

*Grace Arcand
70 Maple Street
Wenham, MA 01984*

May 11, 2015

Wenham Town Hall
Zoning Board of Appeals
138 Main Street
Wenham, MA 01984

Dear Members of the Zoning Board,

I would like to draw your attention to the attached letter to Catherine Harris addressing concerns about her intervention in the Harborlight project.

Thank you for your time and consideration.

Sincerely,

Grace Arcand

*Grace Arcand
70 Maple Street
Wenham, MA 01984*

May 11, 2015

Town of Wenham
Chairperson Catherine Harris
138 Main Street
Wenham, MA 01984

Dear Chairperson Harris,

I'm concerned that you may be advocating for the interests of the Terranovas and the Berthiaume's in the Harborlight project, which, if this is the case, could potentially harm the interests of the majority of the closest, fence-line abutters.

Impelling Harborlight to do things like increasing the number of parking spaces could have a damaging effect on property values because instead of there being a buffer, green space between the parking lot and property lines, the additional spaces and cars will be right up against our fences, which will also adversely impact the quality of our lives.

Neither the Terranovas, who live one quarter mile away from the site, nor the Berthiaumes will be effected by having a parking lot directly border their land with people and cars coming and going, the sound of vehicle doors opening and closing, and parking lot lights. Our peaceful backyards simply won't exist without a buffer zone.

I don't believe the Terranovas or the Berthiaumes really want more parking spaces. They, in my opinion, are trying to derail and/or delay the project, even it it seems, it hurts other neighbors. What happens if their plan backfires and Maple Woods goes through along with the additional parking area, a younger population, no local preference, and increased traffic and noise? Unfortunately, their actions could have unintended fallout—fallout that will not only effect Maple Street residents but also the greater West Wenham community.

I think we all need to work together to insure that this dwelling complex has the least overall impact, especially on fence-line abutters, who are clearly the most affected.

Please advocate to raise the age limit back to 62 to preserve the buffer green space and, thus, keep parking areas away from lot lines. This will help protect the quality of life, and property values, of my neighbors and me.

In closing, by supporting raising the age restriction back to 62, if the project goes through, you will be advocating for true seniors, who are the least likely to get affordable



housing; less traffic; a quieter neighborhood; a buffer green space; and happier fence-line abutters.

I would appreciate your giving this request your most serious consideration.

Kind Regards,

Grace Arcand

cc: Maple Street abutters, The Board of Selectmen, The ZBA Board, Harborlight, and other interested parties.



red 4/27/15



April 24, 2015

**BY ELECTRONIC MAIL: ecademartori@wenhamma.gov
AND BY MAIL**

Wenham Conservation Commission
Wenham Town Hall
138 Main Street
Wenham, MA 01938

Re: Maple Woods Chapter 40B Application

Dear Members of the Conservation Commission:

As you know, this firm represents several neighbors and abutters to the proposed 60-unit housing project on 3.5 acres at 62 Maple Street in Wenham.¹ I am writing to express our concern with the design of the Project's septic system, plans for which were presented to the Town on March 18, 2015. As you know, the Water Resource Protection Regulations contain a presumption that a septic system constructed more than 100 feet from a wetland resource area "protects the interests of the Bylaw" provided that the system fully complies with Title 5 of the State Environmental Code and any Board of Health requirements. §10.03(2). If the system is not compliant with Title 5, the Applicant would need to demonstrate that there will be no adverse effects from the proposed project on water quality (§10.52) or impair ground or surface water quality (§10.53). This is not a trivial matter, as the Project will be designed to discharge 6600 gallons of wastewater per day into the groundwater below the Site, which is presumably hydraulically connected to the wetlands and streams that are tributary to the Ipswich River.

On behalf of the Neighbors, Tetra Tech filed a comment letter, flagging several discrepancies between Title 5 and the proposed septic system. Significantly, the design assumes an ESHGW elevation of 54.6, based on observations made in test pit "DT-1." Test pit DT-1 is located 120 feet to the west of the proposed septic system. As the Applicant's design engineer,

^{1/} My clients are: Paul and Erin Berthiaume, 78 Maple St; Deborah and Steven Stanton, 86 Maple St.; Nancy and Dan O'Connell, 63 Maple St.; Vivian and Jim Sears, 1 Burley St.; Bill Busby and Vin Lee Young, 40 Maple St.; Lou and Lisa Terranova, 38 Maple St.; Donald and Peggy Duffy, 94 Maple St.; Millie Bromley, 10 Maple St.; Sandra Roman, 55 Maple St.; Lenny Tipert, 47 Maple St.; Andrew and Tom Verrington, 102 Maple St.; Ken Hollingsworth, 53 Maple St.; Catherine and Rob Marks, 115 Maple St.; Anne and Gareth Evans, 100 Maple St.; Kevin Coughlin, 36 Maple St.; Dacia and Jeff Rubel, 12 Puritan Rd.; Marty Cooke, 4 Puritan Rd.; Ken Cring, 6 Puritan Rd.; Suzanne Fleming, 6 Puritan Rd.; Susan Newtn, Topsfield Rd.

Charles Johnson, presumably knows, Title 5 requires that deep observation hole tests must be performed in the location of the proposed septic system leaching fields (primary and secondary). 310 CMR 15.102. Therefore, using groundwater elevation data from a test pit 120 feet away is inappropriate and contrary to Title 5. Moreover, the surface elevation where DT-1 was dug is 52.2', as compared to the surface elevation of the leaching fields, which is 66' – 68'. It is well established that groundwater contours often follow surface elevation contours. Therefore, it was not surprising to find that in test pit T-9, where the surface elevation is 67.3 feet, the groundwater elevation was 63.3', almost nine feet higher than what was observed in DT-1. Test pit T-9 is located just 20 feet to the east of the primary leaching field location, and at approximately the same surface elevation.

Why would Mr. Johnson ignore the groundwater elevation observations in T-9, which is at the same surface elevation and only 20 feet from the leaching field, and instead use a groundwater elevation from a test pit that is 120 feet away and at a surface elevation that is 10 feet lower? According to Sheet 2 of the septic design plans, the base of the leaching fields would be at an elevation of 62.8 feet, less than a foot below the estimated seasonal high groundwater in T-9, 20 feet away. A five-foot separation is the minimum distance required under Title 5, whether for a system serving a single-family house or 60-unit apartment project.

Test Pit	Surface Elevation	Distance to Leaching Field	ESHGW Elevation
DT-1	58.9'	120 feet (approx.)	54.6'
T-9	67.3	20 feet (approx.)	63.3'
T-1	68.1'	10 feet (approx.)	not provided

It is further troubling that in a rebuttal letter dated April 21, 2015 (copy attached), Mr. Johnson claimed that he reviewed his ESHGW methodology with a DEP hydrologist, Criss Stephens, and that Mr. Stephens concurred with Mr. Johnson's findings. The email from Mr. Stephens that Mr. Johnson attached to the rebuttal letter, however, discusses only the *mounding calculations* performed by Mr. Johnson, not the calculation of ESHGW.²

Mr. Johnson offers no explanation for why he did not determine the ESHGW in the location of the leaching fields, as required by Title 5, §15.103. Presumably, Mr. Johnson would say that no redoximorphic features were observed in the test pits dug within the leaching area. However, Section 15.103(3)(b) clearly states that when no redoximorphic features are present, the design engineer "shall" use one of the four other methods of determining seasonal high groundwater. See, copy of regulation attached. There is no indication that Mr. Johnson employed any of those other methods.

The only evidence of seasonal high groundwater on this site is from test pits DT-1 and T-9, and given the surface elevations and relative proximity of these pits to septic system, the only reasonable conclusion is that seasonal high groundwater in the location of leaching fields is

^{2/} Tetra Tech also questioned the use of a mounding calculation methodology that is commonly used for stormwater systems, but not septic systems.

Wenham Conservation Commission

April 24, 2015

Page 3 of 3

likely to be significantly higher than the 54.6' elevation observed in DT-1. Further, the elevation is likely to be within five feet of the bottom of the leaching field. Based on the evidence that has been presented thus far, the Project's septic system likely does not comply with Title 5, and the Board certainly does not have sufficient evidence that the systems does "fully comply" with Title 5, which finding is needed for the presumption the Applicant is seeking under the Bylaw.

Thank you for your continued diligence and consideration.

Very truly yours,


Daniel C. Hill

Enc.

cc: Ted Regnante, Esq.
Wenham Board of Appeals
Wenham Board of Health
Clients

15.101: continued

15

(2) Every proposed disposal area shall be assessed based on the following field test and analysis criteria:

- (a) deep observation hole testing;
- (b) soil profile determination;
- (c) percolation testing;
- (d) landscape position; and
- (e) hydrogeologic properties

(3) Site evaluation may be conducted at any time of the calendar year, provided that the Soil Evaluator makes and records on the site evaluation form proper consideration of the hydrogeologic properties of the specific site as required in 310 CMR 15.107 for the period of the water year within which the evaluation is performed.

15.102: Deep Observation Hole Test

(1) The purpose of the deep observation hole test is to determine in accordance with 310 CMR 15.103 the soil profile in the proposed disposal area, the depth of overburden above ledge, bedrock or impervious layer(s), and to determine the observed ground-water elevation at the time of testing and to gather evidence to determine the adjusted ground-water elevation.

(2) A minimum of two deep observation hole tests shall be performed in the presence of the Approving Authority at every proposed disposal area, two in the primary area and two in the reserve area. Additional testing shall be required if, in the opinion of the Soil Evaluator or the Approving Authority, there is evidence of inconsistent soil characteristics, the presence of ledge, or additional testing is necessary to properly assess site conditions within the proposed location to ensure that it can be installed entirely on soils and slopes in conformance with the requirements of 310 CMR 15.000. When a trench system is to be designed with the reserve area between the trenches, the Approving Authority may allow two deep hole observations if in the opinion of the Approving Authority the two deep holes adequately characterize the soils in both the primary and reserve areas.

(3) Deep observation holes shall be excavated in two adjoining segments, the first ending at approximately the five-foot level to allow detailed examination by the Soil Evaluator without need for shoring, and an adjoining segment which shall extend to a minimum depth of four feet below the bottom elevation of the proposed soil absorption system but in no case less than ten feet below existing/natural grade unless such depth is unattainable due to bedrock or refusal or high groundwater, or where human safety may be in jeopardy.

(4) Every deep observation hole shall be located from known and recoverable reference points or benchmarks so that it may be located on the system design plan with an accuracy of one foot. The location of the hole shall be defined as being half way between the side walls of the excavation at the point where the five foot deep segment adjoins the deeper segment.

(5) It shall be the responsibility of the owner or agent to ensure that every deep observation hole is secured to prevent accidents whenever work is not in progress.

15.103: Soil Profile

(1) The Soil Evaluator shall prepare a soil log using a form approved by the Department, in accordance with the Department's most recent manual for Soil Evaluators.

(2) The following characteristics of each recognizable soil horizon or substratum in the deep observation hole testing shall be determined and recorded on the form:

- (a) depth and thickness of horizon;
- (b) estimated soil textural class, using the USDA/NRCS system of classification;
- (c) estimated volume percentage of coarse fragments;
- (d) abundance, size and contrast of redoximorphic features, if present;
- (e) soil structure (soil profile pits only); and
- (f) soil consistence.

