this understanding of the different categories of GPS, the Town has to decide on its approach to GPS equipment. It would certainly benefit the Town to have some Consumer-Grade GPS, such as USB plug-in GPS for laptops for use in the field to find places and features already mapped. Such equipment would cost between \$50 and \$100 and could be used with any computer in the field. Handheld Consumer-Grade GPS could also be used, but its utility for a municipal GIS Program is limited since the user would have to enter the coordinates of the place or feature into their handheld as a "waypoint" and then navigate to the point. This requires practice and experience, and may be too difficult for most users.

PeopleGIS believes the Town should purchase a professional GPS, either GIS Mapping-Grade or Survey-Grade. The decision rests with Public Services and their intentions in regards to their systems mapping. The accuracy of their water and sewer systems is largely unknown at this time.

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Also unknown are the department's vision for their data accuracy going forward. These unknowns should be expected since this GIS Program is in its infancy. If DPS wishes to update all of its infrastructure mapping, and if elevation values are paramount to their modeling efforts, then it would make sense to consider adding another \$10,000 to the current GPS budget and purchase the Survey-Grade GPS. If not, then it makes sense to purchase the GIS Mapping-Grade GPS.

Please note that our discussions with DPS indicated that new storm water regulations will require the Town to map its storm water system complete with accurate elevation data (to support the modeling and/or tracking of the flow of storm water). This regulation would seem to indicate the need for the Survey-Grade GPS.

To be complete, we should also talk about the GPS Laser. This is additional hardware that can be purchased to enhance data collection in the field. A user of professional GPS can attach a laser and point at features from a single location to map all of those locations. This is very useful for sign mapping (because there are so many of them to map) and the mapping of water gates (since they are in the middle of the street). Lasers can greatly reduce the time spent in the field.

Lastly, we should mention real-time data processing. It is possible to purchase an online service that enables real-time "post-processing" of field-collected data. This type of service costs \$100 monthly and eliminates the need to spend time after each field data effort to post process the data. If a great deal of data is being collected often, this type of service can make sense. If not, such a service can be difficult to justify.

We recommend a workshop discussion with the GIS Committee to review these points and move the GPS discussion forward. We realize there are many points being made in the paragraphs above and the topic is a difficult one to completely understand.

As of the writing of this document, the GIS Committee has agreed to hold GPS presentations in-house with a local vendor to review GPS options.

Aerial Photography

The subject of base mapping via aerial photography came up during our needs assessment interview with DPS. Base mapping would include the mapping of road surfaces, sidewalks, buildings, driveways, water bodies, and other features that can be seen from an airplane. Signs, manholes, and catchbasins are also mapped in such efforts, but not all such points can be seen clearly so the net result is somewhere between 50% and 80% completeness for such layers. Water gates are generally not mapped from aerial photography.

Having all of these layers would greatly enhance the use of GIS for DPS, as it would all of the departments. However, DPS would receive another great benefit; topography. Base mapping from aerial photography could also produce 2-ft contours of the entire community. This would greatly enhance storm water management in the Town, which currently is a major concern of DPS.

The cost for aerial photography and base mapping (including the flight, a digital aerial photo for use in the Town's GIS, 20-30 common mapping layers, and topography) would range from \$100,000 to \$200,000.

The delivered products would include some infrastructure mapping, but the elevations would not be useable from the DPS's perspective. Therefore, the GPS decision regarding which professional category to purchase remains largely tied to the need for accurate elevation data.


As of the writing of this document, the GIS Committee has agreed to re-visit this particular issue in fiscal year 2013.

Closing

In our opinion, this short needs assessment was a tremendous success, and we hope the Town feels the same way. Many applications were documented, many were completed, and others were scoped out and scheduled. Certainly, there are questions regarding the Town's direction with GPS and a possible Aerial Flight. However, several people are now involved in that discussion.