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

15.103: continued

- (3) High ground-water elevation shall be determined by:
- (a) soil color using the Munsell system, the abundance, size and contrast of redoximorphic features, if present;
 - (b) one or more of the following methods may be used to supplement the method in 310 CMR 15.103(3)(a) and shall be used when no redoximorphic features are present:
 1. observation of actual water table during times of annual high water table;
 2. the use of USGS wells for correlating comparisons in water tables during times when the water table is not at the annual high range;
 3. a Department-approved method for determining inland high ground-water elevation as contained in Frimpter, M.H. "Probable High Groundwater Levels in Massachusetts," Open File Report 80-1205, USGS or Frimpter, M.H. and G.C. Belfit, 1992, "Estimating highest ground-water levels for construction and land use planning, Cape Cod, Massachusetts," updated, Barnstable, MA Cape Cod Commission Technical Bulletin 92-001"; or
 4. a Department-approved method for determining coastal high groundwater elevation which incorporates tidal fluctuation information into the use of historical high groundwater data as contained in Frimpter, M.H. and G.C. Belfit, 1992, "Estimating highest ground-water levels for construction and land use planning, Cape Cod, Massachusetts," updated, Barnstable, MA, Cape Cod Commission Technical Bulletin 92-001 or, if the location of the system is affected by tidal cycle typically within 300 feet of mean high water of the ocean, monitoring the high groundwater elevation over a tidal cycle during a full moon high tide.
- (4) The Soil Evaluator shall indicate on the soil log whether four feet of naturally occurring pervious materials exist in all areas observed throughout the area proposed for the soil absorption system.

15.104: Percolation Testing

- (1) The standard percolation test is intended to give an approximate measure of the soil's percolating capacity. Unsaturated hydraulic conductivities vary dramatically from the saturated hydraulic conductivity with changes in soil characteristics and moisture content. Percolation testing may be conducted at any time of the year and the data obtained in accordance with the procedures specified by 310 CMR 15.000 may be deemed valid for an indefinite period provided the soils within the site evaluated remain undisturbed and unaltered. All percolation testing shall be performed in the presence of the Approving Authority.
- (2) A percolation test shall provide data necessary to assess the suitability of the soil to transmit water from the soil absorption system and to a depth of four feet below this elevation. Where the soil varies with depth as indicated by the results of the deep observation hole testing performed pursuant to 310 CMR 15.102, percolation tests shall be conducted in the soil which is identified to be the most restrictive by the Soil Evaluator with the concurrence of the Approving Authority.
- (3) Percolation tests shall be performed by a Massachusetts Registered Professional Engineer, Massachusetts Registered Sanitarian, a Soil Evaluator, or a person who:
- (a) in the opinion of the Approving Authority is qualified to perform such tests;
 - (b) has one year of documented experience in satisfactorily performing such tests; and
 - (c) has used or gained skills that demonstrate sufficient competence to perform such tests.
- (4) At least one percolation test shall be performed at every proposed disposal area, one in the primary area in which the soil absorption system is to be located and one in the proposed reserve area. Additional tests shall be required where soil conditions vary or as determined by the Approving Authority or where system design exceeds 2,000 gpd. In such instances, a minimum of three percolation tests, spaced uniformly over the proposed soil absorption area, shall be performed in addition to the test in the proposed reserve area.

C.G. Johnson Engineering, Inc.

203 Willow Street
South Hamilton, MA 01982
Phone (978) 468-2957
Fax (978) 468-3862

Charles G. Johnson, P.E.

April 21, 2015

Mr. Gregory P. Bernard, Wenham Health Agent

Wenham Board of Health
Town Hall
138 Main Street
Wenham, MA 01984

**Re: On-Site Wastewater Treatment and Dispersal System for "Maple Woods"
Response to Tetra Tech Septic System Design Review Letter**

Dear **Mr. Bernard,**

Pursuant to the Tetra Tech Septic System Design Review Letter dated April 15, 2015, we offer the following responses:

Sheet 1 of 6:

Comment a): The plan shows the subsurface soil absorption system (SAS) beneath a proposed traffic island where trees are proposed (see Landscape Plan). Trees cannot be planted above the SAS.

Response a): Mr. Matthew Ulrich (Landscape Architect with Ulrich Bachand Landscape Architecture, LLC) will be contacted to make sure no trees are planted above the SAS as shown on his final design plans.

Sheet 2 of 6:

Comment a): The plan identifies seasonal high groundwater as determined at Test Pit DT-1. Test Pit DT-1 is located off the subject property and more than 100 feet to the west of the proposed SAS. Deep Observation Hole Tests are required to be within the disposal area (310 CMR 15.102). Existing grade at DT-1 is approximately 10 feet below existing grade at the disposal area and cannot be considered a reliable reference point for determining groundwater elevation at the disposal area.

Response a): The use of Test Pit DT-1 was a helpful and reliable reference point for determining seasonal high groundwater for this project.

Comment b): Seasonal High Groundwater within the primary and reserve disposal areas have not been determined by methods required under 310 CMR 15.103. See discussion under "Sheet 3" below.

Response b): The groundwater mounding calculations were reviewed with Mr. H. Criss Stephens, Jr. (Hydrogeologist at the Northeast Regional Office of Mass DEP in Wilmington, MA), and he prepared the attached e-mail dated April 16, 2015. Mr. Stephens agreed with the methodology utilized for this project.

Page 2 of 2

Mr. Gregory P. Bernard, Wenham Health Agent
April 21, 2015

Comment c): The "Groundwater Mounding Calculations" provided do not follow methods required under 310 CMR 15.212(2) and 15.240(12). The method cited, "Simulation of Groundwater Mounding Beneath Hypothetical Stormwater Basins" is a method used for stormwater applications which are fundamentally different than wastewater applications and may not present an accurate forecast.

Response c): Same response as for Response b) previously stated.

Comment d): Groundwater mounding calculations do not consider potential mounding that will likely result from stormwater recharge area located just 50 feet to the east of the SAS.

Response d): Same response as for Response b) previously stated.

Comment e): In summary, seasonal high groundwater has not been determined by an approved method in either the primary or reserve disposal, potential groundwater mounding from the wastewater disposal area has not been evaluated using methods approved under 310 CMR 15.00, and potential groundwater mounding effect on, and from, the adjacent stormwater recharge area has not been considered.

Response e): Same response as for Response b) previously stated.

Sheet 3 of 6:

Comment a): The plan indicates the system has not been designed for garbage grinders. We suggest any all approvals be clearly conditioned to preclude the use of garbage disposals.

Response a): I agree with the suggestion.

Comment b): The Soil Test Data table does not provide values for estimated seasonal high groundwater in any of the test pits conducted within the footprint of either the primary or reserve disposal areas as required by 310 CMR 15.00. The regulations clearly indicate approved methods for determining seasonal high groundwater when no redoximorphic features are present (310 CMR 15.103). The plans do not include any material indicating high groundwater has been determined via an approved method.

Response b): Same response as for Response b) for Sheet 2 of 6 previously stated.

Please contact us if you have any questions regarding these responses.

Sincerely,

C.G. Johnson Engineering, Inc.



Charles G. Johnson, P.E. (Civil)
President

Chuck Johnson

From: Stephens, Harold (DEP) <harold.stephens@state.ma.us>
Sent: Thursday, April 16, 2015 2:16 PM
To: mcrowley@wenhamma.gov
Cc: Chuck Johnson (cgjohnsoncivil@verizon.net)
Subject: Wenham/Maple Woods/Groundwater Mounding Calculations

Dear Mr. Bernard;

I have reviewed a set of plans entitled "Proposed On-Site Wastewater Treatment & Dispersal System Design" prepared by Charles G. Johnson, P.E. of C.G. Johnson Engineering, Inc. The plans support a proposed residential development to be located at 62 Maple Street in Wenham, Massachusetts. The plans are dated March 12, 2015. Mr. Johnson had contacted me in mid-February to discuss the groundwater mounding analysis required by 314 CMR 15 (Title 5); specifically, his proposed values for the input parameters needed to conduct said analysis.

I met with Mr. Johnson this morning to discuss the results of his mounding calculations. After reviewing the data provided, I find that the input parameters used by Mr. Johnson appear reasonable and that the methodology used to by Mr. Johnson meets MassDEP's requirements for calculating groundwater mounding beneath Title 5 on-site systems.

The input parameters used include;

- Recharge rate (R) = 0.098 feet/day,
- Specific yield (S_y) = 0.25,
- Horizontal hydraulic conductivity (K_h) = 25 feet/day,
- SAS length = 100 feet,
- SAS width = 90 feet,
- Duration of infiltration(t) = 90 days,
- Initial saturated thickness (h_i) = 7.9 feet.

The resultant output yields a groundwater mound of 1.6 feet.

If you have questions, please feel free to contact me via e-mail or at the listed below.

Sincerely,

Criss Stephens

H. Criss Stephens, Jr.
Hydrogeologist
MassDEP/NERO/BWR/Wastewater
978-694-3241



April 15, 2015

**BY ELECTRONIC MAIL: ecademartori@wenhamma.gov
AND BY HAND**

Wenham Zoning Board of Appeals
Wenham Town Hall
138 Main Street
Wenham, MA 01938

Re: Maple Woods Chapter 40B Application

Dear Members of the Zoning Board:

As you know, this firm represents several neighbors and abutters to the proposed 60-unit housing project on 3.5 acres at 62 Maple Street in Wenham.¹ I am writing to comment on an important recent development in Town of Wenham's affordable housing planning efforts. We have recently learned that the Town of Wenham joined with the City of Beverly to commission a feasibility study for the development of 71 acres of land owned by the two communities off of Boulder Lane in Wenham and Beverly (the "Boulder Lane Site"). As discussed below, the feasibility study, dated April 2, 2015, provides Wenham with a roadmap to achieve the 10% benchmark under Chapter 40B with a project that presents far fewer impacts to the environment, public safety, and surrounding residential neighbors than the Maple Woods 40B project, and which also avoids the questionable financial arrangements inherent in the Maple Woods project.

As we noted in our comment letter dated March 5, 2015, the Boulder Lane Site was identified as a "priority development area" in the MAPC's 2011 North Shore Regional Strategic Planning Project report, whereas the Maple Woods project site was among the "priority preservation areas" identified in that report. The benefits of the Boulder Lane Site over the Maple Woods Site include the following:

^{1/} My clients are: Paul and Erin Berthiaume, 78 Maple St; Deborah and Steven Stanton, 86 Maple St.; Nancy and Dan O'Connell, 63 Maple St.; Vivian and Jim Sears, 1 Burley St.; Bill Busby and Vin Lee Young, 40 Maple St.; Lou and Lisa Terranova, 38 Maple St.; Donald and Peggy Duffy, 94 Maple St.; Millie Bromley, 10 Maple St.; Sandra Roman, 55 Maple St.; Lenny Tipert, 47 Maple St.; Andrew and Tom Verrington, 102 Maple St.; Ken Hollingsworth, 53 Maple St.; Catherine and Rob Marks, 115 Maple St.; Anne and Gareth Evans, 100 Maple St.; Kevin Coughlin, 36 Maple St.; Dacia and Jeff Rubel, 12 Puritan Rd.; Marty Cooke, 4 Puritan Rd.; Ken Cring, 6 Puritan Rd.; Suzanne Fleming, 6 Puritan Rd.; Susan Newth, Topsfield Rd.

1. Environmental Protection

<i>Maple Woods</i>	The Project would be served by an on-site septic system utilizing experimental alternative technologies. The project site is adjacent to a stream and wetland system that is tributary to the Ipswich River. The Project will be presumed under Title 5 to generate 6,600 gallons of wastewater per day ² , which would be recharged into the ground upgradient to this wetland system. Enhanced nitrogen-removing septic systems are not as effective in removing pathogens and other contaminants such as pharmaceuticals. Further, stormwater runoff from the Project's road and parking areas is another potential source of pollution to the Ipswich River watershed. The Applicant's septic system does not presently comply with Title 5 (see, Tetra Tech review letter dated 4/15/15), and therefore the Project would need to either demonstrate that there will be no adverse effects from the proposed project on water quality (Water Resource Protection Bylaw, §10.52) or impair ground or surface water quality (§10.53), or request a waiver from these provisions.
<i>Boulder Lane</i>	The project is proposed to be connected to the South Essex Sewer District, which already provides sewer service to Gordon College and the Parsons Hill neighborhood off of Grapevine Road. This eliminates the environmental impact threat posed by a super-size, on-site septic system, and the problem with excessive groundwater recharge from septic and stormwater infiltration systems on the same lot. There is more space on the Boulder Lane Site to manage stormwater treatment and infiltration than there is on the Maple Woods site.

2. Neighborhood Impacts

<i>Maple Woods</i>	The Project's driveway and parking areas are as close as 40 feet from the back yard of abutters on Maple Street. Site constraints including a natural gas pipeline limit the amount of vegetation that can be installed as a buffer between the Project and these neighbors.
<i>Boulder Lane</i>	There is a natural wetlands buffer between the developable portion of the site in Wenham and the closest residents on Grapevine Road, which would likely remain undeveloped due to strict wetland protection laws. No such buffer exists with the Maple Woods project and neighbors on Maple Street.

^{2/} Our previous comment that the Project will have a design flow of 8,250 gpd was a mis-reading of the Title 5 design flow requirements – 310 CMR 15.203.

3. Public Safety

<i>Maple Woods</i>	The Project's access off of Maple Street is less than desirable for the Project's anticipated demographic of 62-years old and older. Existing traffic on Maple Street moves at 39 miles per hour in a 30 MPH zone.
<i>Boulder Lane</i>	No traffic safety concerns have been raised with the intersection of Boulder Lane and Grapevine Road, although the intersection design will need to be compatible with the Exit 17 interchange for Rt. 128.

4. Smart Growth/Sustainable Development

<i>Maple Woods</i>	Under the state's smart growth policies, municipalities are charged with modifying their planning, regulating and funding actions to achieve consistency with the state's "sustainable development principles." These principles include promotion of transit-oriented development – housing that is located near modes of transportation – in order to reduce energy consumption. Smart growth also promotes development that is near jobs, transit and services, including mixed-use developments that contain both residential and retail uses. The Maple Woods site is not located near any transportation or retail services. The undeveloped site adjacent to the Great Swamp was designated as a "priority preservation area" by a 2011 MAPC report.
<i>Boulder Lane</i>	The conceptual development plan for the Boulder Lane Site is precisely what is envisioned by smart growth and sustainable development principles – high density, multi-family housing adjacent to office and retail uses, and in very close proximity to transportation (Rt. 128).

5. Public Funds/ Private Benefit

<i>Maple Woods</i>	The economic viability of the Project is heavily dependent on an array of state and local subsidies, including over \$1 Million in funds from the Town of Wenham (CPA, AHT). Despite this, the non-profit developer has agreed to pay a whopping \$1.8 Million to acquire title to the land, probably ten times the land's fair market value under existing zoning. We have asked for, but not yet received, the fair market value appraisal that must be commissioned to establish this value as required by Chapter 40B guidelines (§IV.B.1). The use of public funds to pay an excessive land acquisition cost to a private property owner (who is a town official) is very troubling and potentially illegal.
<i>Boulder Lane</i>	A portion of the Boulder Lane site is privately owned, but no public funds should be necessary for the development of the site under the conceptual plan; rather, the Town could potentially realize a significant financial gain through

	the re-zoning and subsequent sale of the municipal land that would enable the mixed residential, office and retail uses envisioned by the plan. The problem of private parties profiting excessively from public appropriations would be avoided.
--	---

In sum, the Boulder Lane Feasibility Study just received by the Town from the BSC Group provides the framework for a mixed-use development that could create up to 86 residential units in addition to office and retail space. Such a project would put Wenham safely above the 10% threshold under Chapter 40B (the Town's deficiency is only 19 units), and would provide a much better alternative to the Maple Woods proposal. We understand that the Board does not have the legal authority to choose between competing projects – it must make a decision on the application that is before it. However, you may consider in your deliberations the Town's progress towards reaching the 10% threshold, as well as planning efforts that are underway to achieve that goal, as I discussed in my March 5th letter.

Thank you for your continued diligence and consideration.

Very truly yours,



Daniel C. Hill

Enc. (Boulder Lane Conceptual Plan)

cc: Ted Regnante, Esq.
Wenham Board of Selectmen
Clients

Emilie Cadamartori

From: Daniel C Hill <dhill@danhilllaw.com>
Sent: Wednesday, April 15, 2015 2:40 PM
To: ecademartori@wenhamma.gov
Cc: Reardon, Sean (sean.reardon@tetrattech.com); lialoulisalou48@comcast.net; Theodore Regnante
Subject: Wenham/Maple Woods 40B
Attachments: Wenham-Maple Woods - Septic Design Review-Letter(2015-04-15).pdf; Wenham-Maple Woods - Septic Design Review-Letter(2015-04-15).pdf

Emilie,

Attached is a comment letter from our civil engineer concerning this project, for filing with the ZBA and Conservation Commission.

Thanks, Dan

Daniel C. Hill, Esq.



43 Thorndike Street
Cambridge, MA 02141
p: 617-494-8300
f: 617-307-9010
www.landusereport.com



TETRA TECH

April 15, 2015

Wenham Zoning Board of Appeals
Wenham Town Hall
138 Main Street
Wenham, MA 01938

Wenham Conservation Commission
Wenham Town Hall
138 Main Street
Wenham, MA 01938

**Re: Maple Woods - 62 Maple Street
Engineering Review – Septic System Design
Wenham, Massachusetts**

Dear Members of the Zoning Board and Conservation Commission:

Tetra Tech (TT) has been retained by Hill Law on behalf of several abutters to the above-referenced residential project, and is pleased to submit our review of plans of the Proposed On-Site Wastewater Treatment & Disposal System for Proposed Residences at “Maple Woods” Sheets 1 through 6 dated March 12, 2015. The objective of our services was to review the documentation provided and provide initial comments on the completeness and general suitability of the design.

The following are our comments:

Sheet 1 of 6:

- a) The plan shows the subsurface soil absorption system (SAS) beneath a proposed traffic island where trees are proposed (see Landscape Plan). Trees cannot be planted above the SAS.

Sheet 2 of 6:

- a) The plan identifies seasonal high groundwater as determined at Test Pit DT-1. Test Pit DT-1 is located off the subject property and more than 100 feet to the west of the proposed SAS. Deep Observation Hole Tests are required to be within the limits of the disposal area (310 CMR 15.102). Existing grade at DT-1 is approximately 10 feet below existing grade at the disposal area and cannot be considered a reliable reference point for determining groundwater elevation at the disposal area.
- b) Seasonal High Groundwater within the primary and reserve disposal areas have not been determined by methods required under 310 CMR 15.103. See discussion under “Sheet 3” below.
- c) The “Groundwater Mounding Calculations” provided do not follow methods required under 310 CMR 15.212(2) and 15.240(12). The method cited, “Simulation of Groundwater Mounding Beneath Hypothetical Stormwater Basins” is a method used for stormwater

One Grant Street
Framingham, MA 01702
Tel 508.903.2000 Fax 508.903.2001



TETRA TECH

applications which are fundamentally different than wastewater applications and may not present an accurate forecast.

- d) Groundwater mounding calculations do not consider potential mounding that will likely result from stormwater recharge area located just 50 feet to the east of the SAS.
- e) In summary, seasonal high groundwater has not been determined by an approved method in either the primary or reserve disposal, potential groundwater mounding from the wastewater disposal area has not been evaluated using methods approved under 310 CMR 15.00, and potential groundwater mounding effect on, and from, the adjacent stormwater recharge area has not been considered.

Sheet 3 of 6:

- a) The plan indicates the system has not been designed for garbage grinders. We suggest any and all approvals be clearly conditioned to preclude the use of garbage disposals.
- b) The Soil Test Data table does not provide values for estimated seasonal high groundwater in any of the test pits conducted within the footprint of either the primary or reserve disposal areas as required by 310 CMR 15.00. The regulations clearly indicate approved methods for determining seasonal high groundwater when no redoximorphic features are present (310 CMR 15.103). The plans do not include any material indicating high groundwater has been determined via an approved method.

Sheet 4 of 6:

- a) No comments

Sheet 5 of 6:

- a) No Comments

Sheet 6 of 6:

- a) No Comments

We appreciate the opportunity to provide these services and look forward to continuing to work with you. Please contact us if you have any questions or require additional information.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. P. Reardon'.

Sean P. Reardon, P.E.
Vice President

P:\125280\143-125280-15001\DOCS\WENHAM-MAPLE WOODS - SEPTIC DESIGN REVIEW-LETTER(2015-04-15).DOC

Emilie Cademartori

From: "Matt & Michelle Bailey" <m.mbailey@verizon.net>
To: "Emilie Cademartori" <ecademartori@wenhamma.gov>
Sent: Saturday, March 14, 2015 11:51 AM
Subject: Affordable Housing Letter of Support - only the opinion of the Chair, not the Trustees

Dear Zoning Board,

At the recent Zoning Board meeting, it was stated that the Affordable Housing Trust supported the Maplewood Project. The letter is on Joshua Anderson's personal stationery and is signed by him as a resident not as a representative of the Trustees. I do not know what the Trustees opinion would be on this application as it has not been deliberated by the trustees.

Mr. Anderson's letter is the only resident letter to the Zoning Board on the town website. Will other resident letters be added shortly?

I also noted in the statement by Chair Geikie made statements that the Planning Board would support use of the Brady, Windover, and CPC funds. It should be noted that the Planning Board does not have jurisdiction over these funds, except as residents voting in on the CPC recommendation at Town Meeting.

Sincerely,

Michelle Bailey
Trustee of the Wenham Housing Trust



March 10, 2015

**BY ELECTRONIC MAIL: ecademartori@wenhamma.gov
AND BY FEDERAL EXPRESS**

Wenham Zoning Board of Appeals
Wenham Town Hall
138 Main Street
Wenham, Ma 01938

Re: Maple Woods Chapter 40B Application

Dear Members of the Zoning Board:

As you know, this firm represents several neighbors and abutters to the proposed 60-unit housing project on 3.5 acres at 62 Maple Street in Wenham.¹ On February 25, 2015 and March 5, 2015 the Applicant responded to letters filed on behalf of the Neighbors by this firm and Tetra Tech. This letter is in response to those letters. We also want to take what might be our last opportunity to comment on (a) the Applicant's dubious rights to acquire the necessary title interests in the Project Site, (b) the Board's obligation to weight the Project's lack of conformity with municipal planning efforts, and (c) the Board's right to review the Applicant's development *pro forma* in order to determine whether all of the requested or needed waivers from local bylaws are necessary for make the Project "economic," in the event the Board decides to award the comprehensive permit with conditions.