Please let us know if you have any questions regarding the GIS Action Plan. We look forward to the next stages of Medway's GIS Implementation Project.

Regards,



Kevin Flanders, President
PeopleGIS

Task	Staff	Cost	Notes
Street Drawings	DPS	\$500	
Stormwater Infrastructure Sketches	DPS	\$400	
Street Sweeping Progress	DPS	\$300	
Desktop Applications	Staff	\$1,500	
Face Mapper Application	Staff		
ARCView Software	Staff		
Equipment Purchase (5)	Staff		
Training & Support	Staff		
MapsOnline	Staff	\$1,000	
PeopleForms	Staff	\$3,000	
Advanced PeopleForms	Staff	\$3,000	
Schools Support	School	\$1,000	
Student Mapping in support of Bus Routing	School	\$400	
Dug Free Zones	School	\$200	
Buffer Zones	School	\$200	
Bus Routes	School	\$200	
Schools Mapping Site	School	\$400	
		\$52,700	
		\$14,200	
		\$132,000	

Gating these docs into a management system could be difficult. The infrastructure does not yet exist in GIS format. But getting them into Doc Manager now should help with the creation of the stormwater network over time. The budgeted time is a best effort at loading all documents but can be loaded given the available information.

Combining power user's skill level
Pushing power user's skill level

Use PPs to find students and support thematic mapping by school, grade, etc.
School Priorities with Blines
Pilot experiments to find school facility locations (linear stores, etc.)
Pilot experiments to find school facility locations (linear stores, etc.)
To keep their data secure from other staff

Legend
Task has begun, will require staff review
PeopleGIS completed
To be completed

- (1) Discussion is required on the coordination of data from GeoIMS
- (2) The mapping of infrastructure is a significant undertaking. The Town may proceed with GPS mapping of points. The Town may conduct a flyover. These decisions are forthcoming.
- (3) The Town should fund additional private party PeopleGIS users so that many of the identified tasks can be accomplished completely or partially in-house. The presentation shows costs if PeopleGIS is secured.
- (4) Annual updates each year once the task is implemented.
- (5) GPS Purchase is outside the scope for PeopleGIS, but is included in the Town's FY2011 budget.

DRAFT PROPOSED REVISIONS TO OSRD BYLAW
PGC Associates – January 7, 2011

T. OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

1. **Purpose and Intent** - The primary purposes for OSRD are:
 - a) To allow for greater flexibility and creativity in the design of residential development
 - b) To protect community water supplies;
 - c) To minimize the total amount of disturbance on the site;
 - d) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources (including aquifers, water bodies and wetlands, and/or historical and archeological resources.
 - e) To discourage sprawl and encourage a more efficient form of development that consumes less open land and conforms more closely to existing topography and natural features than a conventional subdivision;
 - f) To further the goals and policies of the Medway Master and/or Open Space Plans;
 - g) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.
 - h) To preserve and enhance the community character;
 - i) To preserve and protect agriculturally significant land;
 - j) To protect the value of real property;
 - k) To allow for housing types that will diversify the community's housing stock including the provision of affordable housing for persons of low and moderate incomes. *(Item added May 14, 2007)*

2. **Eligibility**
 - a) **zoning Classification** - Only those tracts located in the AR-I and AR-II Districts shall be eligible for consideration as an OSRD.

 - b) **Contiguous Parcels** - To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. For the purposes of this section, parcels that are directly opposite each other across an existing street, and each have a minimum of 25 feet of frontage on the same 25-foot section of roadway, may be considered as if contiguous. Provided, however, that parcels or sets of parcels on opposite sides of a street must each have practical development potential as evidenced by either meeting the dimensional requirements of the residential zoning district in which it lies, or, in the opinion of the Planning and Economic Development Board, has sufficient access and area to be subdivided in accordance with the Planning and Economic Development Board's Rules and Regulations for the Review and Approval of Land Subdivisions.
(Revised June 15, 2009)

 - c) **Land Division** - To be eligible for consideration as an OSRD, the tract may be a

subdivision or a division of land pursuant to M.G.L. c. 41, s. 81P, provided, however, that an OSRD may also be permitted where intended as a condominium on land not so divided or subdivided.

d) *Tract Size* – An OSRD shall be on a site that is a minimum of 8 acres in area. The Planning and Economic Development Board may approve an OSRD on a tract of land that is less than 8 acres if such property directly abuts the Charles River, Chicken Brook or Hopping Brook and that portion of the property that abuts any of these waterways is included in the open space. *(Item d) added June 15, 2009)*

3. *Special Permit Required*

a) The Planning and Economic Development Board may authorize an OSRD pursuant to the grant of a special permit. Such special permits shall be acted upon in accordance with the provisions outlined below.

b) The Planning and Economic Development Board shall adopt *OSRD Rules and Regulations* which shall more fully define the application requirements including the size, form, number and contents of the *Site Context and Analysis Plan, Concept Plan, and Yield Plan*, identify supporting information needed, and establish reasonable application, review and inspection fees, and performance bond requirements.

c) Upon approval by the Planning and Economic Development Board, an OSRD may include a Local Convenience Retail use of no more than 7,500 square feet of gross building area. *(Item c) added 6-2-08)*

d) Upon approval by the Planning and Economic Development Board, an OSRD may include a Community Center or building erected solely for the use of the residents of the OSRD and their guests for recreational, educational and social purposes. *(Item d) added 6-2-08)*

4. *Pre-Application Review*

a) *Informal Review* -The purpose of an informal pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning and Economic Development Board at the earliest possible stage in the development. The applicant is required to schedule an informal pre-application review at a regular business meeting of the Planning and Economic Development Board. The Planning and Economic Development Board shall invite the Conservation Commission, Open Space Committee, Board of Health, and Design Review Committee to attend the informal pre-application review. At the informal pre-application review, the applicant ~~may~~ **shall** outline the proposed OSRD **(including presentation of a preliminary Site Context and Analysis Plan prepared with input from a Registered Landscape Architect)**, seek preliminary feedback from the Planning and Economic Development Board and/or its agents, **review potential trails and trail connections, present a preliminary design concept for handling stormwater runoff,**

discuss potential mitigation measures, and set a timetable for submittal of a formal application. At the applicant's request and expense, the Planning and Economic Development Board may engage technical experts to review the applicant's informal plans and facilitate submittal of a formal application for an OSRD special permit.

(Revised June 15, 2009)

b) *Site Visit* – ~~Upon request of a~~ **As part of a request for a pre-application review**, the applicant shall grant permission to Planning and Economic Development Board members and agents to visit the site, either as a group or individually, so that they may become familiar with the site and its surrounding area.

c) *Meeting with abutters* – **It is highly recommended that applicants meet with abutters at the pre-application stage and prior to preparing a formal application.**

5. **Four-Step Design Process** - At the time of the application for an OSRD Special Permit, an applicant is required to demonstrate to the Planning and Economic Development Board that the following *Four-Step Design Process* was performed by a Registered Landscape Architect (RLA) and considered in determining the layout of proposed streets, house lots **and/or dwelling units**, and open space.

a) *Identify Conservation Areas* - Identify preservation areas by two steps. First, *Primary Conservation Areas* (such as wetlands, riverfront areas, and floodplains regulated by state or federal law, and verified by the Medway Conservation Commission through an Abbreviated Notice of Resource Area Designation (ANRAD) and *Secondary Conservation Areas* (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the *Potentially Developable Area* will be identified and delineated. To the maximum extent feasible, the *Potentially Developable Area* shall consist of land outside identified *Primary and Secondary Conservation Areas*. **The specific features of the tract that are proposed to be preserved shall be identified. Furthermore, methods of integrating the preserved areas and features with the Potentially Developable Area and existing abutting neighborhoods shall be proposed. The Planning and Economic Development Board may require that certain features (including but not limited to specimen trees, stone walls, etc.) within the Potentially Developable Area be preserved.**