A. Tetra Tech's February 23, 2015 Letter

First, Tetra Tech noted that the design plans submitted to the Conservation Commission and Zoning Board in connection with the Notice of Intent application were not signed or stamped by a registered professional engineer. The Applicant's attorney Ted Regnante claims that the plans posted on the Zoning Board's website are signed and stamped. However, we checked again on both the Zoning Board and Conservation Commission's websites, and the plans posted (dated February 18, 2015) are not signed or stamped. Further, this most recent set of plans was

^{1/} My clients are: Paul and Erin Berthiaume, 78 Maple St.; Deborah and Steven Stanton, 86 Maple St.; Nancy and Dan O'Connell, 63 Maple St.; Vivian and Jim Sears, 1 Burley St.; Bill Busby and Vin Lee Young, 40 Maple St.; Lou and Lisa Terranova, 38 Maple St.; Donald and Peggy Duffy, 94 Maple St.; Millie Bromley, 10 Maple St.; Sandra Roman, 55 Maple St.; Lenny Tipert, 47 Maple St.; Andrew and Tom Verrington, 102 Maple St.; Ken Hollingsworth, 53 Maple St.; Catherine and Rob Marks, 115 Maple St.; Anne and Gareth Evans, 100 Maple St.; Kevin Coughlin, 36 aple St.; Dacia and Jeff Rubel, 12 Puritan Rd.; Julie Preston, 4 Meridian Rd.; Iris Miller, Meridian Rd.; Marty Cooke, 4 Puritan Rd.; Ken Cring, 6 Puritan Rd.; Suzanne Fleming, 6 Puritan Rd.; Susan Newth, Topsfield Rd.

emailed to the undersigned counsel on February 22, 2015 from Attorney Haverty, and those plans were also not signed or stamped. In fact, we have not yet seen a set of plans for this Project that have been signed and stamped. Not only does Chapter 40B specifically require this (760 CMR 56.05(2)), but so does your own Water Resource Protection Bylaw regulations, from which the Applicant claims it is not seeking waivers. Regulations, §10.05(1)(a)(2)(xxix).

Recommendation No. 1 – Require the Applicant to submit signed and stamped plans for the Board’s review.

Second, Attorney Regnante continues to insist that the Board has no role in reviewing the details of the proposed wastewater management (septic) system, and we strenuously disagree. As we have previously noted, the Applicant is claiming to meet the requirements of the Water Resource Protection Bylaw, but has provided no data to support this. The Bylaw allows for a presumption that septic systems that meet state Title 5 requirements satisfy the Bylaw’s performance standard, but the Applicant has refused to provide any design plans for the septic system for the Board’s review. Since the permit required for the Project under the local Water Resource Protection Bylaw is consolidated as part of this comprehensive permit application, the Board’s review of these performance standards is not discretionary. The Applicant’s suggestion that these questions fall within the jurisdiction of the Wenham Board of Health under Title 5 is incorrect and misleading – the Board of Health has no authority or jurisdiction to determine whether the Project complies with the Water Resource Protection Bylaw. The Board of Health’s authority lies in determining whether the septic system complies with Title 5. But this evaluation will not be undertaken until well after the comprehensive permit for this Project is granted and appeal periods have expired.

Recommendation No. 2 – Require the Applicant to submit its design details and specifications for the proposed septic system, including soil data, percolation test results, groundwater elevations and a groundwater mounding analysis.

In response to Tetra Tech’s comment about the lack of snow storage areas on the Project Site, Attorney Regnante claims that there are “ample planting areas at the ends of and in between the parking aisles for general snow storage,” and that there is a 40-foot long area at the northern end of the parking lot that can be used for snow storage. All of these areas are very small, and could not possibly accommodate all of the snow from the parking lot and driveway in a storm event of any measurable quantity, like we’ve seen repeatedly in the last month. Similar-sized projects typically have a dedicated open area where plowed snow can be piled or stacked. There is simply no such area designated here, and we do not need to remind the Board given the winter we just experienced how critical it is to remove snow in order to make parking areas and driveways safe, especially for an elderly population.

Recommendation No. 3 – Require the Applicant to amend its plans to provide a meaningful snow storage area.

The lack of snow storage goes to our general concern that the Project lacks sufficient off-street parking for the residents and visitors (Tetra Tech Letter, p. 4, ¶13). In my letter of January 28, 2015, I respectfully suggested that the Board should compare the Project with the standards

set forth in the Town's Senior Housing Overlay District (SHOD) and the Independent Living Overlay District (ILOD). Notably, the SHOD requires the provision of five parking spaces for "each three age restricted dwelling units," which we interpret as requiring 100 parking spaces for a 60-unit project. Zoning Bylaw, §12.3.7.4.² As you know, the type of housing contemplated under the SHOD is precisely the same as what is proposed here – age-restricted, multi-family housing for persons 55 years old and above. Presumably, these parking requirements were not conceived in a vacuum, and were there result of a thoughtful and deliberate planning process.

Attorney Regnante responded that "it is not appropriate to attempt to impose the standards contained [in the senior housing overlay districts] upon the Project." Regnante Letter, p. 2. I respectfully disagree. Just as it is appropriate to compare the proposed design of the Project's roadway and parking lot to the Planning Board's Subdivision Rules and Regulations, it is appropriate to compare the Project's design specifications to the only Bylaw in Wenham that would allow for such housing absent a 40B permit. People between 55 and 65 are not shut-ins – many people in that age bracket, if not most, are employed and travel to work, and enjoy active lives. We remain concerned that the Applicant has unrealistically characterized its expected population of residents, and has not adequately planned for parking.

Recommendation No. 4 – Require the Applicant to provide 100 parking spaces for the Project to conform to the Town's SHOD bylaw.

The Applicant has been equally cavalier in its response to hydrology concerns. Tetra Tech commented that a "mounding analysis" would be justified given the volume of water that will be recharged into a small geographic area from the wastewater and stormwater infiltration systems. For those uninitiated in the minutia of groundwater hydrology, a mounding analysis considers the effect that water recharge has on groundwater levels in a defined location. If groundwater levels rise as a result of recharge, the design of the subsurface recharge systems (stormwater and wastewater) may need to be modified to ensure sufficient separation between the systems and groundwater (four feet). If mounding occurs and groundwater rises above the bottom of the infiltration systems, the systems could fail by not providing the level of treatment that there were designed for and potentially cause sewage breakout. Attorney Regnante suggested in his letter that such an analysis has no precedent, and that requiring it here would impose "standards on subsidized housing in excess of those applicable to unsubsidized housing..." Regnante Letter, pp. 5-6.

First, we are fairly confident that under no circumstances would the Zoning Bylaw allow the construction of 60 residential units on 3.48 acres of land, subsidized or unsubsidized, and therefore any standard that the Board deems reasonable to apply to this Project has no comparison to unsubsidized housing. The recharge of 8,250 gallons of wastewater combined with the recharge of stormwater during rain events, all within roughly a 300-foot radius, will undeniably have an effect on the hydrology of the Project Site, and it is disturbing that the Applicant is either refusing to acknowledge the potential for conflicts, or is obfuscating by suggesting that those who raise valid public safety concerns have ulterior motives. Second, a mounding analysis is required under Title 5 for any system that generates at least 2,000 gallons

^{2/} The ILOD Bylaw requires 1.5 spaces per unit, plus one space per employee. Bylaw, §12.5.7.5.

per day. 310 CMR 15.212(2). The Project exceeds that threshold by a factor of four. As noted above, it is clearly within the Board's authority, both under Chapter 40B and the local bylaw, to require details and specifications of a proposed wastewater management system where such systems pose a threat to the environment, as this super-sized system does.

Recommendation No. 5 – Require the Applicant to submit a mounding analysis that accounts for both the septic system and stormwater infiltration system recharges.

Finally, Tetra Tech correctly observed that the limits of development extend beyond the physical and legal boundaries of the Project Site, which are delineated on the site plans the Applicant has filed with the Board and on the plan attached to the "Option" agreement between the Applicant the current owner of the Site, Robert N. Burnett, trustee of the Cedar Realty Trust. While the Option contemplates easements on abutting land retained by Burnett "for drainage facilities for the Project," the encroachments shown on the project plans are for grading and about 100 feet of the Project's driveway near the entrance at Maple Street. The Option, which is for the sale of "a maximum of four acres" at \$1.8 Million, does not give the Applicant the right to acquire easements for these purposes. This is relevant to our more broad title concerns discussed below. Attorney Regnante says in his March 5th letter that "the Applicant has made arrangements with the Seller to provide any easements necessary for off-site grading," but does not reference an easement necessary for the driveway, and to our knowledge evidence of these "arrangements" have not been provided to the Board or the public. With respect to drainage, the easement that the Applicant may be able to obtain on abutting land does not excuse noncompliance with the state stormwater standards, which require a 10-foot setback between infiltration systems and property lines. DEP Stormwater Handbook, Vol. 1, Ch. 1, p. 8. There doesn't seem to be a dispute that infiltration system #1 is located just two feet from the property boundary.

Recommendation No. 6 – Require the Applicant to prove that it has the legal right to acquire the easements necessary for construction of the Project as shown on the current set of plans, and to demonstrate compliance with the 10-foot setback requirement in the Stormwater Handbook.

B. Title to the Project Site and Site Control

Under Chapter 40B regulations, "site control" is a jurisdictional prerequisite to maintaining an application for, and obtaining, a comprehensive permit. 760 CMR 56.04(1)(c). If the Applicant does not have the legal right to acquire the Project Site, it does not satisfy the jurisdictional prerequisite of the regulation. Here, the Applicant has offered evidence of an "Option" that it has the owner of the Project Site, Robert Burnett, Trustee of Cedar Realty Trust, and two "extensions" of the time for performance under the Option. According to the documents filed with the comprehensive permit application, the Applicant had until the end of December, 2014 to exercise the option. If there has been a subsequent extension, we are not aware of it. The Board should require the Applicant to provide evidence that it still has the legal right to acquire the Project Site.

As noted above, the land that the Applicant has the right to purchase does not appear to include land that is shown on the site plans as being used for the Project's driveway. This area is shown as being part of Assessor's Map 15, Parcel 3. The Assessor's parcel directly adjacent to Parcel 3 to the west, which is described on plan recorded in the Registry of Deeds in Plan Book 140, Plan 39 and contains approximately 16.1 acres (copy attached as Exhibit A), is delineated as a separate Assessor's parcel, but curiously has not been assigned a parcel identification number. It is this 16.1-acre parcel from which the Project Site has been carved out. See, Exh. A. The Applicant should demonstrate that it has the right to either modify the Project Site boundary, or acquire the necessary easements for all of the encroachments shown on the plans.

Even assuming that the Applicant still has a valid Option that has not expired and can address the boundary issues, the Option restricts the use of the Project Site to housing for people 62 years old and older. The Project has been presented to the Board and others as being for people 55 and older. The Applicant must reconcile this discrepancy. Finally and perhaps most importantly, the Applicant has not addressed how it will acquire the Project Site without first offering the Site for sale to the Town of Wenham under G.L. c. 61, which apparently applies. The Option refers to this land as being under the "Chapter 61 Forestry Program."³ Assuming that the Option is correct, that the Project Site is encumbered by a Chapter 61 forestry lien, the Project Site cannot be conveyed to the Applicant until giving the Town of Wenham the opportunity to exercise a right of first refusal to purchase the Project Site. G.L. c. 61, §8. See, City of Newburyport v. Woodman, 79 Mass. App. Ct. 84 (2011) (City had right to purchase land under parallel Chapter 61A tax program before land was sold to a Chapter 40B developer). We question how a Project can have the required "site control" under Chapter 40B if the developer's right to acquire the site is subordinate to a right of first refusal.

Recommendation No. 7 – Require the Applicant to produce evidence of a further extension of the Option agreement or otherwise demonstrate that it has site control, reconcile the age restriction discrepancy, and explain how it proposes to handle the right of first refusal hurdle.

C. The Project is Substantially Nonconforming to the Town's Affordable Housing Planning.

The Neighbors do not dispute the need for more affordable housing options for Wenham's seniors. We do dispute, however, the appropriateness of building multi-family senior housing at 62 Maple Street, a site that has been publicly designated for preservation of open space. A Chapter 40B project's nonconformity with a community's master plan can be a legitimate ground to deny the project, if the town's planning is bona fide, and progress has been made by the Town to reach the 10% housing unit minimum benchmark. See, *Harbor Glen Associates v. Hingham ZBA*, HAC No. 80-06 (Aug. 20, 1982); *Stuborn L.P. v. Barnstable ZBA*, HAC No. 98-01 (Sept. 11, 2002). The weight given to a comprehensive plan depends on the extent to which the plan (a) is bona fide (was it legitimately adopted and does it function as a viable planning tool), (b) promotes affordable housing, and (c) has been implemented in the area

^{3/} I was unable to confirm this due to the fact that no information is available for this parcel on the Assessor's on-line database.

of the site. *Stuborn*, at pp. 5-6. The Housing Appeals Committee also considers the degree to which the proposed project is inconsistent with the master plan. *Id.*

In *Stuborn*, the Barnstable zoning board denied a 32-unit condominium project on approximately four acres of land on Barnstable Harbor. The project site consumed 15% of a marine industrial zoning district surrounding the Harbor. The zoning bylaw prohibited residential uses within the marine industrial district, an interest advanced by specific language in the town's "Local Comprehensive Plan." In other cases, the Committee has considered whether the town provides viable alternatives for the production of affordable housing. In *Harbor Glen*, for example, Hingham had designated specific locations within a 750-acre redevelopment site (the former Hingham Naval Ammunition Depot) for multi-family housing, which the developer ignored. Instead, the developer proposed a Chapter 40B project where the Town had planned office space. The Committee upheld the zoning board's denial, refusing to second-guess the local planning decisions. Crucial to the Committee's decision was the fact that the Town had designated other land for multi-family housing (85 acres), and that the Town had already started developing that land for affordable housing (27 acres permitted for 196 units of "Chapter 774" subsidized housing). In contrast, the planning interests raised by the zoning board in *Bierneck Realty, LLC v. Gloucester ZBA*, HAC No. 05-05 (Aug. 11, 2008) were not as compelling to the Committee as the town's failure to implement its affordable housing plan between 2001 and 2007. *Bierneck*, at pp. 16-17.

Here, Wenham has made great strides towards achieving the statutory 10% housing unit minimum threshold (G.L. c. 40B, §20), and is currently at 8.7% according to DHCD's latest tally. The Town only needs 19 more units to reach the 10% benchmark. See, Subsidized Housing Inventory excerpt attached as Exhibit B. Despite this, the Applicant is asking the Board to abrogate the Town's rationally-conceived bylaws and regulations for 60 additional housing units, three times the number Wenham needs. Furthermore, the Project Site was one of the few parcels of land that the Metropolitan Area Planning Commission (MAPC), of which Wenham is a member, designated as a "priority preservation area" in its 2011 North Shore Regional Strategic Planning Project report. See, MAPC Report, pp. 26-27, attached as Exhibit C. This Planning Project was co-sponsored by MAPC and the Executive Office of Housing and Economic Development, the parent agency to the Department of Housing and Community Development (DHCD). The Report defined Priority Preservation Areas (PPAs) as "areas within a city or town that deserve special protection due to the presence of significant environmental factors and natural features, such as endangered species habitats, areas critical to water supply, scenic vistas, areas important to a cultural landscape, or areas of historical significance."

The MAPC also identified "priority development areas" (PDAs) where new growth should be focused. These are areas

that have been identified as capable of supporting additional development or as candidates for redevelopment, but that may first require additional investments in infrastructure. These areas are generally characterized by good access, available infrastructure (primarily water and sewer), and an absence of environmental constraints. In addition, many of these areas have undergone extensive area-wide or neighborhood planning processes and may have detailed recommendations for

future actions. Rather than specific projects, PDAs represent more generally locations where growth may occur and investments will be directed. PDAs can range in size from a single lot to many acres. They may include a mixture of retail, industrial and office uses as well as housing. Redevelopment of under-utilized or abandoned properties, as well as adaptive re-use of existing buildings, can also fall under the auspices of a PDA. Areas designated under state programs such as Chapter 43D (expedited permitting), Chapter 40R (smart growth zones) or Economic Opportunity Areas can be examples of PDAs. Included in these designations will be the local recommendations for how these sites should be developed.

Among the PDAs designated in Wenham is the Boulder Lane area, where several parcels owned by the Town and private parties could be combined to form a mixed-use, smart growth development, including affordable rental housing. The Town formed an advisory committee to explore the feasibility of developing this property, which is very close to a Rt. 128 interchange.

In addition to this master plan, Wenham has its own affordable housing plan, created in June, 2008. The plan can be viewed on the Town's website: http://www.wenhamma.gov/boards_and_committees/docs/Wenham_Housing_Production_Plan.pdf. Notably, under Section 2.2, the "Housing Goals" section, the Town expresses a preference to "[r]euse existing building or use previously developed or town-owned sites for new community housing," and to "[p]romote development that meets smart growth principles." See, Housing Plan excerpts attached as Exhibit D. This policy is consistent with the 2011 MAPC Report's designation of priority development areas.

In contrast, this Project is the antithesis of smart growth. The Commonwealth of Massachusetts defines "smart growth" as: "[w]ell-planned development that protects open space and farmland, revitalizes communities, keeps housing affordable and provides more transportation choices." http://www.mass.gov/envir/smart_growth_toolkit/pages/glossary.html. Not only does this Project fail to protect open space and farmland, it actually would destroy a parcel that is in the Chapter 61 forestry program and is one of a handful of parcels in Wenham that have been designated for preservation. Further, the Project is not located near any public transportation and is not within walking distance to any amenities.

The Housing Plan identifies nine parcels of town-owned land that would be suitable for affordable housing development (page 52), but most of those parcels are under an acre. The Plan goes on to say that the Town "may decide to acquire privately-owned sites in the future for protecting open space and developing some amount of housing, including affordable housing." Housing Plan, p. 52. The Plan states that "[i]deally such properties would meet a number of smart growth principles such as: the redevelopment of existing structures; large enough to accommodate clustered housing; good carrying capacity for septic systems or can accommodate special treatment facilities; buffer between adjacent properties; and located along a major road or in closer proximity to transportation and services." Arguably, this Project meets none of those articulated principles. The Project Site would be crammed with buildings and pavement, leaving no useable open space, minimal buffer with neighbors on Maple Street, does not redevelop existing buildings, and is not in close proximity to transportation or services.

D. Project Economics

Finally, assuming that the Applicant can resolve all of the outstanding substantive design issues, and satisfactorily address the title and easement questions, the Board may want to consider approving the Project, subject to conditions. In our opinion, the Board does not have enough information yet to make that sort of decision, and therefore the public hearing should not be closed on Wednesday evening. But assuming that at some point in this process the Board decides to issue a permit, it will need to understand the economics of the Project.

Conditions imposed on a comprehensive permit (or a refusal to grant waivers) typically add costs to a project, and could potentially make a project “uneconomic.” Further, since the balancing test in any Chapter 40B appeal from a conditional approval is whether the conditions render the project uneconomic, the Board should only waive bylaws to the extent necessary to make the project economic. Even then, waivers should not be granted if doing so would jeopardize a legitimate local concern protected by the bylaw or regulation in question. In recognition of the importance of this balancing test and its relevancy to the Board’s role in reviewing Chapter 40B applications, DHCD amended its Chapter 40B regulations in 2008 giving zoning boards the right to review an applicant’s *pro forma* if the applicant objects to proposed conditions or waiver denials. See, 760 CMR 56.05(6).

Assuming, hypothetically, that a comprehensive permit could be granted with conditions that adequately protect the concerns raised by this letter and by others, the only way for the Board to know whether its conditions or waiver denials will render the project “uneconomic” is through a peer review analysis of the development *pro forma*. A review of the *pro forma* will give the Board information as to whether the denial of certain waivers, or a reduction in the density of the Project, would give the Applicant a viable defense on appeal. The Board will have no idea how vulnerable its decision will be unless it goes through this exercise.

This exercise is not trivial – the Applicant has not yet provided a *pro forma* for the Board’s review, but we know the purchase price for the Site is \$1.8 Million. Under Chapter 40B precedent, for purposes of determining whether waiver denials or conditions render a project “uneconomic,” an applicant cannot carry a land acquisition cost that exceeds the fair market value of the site under existing zoning. Given the size and shape of the parcel, including its narrow “neck” at the frontage on Maple Street, we doubt that the Project Site could accommodate more than one or two house lots under conventional zoning, and the cost to construct a 500-foot subdivision road from Maple Street, even if allowed by the Planning Board, would probably make the second lot uneconomic. The value of a large buildable lot in a remote section of Wenham is probably about one tenth of the price that the Applicant has agreed to pay Mr. Burnett for the land. This would be the value that the Applicant could carry on its *pro forma*. At \$1.8 Million, Mr. Burnett is not merely the seller of real estate, but rather a development partner.

Recommendation #8: Require the Applicant to produce its *pro forma*, and retain a professional, independent Chapter 40B economics expert to provide an opinion as to the reasonableness of the Applicant’s projected costs and income.

Wenham Zoning Board of Appeals

March 10, 2015

Page 9 of 9

In conclusion, the Neighbors feel that the Applicant has not fulfilled its obligations in presenting a complete picture of this Project to the Board, and has exhibited a pattern of selectively omitting critical design information until pressed for disclosure. Outstanding design issues remain, as summarized by our expert civil engineering consultant Sean Reardon, P.E.. Questions remain concerning the Applicant's "site control," and the economics of the Project, which will inform whether and to what extent waivers can be denied and conditions imposed. Until these questions are thoroughly answered, we respectfully request that the Board keep the public hearing open and demand answers.

Thank you for your diligence and consideration.