b) *Locate House Dwelling Unit Sites* - Locate the approximate sites of individual houses **and/or attached dwelling units** within the *Potentially Developable Area* and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

c) *Align the Streets and Trails* - Align streets in order to access the house lots **or dwelling units**. Additionally, new streets and trails should be laid out to create internal

and external connections to existing and/or potential future streets, sidewalks, **existing or proposed new open space parcels** and trails on abutting public or private property.

d) *Draw in Lot Lines.* **This step is not applicable to condominium projects.**

A narrative and accompanying illustrations documenting the findings and results of each of the four steps shall be provided. *(This sentence added June 15, 2009)*

6. **Application Requirements Procedures**

a) *Application* - An application for an OSRD Special Permit shall include a *Site Context and Analysis Plan*, a *Concept Plan*, ~~and a Yield Plan~~ **Design Plan, and Mitigation Plan**. The application shall also include a narrative statement that describes how the proposed OSRD meets the general purposes and evaluation criteria of this bylaw and why it is in the best interests of the Town to grant the OSRD Special Permit rather than approve a conventional subdivision plan.

b) *Site Context and Analysis Plan* - The *Site Context and Analysis Plan* shall illustrate the tract's existing conditions and its relationship with adjoining parcels and the surrounding neighborhood. Using existing data sources and field inspections, it should indicate the important natural resource features within the site as well as on adjoining lands. Such resources include, but are not limited to, wetlands, streams and riparian areas, floodplains, steep slopes, ledge outcroppings, wetlands, heathcrows, farmland, unique or special wildlife habitats, historic or cultural features (including old structures and stone walls), unusual geologic conditions and scenic views.

c) *Concept Plan* - The *Concept Plan* shall be prepared by a Registered Landscape Architect, or by a multi-disciplinary team of which one member must be a Registered Landscape Architect, and shall address the general features of the land, give approximate configurations of lots, **building footprints**, open space, stormwater management facilities, utilities and roadways, **pedestrian circulation** and include the information listed in the Preliminary Plan section of the *Subdivision Rules and Regulations*. The *Concept Plan* shall incorporate the results of the Four-Step Design Process, according to Paragraph 5 above, and the Design Standards according to Paragraph 10 below, when determining a proposed design for the development. *(Revised June 15, 2009)*

d) *Design Plan* - The *Design Plan* shall include a preliminary design scheme for the development including, at a minimum, sample façade designs for the buildings and a preliminary landscaping plan identifying typical features, such as fences, stone walls, light posts, or other items in addition to vegetation that is being considered. **Designs that incorporate low-impact design drainage systems into the landscaping plan are encouraged.**

e) *Mitigation Plan* - **Proposed mitigation measures in compliance with Sub-section 13 (b) shall be included as part of the application.**

e) f) *General Procedures* – Upon receipt of an application for an OSRD Special Permit, the Planning and Economic Development Board shall, within fourteen (14) days of the filing of the completed application, distribute copies of the application, accompanying plans, and other documentation, to the Board of Health, Conservation Commission, Open Space Committee, Building Inspector, Department of Public Services, Police Chief, Fire Chief, Design Review committee, and the Town’s consulting engineer and consulting planner for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning and Economic Development Board within thirty-five (35) days of receipt of the reviewing party of all the required materials. Failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning and Economic Development Board is held prior to the expiration of the 35-day period, the Planning and Economic Development Board shall continue the public hearing to permit the formal submission of reports and recommendations within the 35-day period. The Decision/ Findings of the Planning and Economic Development Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party. (Revised June 15, 2009)

e) g) *Other Information* - The submittals and permits of this section shall be in addition to any other **applicable** requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw, **including, but not limited to the Affordable Housing provisions of Section X.**