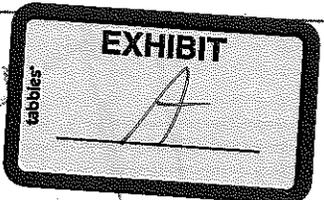
Very truly yours,



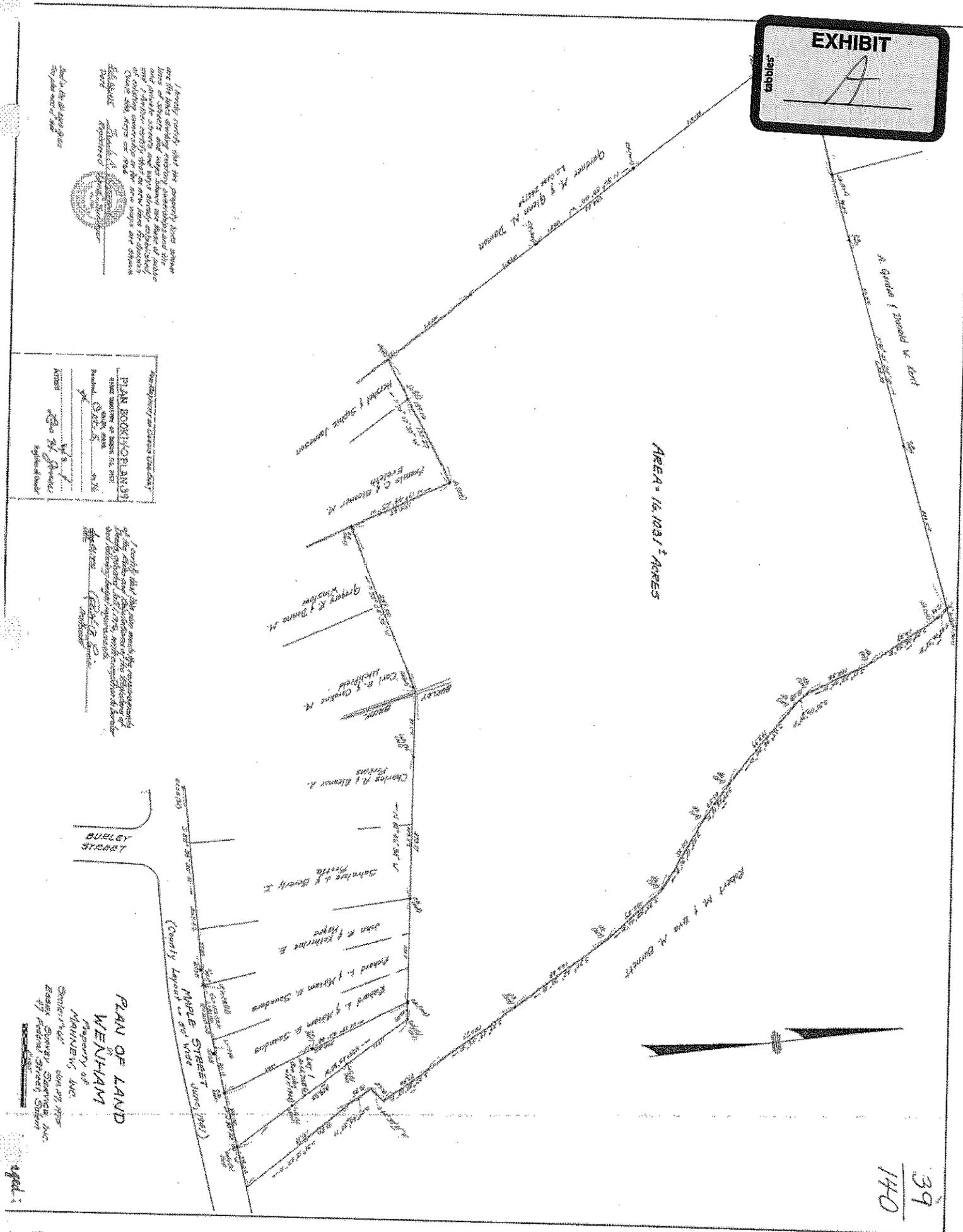
Daniel C. Hill

Enc.

cc: Ted Regnante, Esq.
Wenham Board of Selectmen
Clients



AREA - 14,128 1/2 ACRES



I hereby certify that the property here shown on the face of this map was surveyed and the lines of sections and ranges, corners, and the size of sections and ranges were established and published in public records, that the new lines for sections and ranges were established on the new survey and shown on the face of this map.



PLAN BOOK PLAN 33
 NAME SURVEY OF RANGE 14, 201
 RANGE 14, 201
 SECTION 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

I certify that this map was made by measuring the lines of sections and ranges, corners, and the size of sections and ranges, and that the same were established and published in public records, and that the new lines for sections and ranges were established on the new survey and shown on the face of this map.

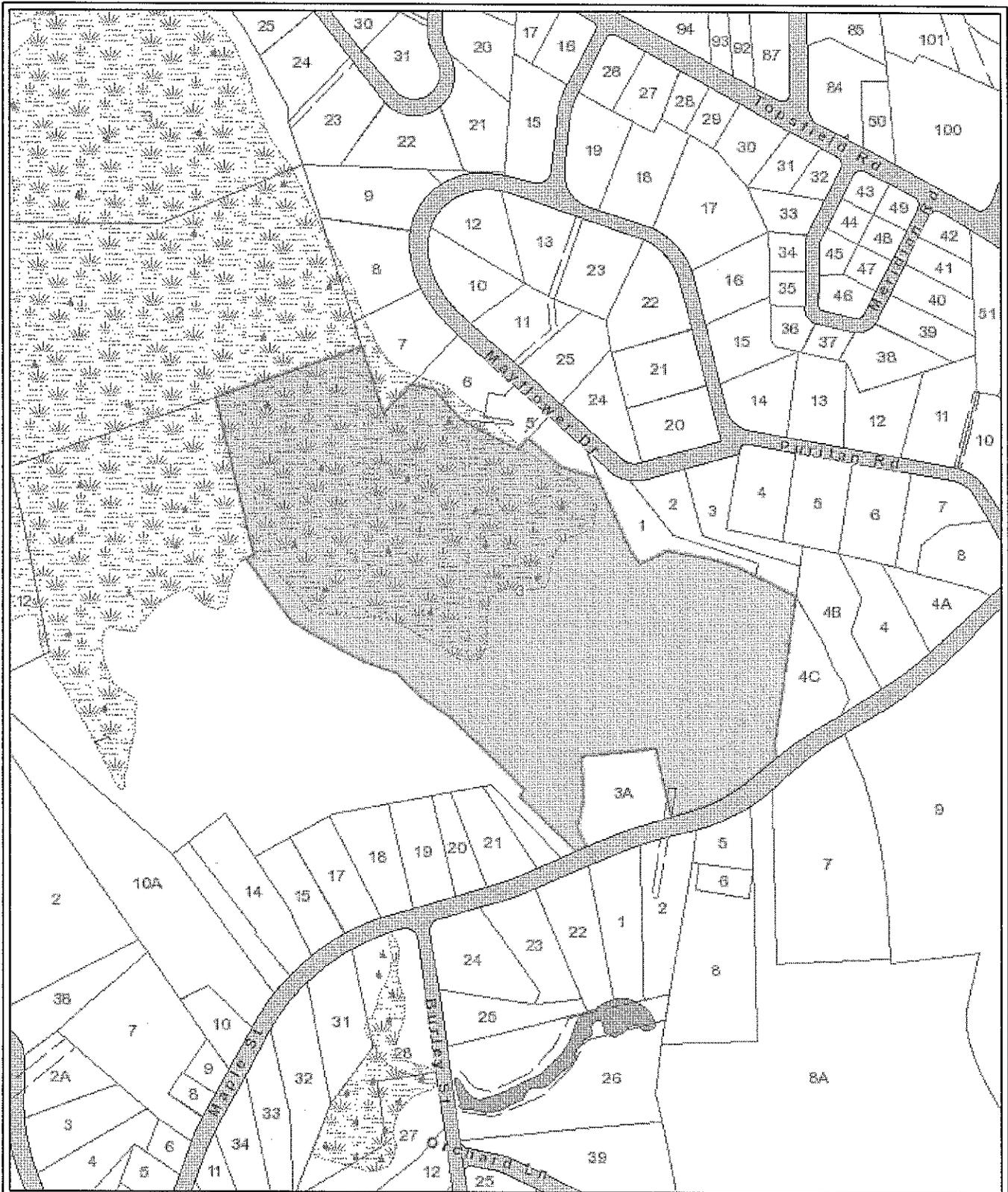
BUELEY STREET

MAPLE STREET (containing 50' wide strip, 1/4 mile)

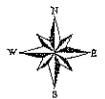
PLAN OF LAND WENHAM

Property of MAHONEY, INC.

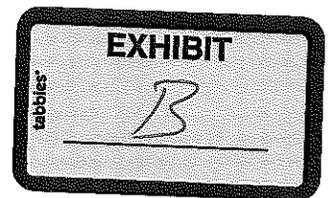
Order of the U.S. District Court for the District of Massachusetts, Eastern District, Southern Division, at Boston, Massachusetts, in Case No. 17-10000, filed 10/1/17.



62 Maple Street and Vicinity
 Wenham, MA
 1 Inch = 401 Feet
 March 10, 2015



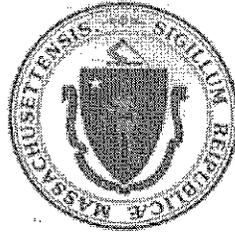
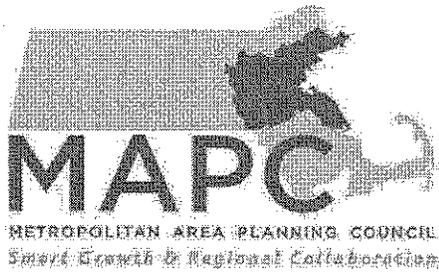
Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



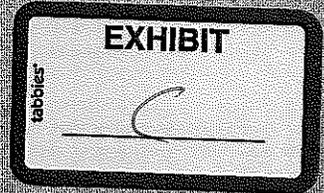
Department of Housing and Community Development
 Chapter 40B Subsidized Housing Inventory (SHI)
 as of December 5, 2014

Community	2010 Census Year Round Housing Units	Total Development Units	SHI Units	%
Abington	6,364	511	478	7.5%
Acton	8,475	1,107	551	6.5%
Acushnet	4,097	133	103	2.5%
Adams	4,337	321	321	7.4%
Agawam	12,090	499	467	3.9%
Alford	231	0	0	0.0%
Amesbury	7,041	869	505	7.2%
Amherst	9,621	1,081	1,034	10.7%
Andover	12,324	1,428	1,145	9.3%
Aquinnah	158	41	41	25.9%
Arlington	19,881	1,429	1,121	5.6%
Ashburnham	2,272	147	32	1.4%
Ashby	1,150	0	0	0.0%
Ashfield	793	2	2	0.3%
Ashland	6,581	346	241	3.7%
Athol	5,148	247	247	4.8%
Attleboro	17,978	1,177	1,177	6.5%
Auburn	6,808	242	242	3.6%
Avon	1,763	74	74	4.2%
Ayer	3,440	456	290	8.4%
Barnstable	20,550	1,832	1,373	6.7%
Barre	2,164	83	83	3.8%
Becket	838	0	0	0.0%
Bedford	5,322	1,087	902	16.9%
Belchertown	5,771	398	372	6.4%
Bellingham	6,341	702	537	8.5%
Belmont	10,117	392	380	3.8%
Berkley	2,169	139	24	1.1%
Berlin	1,183	222	65	5.5%
Bernardston	930	24	24	2.6%
Beverly	16,522	2,142	1,946	11.8%
Billerica	14,442	1,487	857	5.9%
Blackstone	3,606	165	123	3.4%
Blandford	516	1	1	0.2%
Bolton	1,729	192	64	3.7%
Boston	269,482	52,453	49,324	18.3%
Bourne	8,584	1,227	596	6.9%
Boxborough	2,062	327	24	1.2%
Boxford	2,730	64	23	0.8%

South Hadley	7,091	396	396	5.6%
Southampton	2,310	44	44	1.9%
Southborough	3,433	610	286	8.3%
Southbridge	7,517	490	490	6.5%
Southwick	3,852	177	173	4.5%
Spencer	5,137	268	267	5.2%
Springfield	61,556	10,247	9,970	16.2%
Sterling	2,918	269	68	2.3%
Stockbridge	1,051	111	111	10.6%
Stoneham	9,399	501	495	5.3%
Stoughton	10,742	1,535	1,207	11.2%
Stow	2,500	331	179	7.2%
Sturbridge	3,759	260	209	5.6%
Sudbury	5,921	575	354	6.0%
Sunderland	1,718	8	8	0.5%
Sutton	3,324	176	42	1.3%
Swampscott	5,795	218	212	3.7%
Swansea	6,290	247	236	3.8%
Taunton	23,844	1,844	1,650	6.9%
Templeton	3,014	476	198	6.6%
Tewksbury	10,803	1,306	1,037	9.6%
Tisbury	1,965	123	109	5.5%
Tolland	222	0	0	0.0%
Topsfield	2,157	164	146	6.8%
Townsend	3,356	214	150	4.5%
Truro	1,090	27	27	2.5%
Tyngsborough	4,166	638	340	8.2%
Tyringham	149	0	0	0.0%
Upton	2,820	223	178	6.3%
Uxbridge	5,284	427	257	4.9%
Wakefield	10,459	1,059	694	6.6%
Wales	772	55	55	7.1%
Walpole	8,984	470	470	5.2%
Waltham	24,805	2,253	1,785	7.2%
Ware	4,539	425	425	9.4%
Wareham	9,880	889	759	7.7%
Warren	2,202	108	108	4.9%
Warwick	363	0	0	0.0%
Washington	235	0	0	0.0%
Watertown	15,521	1,219	1,000	6.4%
Wayland	4,957	362	200	4.0%
Webster	7,788	666	666	8.6%
Wellesley	9,090	597	561	6.2%
Wellfleet	1,550	34	34	2.2%
Wendell	419	5	5	1.2%
Wenham	1,404	190	122	8.7%
West Boylston	2,729	429	136	5.0%



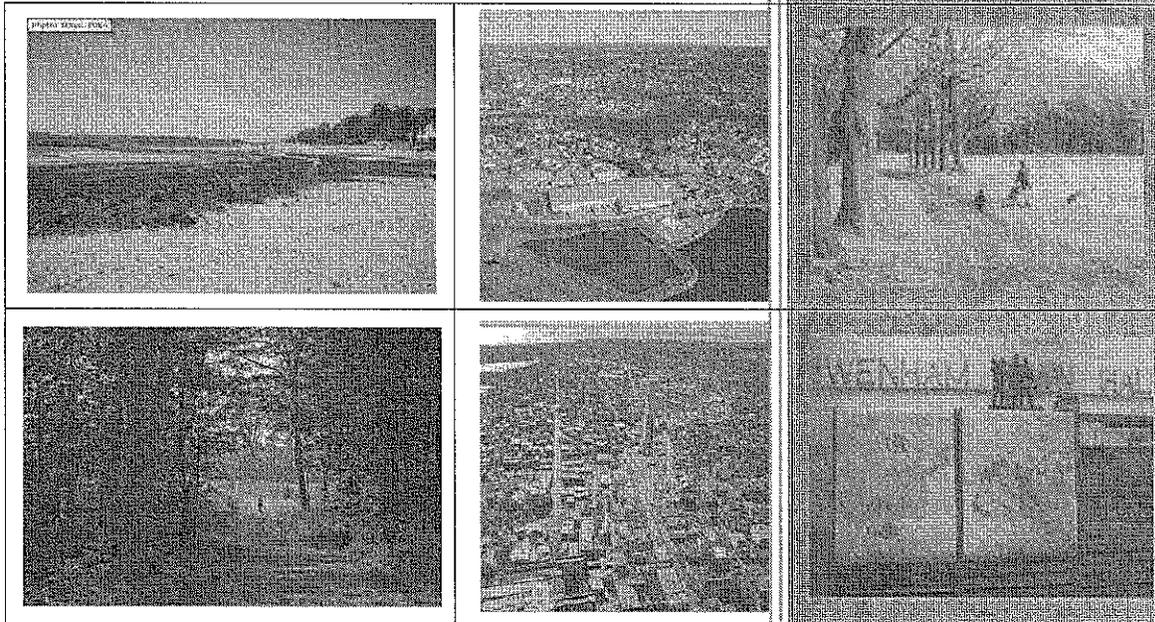
Executive Office of Housing &
Economic Development



2011

North Shore Regional Strategic Planning Project

Beverly, Danvers, Hamilton,
Ipswich, Salem & Wenham



Metropolitan Area Planning Council
7/29/2011

Definitions

What are Priority Development Areas (PDAs)?

Priority development areas (PDAs) are areas within a city or town that have been identified as capable of supporting additional development or as candidates for redevelopment, but that may first require additional investments in infrastructure. These areas are generally characterized by good access, available infrastructure (primarily water and sewer), and an absence of environmental constraints. In addition, many of these areas have undergone extensive area-wide or neighborhood planning processes and may have detailed recommendations for future actions. Rather than specific projects, PDAs represent more generally locations where growth may occur and investments will be directed.

PDAs can range in size from a single lot to many acres. They may include a mixture of retail, industrial and office uses as well as housing. Redevelopment of under-utilized or abandoned properties, as well as adaptive re-use of existing buildings, can also fall under the auspices of a PDA. Areas designated under state programs such as Chapter 43D (expedited permitting), Chapter 40R (smart growth zones) or Economic Opportunity Areas can be examples of PDAs. Included in these designations will be the local recommendations for how these sites should be developed.

What are Priority Preservation Areas (PPAs)?

Priority Preservation Areas (PPAs) are areas within a city or town that deserve special protection due to the presence of significant environmental factors and natural features, such as endangered species habitats, areas critical to water supply, scenic vistas, areas important to a cultural landscape, or areas of historical significance. In general, existing parks or new park facilities do not fall within this category; PPAs are identified on sites not currently protected by permanent land use ordinance.

Like PDAs, the protection areas can vary greatly in size. Areas of Critical Environmental Concern (ACEC), aquifer recharge areas or designated priority habitats can be examples of PPAs. Priority preservation areas may be critical to linking open space areas and trails within a community or across municipal boundaries.

What are Regionally Significant Transportation Investments (RSTIs)?

Regionally Significant Transportation Investments (RSTIs) are transportation projects that increase efficiency and enhance interconnectivity for facilities which serve regional transportation needs. In most cases, these potential projects address major roadways as well as transit, bicycle, and pedestrian facilities that serve regional travel needs, either individually or collectively. Projects could also include improvements for commercial airports and intermodal freight facilities and ports that have significance in the regional economy.

Regionally Significant Transportation Improvements are critical in supporting increased development identified PDAs while respecting the need to protect PPAs.

Town of Wenham

Priority Development Areas

***HALEY FARM**

"The Haley Horse Farm is located on Main Street (Route 1A) at the northern end of town opposite Pingree Field. It includes a seven-horse barn and scenic, highly visible fields with stone walls, post and rail fences and horse jumps. It is an important component of the equestrian activities centered in Wenham and adjacent Hamilton. It also functions as the northern anchor of the Wenham Historic District but is zoned commercial and lies adjacent to the Hamilton business district." The farm presents an opportunity for transit-oriented development that could include village-scale mixed-use development, including retail, office and residential uses.

***ROUTE 128/BOULDER LANE**

The Wenham Town Advisory Committee is a newly formed appointed committee whose mission is to research town-owned land sale and purchase projects and to advise the selectmen on feasibility and impact on Wenham. The committee will consider the issue of Boulder Lane, an undeveloped area off Grapevine Road and parallel to Route 128, parts of which are owned by the Town of Wenham, the Town of Beverly, and a private owner.

Iron Rail

Since the town purchase of this property in 1974, The Iron Rail Commission has been tasked with oversight for this property. Presently, the Iron Rail Property is utilized in a wide variety of uses by the town: Highway Department, Water Department, Cemetery Commission, Hamilton-Wenham Youth Soccer Association, Landmark School, Iron Rail Gymnastics Academy, Galkin Automated Products Corporation, Boy Scout Troop 28, conservation land, and recreational trails.

Mullen Advertising

This site is a former Great Estate property that was most recently occupied by Mullen Advertising. The property, former holds potential for limited redevelopment, but site development is restricted by the lack of sewer service to the property.

Wenham Priority Preservation Areas

***WENHAM COUNTRY CLUB AND LAKEVIEW GOLF COURSE**

Officially opened in the summer of 1899, Wenham Country Club was available to townsfolk only. Lakeview Golf Course was developed in 1928 by the Batchelder family; the course was purchased by Bill Flynn in 1972 and continues to be owned by the Flynn family. The two courses are immediately adjacent to one another, and both are 18-hole courses operating successfully.

***CANAAN FARM**

"Canaan Farm, prominently located on Main Street (Route 1A) a short distance south of the village center, is an active truck farm with fields and greenhouses. It sells vegetables, herbs, shrubs, bakery products, and also has a small convenience store. The farm includes 12.7 acres of leased fields that were formerly part of the Boyden estate and are now under a conservation restriction. Buildings associated with Canaan Farm include a late 19th century house, a large barn and several greenhouses. Canaan Farm is located in the Wenham Historic District. It is highly valued because it is the most visible and active farm in Wenham and because of its prominent location along Main Street near the town center.

***STREETER FARM**

Privately owned. 150 acres, 100 acres in 61B (recreational). Acreage with house is 18.3 acres, with 17.3 acres in Ch. 61A (agriculture), and part of property in floodplain.

***BURNETT FARM**

24.63 acres in Ch. 61 (forestry), 28.68 acres in Ch. 61A (agriculture), but no longer actively farmed. This area is located along the Border to Boston trail alignment and is in a FEMA floodplain.

***ANGELINI FARM**

The Angelini Farm, located on Topsfield Road (Route 97) in the western part of Wenham, is prominently sited on a hill overlooking Wenham Swamp. The farm is 18.6 acres, 12 of which are in Ch. 61A (agricultural use). The property includes a farmhouse and adjacent barn complex. The farm produce is raspberries, corn and tomatoes, which are mostly sold to specialty markets in Boston. The farm is one of the few in Wenham that remains in active agricultural use; it is prominently sited on a major road; it has panoramic views; and it lies adjacent to a major wetland and conservation area.

***REMINGTON PROPERTY**

This property is a former residential estate that has limited potential for redevelopment; however the property located in the vicinity of Pleasant Pond. The parcel is also adjacent to the town's wellfield.

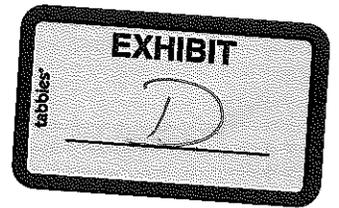
*** THE FOUNDATION FOR CONTINUING EDUCATION (FCE) CONFERENCE CENTER**

Existing conference center and event space located adjacent to Pleasant Pond. Property has potential for redevelopment over time, but should be considered for protection since it is adjacent to a drinking water supply for Wenham.

List of RSTIs for All Communities

The following is a list of projects identified as Regionally Significant Transportation Investments (RSTIs). RSTIs were defined using the following criteria:

- Investments that increase efficiency and enhance interconnectivity for major roadways as well as transit, bicycle, and pedestrian facilities that either individually or collectively **serve regional travel needs**.
- Investments that could improve access and connectivity for commercial airports and intermodal freight facilities that are **key to the regional economy**



TOWN OF WENHAM HOUSING PRODUCTION PLAN



Members of the Wenham Affordable Housing Committee

Minot Frye
Sue Harnisch
Larry Swartz
Ann Mulry Shaw
Patrick Wilson

Prepared by

Karen Sunnarborg, Consultant
With support from Jeff Chelgren, Town Administrator

June 2008

years of its year-round housing stock eligible for inclusion in the Subsidized Housing Inventory.⁹ Wenham will have to produce at least 10 affordable units annually to meet these production goals through 2010. When the 2010 census figures become available in 2011, this number will be somewhat higher, most likely closer to 11 or 12 units. If DHCD certifies that the locality has complied with its annual production goals, the Town may, through its Zoning Board of Appeals, deny comprehensive unacceptable permit applications without opportunity for appeal by developers.

The Wenham Affordable Housing Committee is overseeing the preparation of this Housing Needs Assessment and in addition to regular meetings with the Consultant, Karen Sunnarborg Consulting, sponsored a public forum on February 12, 2008 to present the findings of the Needs Assessment and to obtain feedback from residents and the Board of Selectmen. Another public forum will be held to present the draft Affordable Housing Plan for community input prior to review by the Board of Selectmen and submission to the state.

2.2 Housing Goals

As noted in the Executive Summary, the Wenham Community Preservation Plan includes a number of community housing goals that were prepared by the Community Preservation Committee in conjunction with the Wenham Housing Authority and others. Proposals that are brought before the Community Preservation Committee for CPA funding may receive preference if they meet some or all of the following goals.