7. *Maximum Number of OSRD Dwelling Units per Yield Plan*

a) The maximum possible number of OSRD dwelling units shall be derived after preparation of a *Yield Plan*. The *Yield Plan* shall indicate the tract’s total area (TA) and its wetland and riverfront area (WA). WA shall include those portions of the tract that are classified as wetland and/or associated within the 200’ riparian zone of a perennial stream as determined by the Meadow Conservation Commission. (Revised June 15, 2009)

The following formula shall be used to determine the maximum possible number of OSRD dwelling units that may be permitted. The resulting amount shall be rounded down to the nearest whole number.

$$\text{Maximum \# of OSRD Dwelling Units} = \frac{\text{TA} - (0.5 \times \text{WA}) - (0.1 \times \text{TA})}{\text{Zoning District Minimum Lot Area}}$$

b) The maximum **possible** number of OSRD dwelling units **is for guidance purposes only.** It is not necessarily be the number of units the Planning and Economic Development Board approves in the OSRD Special Permit.

8. *Reduction of Dimensional Requirements* - The Planning and Economic Development Board may authorize modification of lot size, shape, and other bulk

requirements for lots within an OSRD, subject to the following limitations:

a) Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved, provided, however, that the Planning and Economic Development Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

b) Lot frontage shall not be less than fifty feet (50').

c) Each lot shall have a front setback of at least twenty-five feet (25') unless a reduction is otherwise authorized by the Planning and Economic Development Board.

d) Each lot shall have a minimum of fifty percent (50%) of the minimum required lot area for the zoning district in which it is located.

e) ~~Building footprints or envelopes shall be shown on the plan, and no structure shall be located closer than thirty feet (30') from any other structure. Furthermore, a landscaped buffer shall be provided between house structures to enhance privacy.~~

f) Garage doors facing the street shall be set back a minimum of five feet (5') more than the front wall of the principle building. No more than fifty percent (50%) of the garage doors within an entire OSRD shall face the street from which it is accessed. These requirements may be waived by the Planning and Economic Development Board for corner lots where the garage door faces a different street than the front of the ~~house~~ **dwelling unit** or for other extraordinary circumstances that the Planning and Economic Development Board deems to be in the Town's best interests.

9. **Open Space Requirements** - A minimum of fifty percent (50%) of the tract shown on the development plan shall be open space. For purposes of this section, open space shall be considered to be land left in its natural state and/or land used for any of the purposes described in item (c) below. Open space is to be owned and managed as outlined in item (e) below. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

a) In the minimum required open space area (equal to 50% of the total area of the proposed OSRD parcel), the percentage of land that is a *resource area* (as defined and regulated by the Medway General Wetlands Protection Bylaw (ARTICLE XXII)) shall not exceed the percentage of the total tract that is a *resource area*; provided, however, that in any proposed open space beyond the minimum required, the applicant may include a greater percentage of *resource area*. (Revised May 14, 2007 & June 15, 2009)

b) The open space shall be contiguous. Open Space will be considered as contiguous if

it is separated by a roadway or an accessory amenity. The Planning and Economic Development Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw and/or protect the identified Primary and Secondary Conservation Areas.

c) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, parks, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning and Economic Development Board may permit up to 10% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (*i.e., pedestrian walks and bike paths, playgrounds, or other recreation facilities*). The open space shall be accessible to the public, unless the Planning and Economic Development Board waives this requirement because it deems that it is in the best interests of the Town to do so. The Planning and Economic Development Board may require a minimum number of off-street parking spaces to facilitate such public access. *(Revised June 15, 2009)*

d) While protecting resources and leaving land in its natural state is a primary goal, the Planning and Economic Development Board also encourages the use of open space to provide active and passive recreation in the form of commons, parks and playgrounds to serve the needs of the development and surrounding neighborhoods.

e) The following shall not qualify toward the required minimum open space area:

- 1) Surface stormwater management systems serving the OSRD such as retention and detention ponds.
- 2) Sub-surface drainage/septic and leaching systems per Title 5
- 3) Fifty percent (50%) of land area subject to any type of utility easement
- 4) Land within three feet (3') of a dwelling unit
- 5) Local convenience retail buildings or Community buildings or other buildings housing common facilities and any associated parking.
- 6) Median strips, landscaped areas within parking lots or landscaped areas on individual home lots.
- 7) Strips of land equal to or less than fifteen feet (15') wide, unless, in the opinion of the Planning and Economic Development Board, they serve as necessary pedestrian connectors to a public way, trail, or another open space parcel.
(Revised May 1, 2007 & June 15, 2009)

8) Buffer strips between the *Potentially Developable Area* and abutting existing neighborhoods as required in Subsection 10 (i).

f) Ownership of the Open Space - The open space shall, at the Planning and Economic Development Board's discretion, be conveyed to:

- 1) The Town or its Conservation Commission, upon its agreement;
- 2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above, upon its agreement;

3) A corporation or trust owned jointly or in common by all owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning and Economic Development Board for approval, and shall thereafter be recorded.

g) The Planning and Economic Development Board shall make the final determination regarding the open space parcels. This shall include the location, size, shape and use of all proposed open space. If the land set aside for open space is excessively steep or wet, is not safely accessible, or is not dry for at least nine (9) months out of the year, the Board may consider this to be an inappropriate contribution of open space and may require additional land to satisfy this requirement. *(inserted g) added May 14, 2007)*

10. **General Design Standards** – The following General Design Standards shall apply to all OSRDs and shall govern the development and design process:

a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighborhood developments. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.

b) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.

c) The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.

d) All open space (*landscaped and usable*) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

- e) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
- f) Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.
- g) Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning and Economic Development Board.
- h) Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space. *(Added May 14, 2007)*
- i) A **minimum** fifteen foot (15') wide visual buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing acceptable to the Planning and Economic Development Board shall be located **between the Potentially Developable Area of the tract and abutting existing neighborhoods** along the perimeter of the OSRD tract, unless a reduction is otherwise authorized by the Planning and Economic Development Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements. *(Added May 14, 2007)*
- j) Parking – A minimum of ~~two (2)~~ **three (3)** off-street parking spaces shall be required for each dwelling unit. The Planning and Economic Development Board may require additional off-street parking spaces for use in common by residents and their guests. Locations for additional guest parking shall be shown on the Concept Plan. *(Added June 15, 2009)*
- k) Sidewalks shall be provided along the entire frontage of the OSRD tract along existing Town ways, including the frontage of any lots held in common ownership with the parcels within five (5) years prior to the submission of the OSRD Special Permit application. In those instances where sidewalk construction is not feasible or practical, the Planning and Economic Development Board shall require that the applicant support sidewalk construction elsewhere in the community. This may be accomplished either by constructing an equivalent length of sidewalk elsewhere in the community as recommended by the Department of Public Services or by making a payment in lieu of sidewalk construction to the Town of Medway's Sidewalk Special Account in an amount determined by the Planning and Economic Development Board at the recommendation of the Town's Consulting Engineer. *(Added June 15, 2009)*

l) Pedestrian circulation measures to facilitate movement within the Potentially Developable Area as well as between it and the open space and the abutting existing neighborhood.

m) Trails shall be provided to facilitate public access to the open space unless the Planning and Economic Development Board finds that it is not in the best interests of the Town to locate a trail on a particular parcel. All trails shall be a minimum of 50 feet from any dwelling unit unless the Planning and Economic Development Board finds that topography, vegetation or other factors warrant a lesser distance.

11. *Decision of the Planning and Economic Development Board* - The Planning and Economic Development Board may grant an OSRD Special Permit if it determines that a proposed OSRD has less detrimental impact on the tract than a conventional subdivision development proposed for the tract, after considering the following factors:

- a) Whether the OSRD achieves greater flexibility and creativity in the design of residential development than a conventional plan;
- b) Whether the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archeological resources;
- c) Whether the OSRD promotes less sprawl and a more efficient form of development that consumes less open land and better conforms to existing topography and natural features than a conventional subdivision;
- d) Whether the OSRD reduces the total amount of disturbance on the site;
- e) Whether the OSRD furthers the goals and policies of Medway's Open Space and/or Master Plan;
- f) Whether the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; **and**
- g) Whether the *Concept Plan* and its supporting narrative documentation comply with all sections of this Zoning By-Law.
- h) Whether the design of buildings within the OSRD is consistent or compatible with traditional New England architectural styles as further described in the Planning and Economic Development Board's *Design Review Guidelines*.
- i) Whether the OSRD is compatible or in harmony with the character of adjacent residential neighborhoods.
- j) Whether the OSRD will have a detrimental impact on abutting properties and residential neighborhoods.
- l) Whether the impact of the OSRD on abutting properties and residential neighborhoods has been adequately mitigated, **and**

- m) Whether the OSRD protects and enhances community character
(Items 11 (h) – 11 (l) added May 14, 2007)

An OSRD Special Permit decision shall include the approved *Concept Plan*. The OSRD Special Permit Decision shall specifically state that the OSRD Definitive Plan shall substantially comply with the approved *Concept Plan*. The applicant shall record the OSRD Special Permit Decision/ *Concept Plan* at the Norfolk County Registry of Deeds.
(Added June 2, 2008)

12. ***OSRD Definitive Plan***

- a) Subsequent to recording the OSRD Special Permit Decision and *Concept Plan* at the Registry of Deeds, the applicant shall prepare and submit an OSRD Definitive Plan to the Planning and Economic Development Board. The OSRD Definitive Plan shall include all plan changes as may be required by the conditions of the OSRD Special Permit.
- b) The Inspector of Buildings shall not issue a building permit for any building or structure authorized by an OSRD Special Permit unless the Planning and Economic Development Board has approved or conditionally approved and endorsed an OSRD Definitive Plan, filed with the Town Clerk and provided such to the Inspector of Buildings,
- c) An OSRD Definitive Plan shall comply with the application contents, review process, and Design and Construction Standards of the *Subdivision Rules and Regulations* for a definitive subdivision plan, except that another traffic study and development impact report are not required. The Planning and Economic Development Board may agree to waive/vary those standards upon written request of the applicant, provided that the Planning and Economic Development Board finds that it is in the best interests of the Town to do so.
- d) In cases where a definitive subdivision plan is not technically necessary (e.g. a multi-family condominium project), the Planning and Economic Development Board will consider site design features that are normally the subject of Site Plan Approval (SECTION V. USE REGULATIONS, Sub-Section C of the Medway Zoning Bylaw) such as parking, lighting, landscaping, site amenities, etc. The Development Standards of the Planning and Economic Development Board's *Site Plan Rules and Regulations* shall be adhered to. The OSRD Definitive Plan shall be prepared to comply with those standards. The Planning and Economic Development Board may agree to waive/vary those standards, upon written request from the applicant, provided that the Planning and Economic Development Board finds that it is in the best interests of the Town to do so.
- e) The OSRD Definitive Plan shall substantially comply with the approved OSRD *Concept Plan*. An OSRD Definitive Plan will be considered not to substantially comply with the approved *Concept Plan* if the Planning and Economic

Development Board determines that any of the following conditions exist:

- 1) An increase in the number of building lots;
 - 2) A decrease in the open space acreage of more than 5%;
 - 3) A significant change in the lot layout;
 - 4) A change in the general development pattern which, in the opinion of the Planning and Economic Development Board, adversely affects natural landscape features or other features identified for preservation in the approved *Concept Plan*;
 - 5) A change to the stormwater management facilities which, in the opinion of the Planning and Economic Development Board, adversely affects natural landscape features or other features identified for preservation in the approved *Concept Plan*; and/or,
 - 6) Changes in the wastewater management systems, which, in the opinion of the Planning and Economic Development Board, adversely affect natural landscape features or other features identified for preservation in the approved *Concept Plan*.
- f) If the Planning and Economic Development Board determines that the OSRD Definitive Plan does not substantially comply with the approved *Concept Plan*, the Board may disapprove the OSRD Definitive Plan for failure to comply with the conditions of the OSRD Special Permit.
- g) The Planning and Economic Development Board may conditionally approve an OSRD Definitive Plan that does not substantially comply with the approved *Concept Plan*. However, such conditional approval must identify where the OSRD Definitive Plan does not substantially comply with the approved *Concept Plan* and shall require that the applicant file an application to modify the OSRD Special Permit within a specified time period in order to amend the approved *Concept Plan* by incorporating the significant changes identified by the Planning and Economic Development Board. The public hearing on the application to amend the OSRD Special Permit and *Concept Plan* shall be limited to the significant changes identified by the Planning and Economic Development Board in their conditional approval of the OSRD Definitive Plan.
- h) The OSRD Definitive Plan shall be recorded at the Norfolk County Registry of Deeds.

(Paragraph 12 added 6-2-08)

(Item h) added June 15, 2009)

13. **OSRD Special Permit Provisions** - Depending on the nature of the particular OSRD, the Planning and Economic Development Board may, as a condition of any Special Permit for an OSRD, establish conditions, limitations and safeguards; require construction observation/inspection, bonding or other performance guarantees, plan compliance measures and the submittal of as-built plans; and establish reasonable mitigation measures which the Board believes are in the Town's best interests.

(Corrected June 15, 2009)

- a) **Conditions, Limitations and Safeguards** - The Planning and Economic Development Board may require conditions, limitations and safeguards to promote the health, safety, convenience and general welfare of the community including, but not limited to, the following:
- 1) Plan revisions and design modifications to preserve property values, preserve aesthetic or historic features, maintain compatibility with existing uses, and promote the attractiveness of the community.
 - 2) Controls on the location and type of access to the site;
 - 3) Controls on the number, type and time that service and delivery vehicles access the site;
 - 4) Provision for preservation of scenic views;
 - 5) Limitations on the hours of operation for any local Convenience Retail Use or Community Center/Building included in the SRP;
 - 6) Conditions to minimize off-site impacts and environmental quality during construction;
 - 7) Requirements to screen parking facilities from adjoining premises or from the street by walls, fences, plantings or other devices to mitigate adverse impacts;
 - 8) Conditions to minimize the adverse impacts of the development on abutters and the adjacent neighborhood, including but not limited to adverse impacts caused by noise, dust, fumes, odors, lighting, and light glare, hours of operation, or snow storage.
- b) **Mitigation Measures** - The Planning and Economic Development Board may require reasonable mitigation measures to offset adverse impacts of the development on the community, including but not limited to:
- 1) requirements for off-site improvements up to a maximum value of six percent (6%) of the *total development cost* of the proposed project to improve the capacity and safety of roads, intersections, bridges, pedestrian access, water, sewer, drainage, and other public facilities and infrastructure including traffic signals, controls, or municipal services, sufficient to service the development project. *total development cost* shall mean the total of the cost or value of land and all development-related improvements and shall be determined on the basis of standard building or construction costs published in the *Engineering News Record* or other source acceptable to the Planning and Economic Development Board, for the relevant type of structure(s) and use (s).
 - 2) Donation and/or dedication of land for right-of-way to provide for roadway and/or intersection widening or improvements.
(Added 11-10-08) (Sub-Section T. was replaced in its entirety June 6, 2005)