- Create new and preserve existing community housing that is well designed and maintained and is of high quality and based on sound planning principles.
- Disperse community housing throughout the Town by siting new community housing in neighborhoods that currently have little or no affordable housing.
- Provide and preserve community housing that promotes age and income diversity.
- Age-restricted housing is permitted if it is designed to allow seniors to “age in place”. To the extent possible, universal design features should be incorporated into the construction of such housing.
- Ensure the long-term affordability of community housing, and in perpetuity wherever possible.
- Create new and preserve existing community housing that will contribute to the state’s mandated target of having 10% of the Town’s housing stock affordable to households with incomes at or below 80% of the area’s median income.
- Provide community housing opportunities that give priority to local residents, Town employees and families of students enrolled in the Town’s public schools.
- Reuse existing buildings or use previously developed or Town-owned sites for new community housing.
- Acquire and convert market rate housing into community housing.
- Promote development that meets smart growth principles.

These housing goals will guide the development of housing strategies to be developed as part of the second phase of the planning process, the Community Housing Master Plan.

2.3 Definition of Affordable Housing

There are a number of definitions of affordable housing, as federal and state programs offer various criteria. For example, the federal government identifies units as affordable if gross rent (including costs of utilities borne by the tenant) is no more than 30% of a household’s net or adjusted income (with a small deduction per dependent,

⁹ Massachusetts General Law Chapter 40B, 760 CMR 31.07 (1)(i). The state is proposing changes to Chapter 40B, including modifications to Planned Production such as reducing annual production goals to one-half of one percent of the total housing stock.

community, which are spurring communities such as Wenham to take a more proactive stance in support of affordable housing initiatives. Also, once residents understand that the Town will be able to reserve at least 70% of the affordable units in any new development for those who have a connection to Wenham, referred to as “community preference”, greater local support is typically more forthcoming.

Mitigation Measures

Wenham proposes launching an ongoing educational campaign to better inform local leaders and residents on the issue of affordable housing, to help dispel negative stereotypes, provide up-to-date information on new opportunities and to garner political support (see details on this strategy in Section 7.1.3). It will be important to continue to be sensitive to community concerns and provide opportunities for residents to not only obtain accurate information on housing issues, whether they relate to zoning or new development, but have opportunities for real input.

5. PROPERTY INVENTORY

The following information represents a work in progress that will be fine-tuned on an ongoing basis in coordination with other Town boards and committees.

5.1 Public Properties

Table 5-1 lists some properties that are owned by the Town or the Wenham Housing Authority that may be suitable for some amount of affordable housing development. There may be an opportunity to package parcels in close proximity as a single development through a Request for Proposals (RFP). At some point in the future, other publicly-owned properties may also be identified as possibly appropriate for such development but are not considered in this Housing Production Plan.

**Table 5-1
Publicly-owned Properties with Possible Potential for Affordable Housing Development**

Parcels	Map #/ Parcel #	Size of Parcel	Estimated # Housing Units/Aff. Units	Comments
Additional land at Enon Village	20/7	24.6	24/24	Owned by Housing Authority adjacent to existing HA development
288 Topsfield Rd.	4/1	30,056 sq. ft.	3/3	
215 Topsfield Rd.	15/29	40,075 sq. ft.	4/2	
24 Friend Ct.	19/36	24,394 sq. ft.	2/2	Adjacent to a golf course
9 Hilltop Dr.	35/57	39,640 sq. ft.	4/2	In same area as 3 and 5 Enon Rd.
3 Enon Rd.	35/3	43,124 sq. ft.	4/2	
5 Enon Rd.	35/4	42,689 sq. ft.	4/2	
Pleasant St.	7/59	9,148 sq. ft.	2/2	In same area as Lake Ave./ Fairview parcel
Lake Ave/Fairview	7/53	5,800 sq. ft.	1/1	

In addition to currently owned Town parcels, the Town of Wenham may decide to acquire privately owned sites in the future for the purposes of protecting open space and developing some amount of housing, including affordable housing. Smaller sites may be available as well to build affordable new starter homes on an infill basis. Some limited opportunities may also be available through the taking of tax-foreclosed properties for affordable housing. Moreover, there may be opportunities to purchase existing properties for conversion to long-term affordability as described in strategy 7.3.3.

5.2 Private Properties

It is also likely that developers will continue to pursue comprehensive permit applications or the standard regulatory process for affordable housing development, and it will be incumbent on the Town to determine the best approach for guiding new development to more appropriately satisfy local needs and requirements. One of the strategies recommended in this Housing Production Plan is to prepare Housing Guidelines (see strategy 7.2.3) that establish general local criteria for new housing development, and another is to reach out to developers to promote development opportunities in line with local priorities (see strategy 7.3.2). There may even be opportunities to partner with Gordon College on new housing development as the College owns a considerable amount of property in Wenham. There is some precedence for doing this given the Parsons Hill development where the College provided some land and was able to secure four housing units for its own needs. Another possible opportunity involves working with Deaconess Abundant Life on the potential development of a Continuing Care Retirement Community on the Mullen Advertising property to integrate some amount of affordable housing through CPA subsidies and other cooperative arrangements.

Additionally, the Town should become alert to opportunities for acquiring property that would be suitable for some amount of affordable housing. Ideally such properties would meet a number of smart growth principals such as:

- The redevelopment of existing structures,
- Large enough to accommodate clustered housing,
- Good carrying capacity for septic systems or can accommodate special treatment facilities,
- Buffer between adjacent properties, and
- Located along a major road or in closer proximity to transportation and services.

6. HOUSING PRODUCTION GOALS

The Massachusetts Department of Housing and Community Development (DHCD) administered the Planned Production Program since December 2002, in accordance with regulations that enabled cities and towns to prepare and adopt Housing Plans that demonstrated the production of an increase of .75% over one year or 1.5% over two-years of its year-round housing stock eligible for inclusion in the Subsidized Housing Inventory.²⁴ If DHCD certified that the locality had complied with its annual goals or that it had met two-year goals, the Town could, through its Zoning Board of Appeals, deny comprehensive permit applications without opportunity for appeal by developers for one or two-years, respectively.

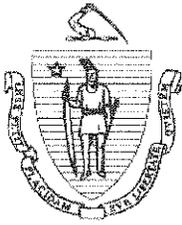
Recently adopted changes to Chapter 40B have established some new rules.²⁵ For example, Planned Production Plans are now referred to as Housing Production Plans. Moreover, annual goals changed from 0.75% of the community's year-round housing stock, translating into 11 units per year or 22 units over two years for Wenham, to 0.50% of its year-round units, meaning that Wenham will have to now produce at least seven (7) affordable units annually to meet production goals through 2010. When the 2010 census figures become available in 2011, this number will be somewhat higher.

Using the strategies summarized under Section 7, the Town of Wenham has developed a Housing Production Program to chart affordable housing activity over the next five (5) years. The Town will be able to update the Plan after or even before the five years elapse. The projected goals are best guesses at this time, and there is likely to be a great deal of fluidity in these estimates from year to year. The goals are based largely on the following criteria:

²⁴ Massachusetts General Law Chapter 40B, 760 CMR 31.07 (1)(i).

²⁵ Massachusetts General Law Chapter 40B, 760 CMR 56.00.

rad 4/15



Commonwealth of Massachusetts
DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Chrystal Komegay, Undersecretary

April 3, 2015

Mr. Paul W. Berthiaume
78 Maple Street
Wenham, Massachusetts 01984

Re: Maple Woods, Wenham

Dear Mr. Berthiaume:

We have received your correspondence of March 31, 2015, delivered by email and relevant to the proposed Maple Woods project in Wenham. We have referred your letter to our legal department, and they will take it under advisement.

Sincerely,

Catherine Racer
Associate Director
Division of Private Housing

March 31, 2015

Ms. Catherine Racer, Associate Director
Commonwealth of Massachusetts
Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

By EMail: catherine.racer@state.ma.us and by First Class Mail

Reference: **Harborlight Community Partners - Proposed Maple Woods Project**
62R Maple Street
Wenham, MA 01984

Ms. Racer,

My name is Paul Berthiaume, I reside at 78 Maple Street and I am a direct abutter to the proposed project. I had previously written you a comment letter regarding this proposed project back on July 21, 2014, prior to your approval of the application for project eligibility. The Wenham Zoning Board of Appeals (ZBA) is currently reviewing Harborlight Community Partners (HCP) application for a comprehensive permit and we are still in the public hearing process. I am writing you to point out that I have found a number of discrepancies in the HCP's application for project eligibility filed with the DHCD last April.

I understand that there is always the possibility that certain elements of a project site can be unforeseen early on in the development of a project and they may not be known at the time the application was filed. However, I believe I have found a number of instances in the application where information was blatantly incorrect and possibly misleading. I have enclosed the specific sheets from the application referenced within and these specific items are:

1.) Item 59. Is the site in a floodplain or wetlands area? Response "No"

This site most certainly is in a wetlands area. The building is right on the limits of the 50 foot no build set back from an intermittent stream, the site is within 100 feet of bordering vegetated wetlands and it is located just outside a Flood Zone A limit, refer to Site Grading Plan enclosed.

2.) Item 61. Is the site subject to noise impact from jet airports within five miles, major highways within 1000 feet or rail traffic within 3,000 feet? Response "No"

Please see enclosed a Google Earth Image with distance measured from Beverly Airport to my house. The proposed building is another 280 feet beyond the point measured, showing that the proposed building is going to be approximately 3,200 feet or 0.60 miles from the airport. It should also be noted that it will almost be directly in the flight path to North runway 16.

3.) Item 84. Other source: Wenham CPA, Wenham Housing Trust via....\$1,092,714

This was incorrect at the time of application, as well as now. HCP currently does not have any town funding for this proposed project.

4.) Item 396. Developer fee/profit = \$525,714

It was my understanding that HCP is a non-profit organization, if that is the case, why are they carrying a profit margin?

5.) Item 398. Total Development Cost = \$12,215,714

This is not even close to what we have been told. I have attached a letter from HCP to the Wenham Affordable Housing Trust dated March 18, 2014 (prior to submitting to the DHCD) stating that the project would "involve an investment of over \$21,000,000."

6.) 78 Maple Street Image

In the application to the DHCD, it included an image that was called out as 78 Maple Street which was clearly incorrect because it was not an image of my house. I have enclosed a Google Earth street view image of my home. I would also like to point out that an image of my home was not included in the application and I find that interesting considering my house is the closest to the proposed building.

7.) Building Narrative – "The closest point of the building is now 84 feet from the front lot line with abutters."

I have been to every meeting, and to my knowledge the building was never 84 feet from the property line. It was once 50 feet and has since been moved closer to now 45 feet from the property line.

I wanted to bring these discrepancies to your attention because I feel that you may have not received the most accurate information regarding this project and if you had, would you have issued the letter of project eligibility? Would you have determined that this proposed project isn't appropriate for this site? I urge you to please evaluate this information and determine if you feel that your organization needs to re-evaluate the proposed project prior to the ZBA making their ruling on the comprehensive permit.

Thank you for your time and consideration.

Sincerely,



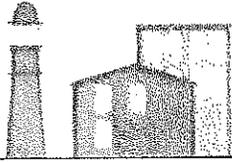
Paul W. Berthiaume

Enclosure(s)

- Excerpts from DHCD Application April 2014
- Site Grading Plan
- Beverly Airport – GE Image
- HCP Letter to Wenham AHT
- 78 Maple – Street View

CC: Wenham Zoning Board of Appeals
Wenham Board of Selectmen
Daniel C. Hill, Esq.

**Excerpts from DHCD
Application April 2014**



Harborlight Community Partners
Providing Homes & Community Support

- The project would be held in an LLC subsidiary with HCP the non profit as the majority owner of the Managing Member and as the Property Manager.

- **Conceptual Drawings**

- Basic site plan and elevations are attached.
- Land Use Summary

Total Parcel Square Footage	Total % of Paved Areas	Total % of Open Space	Total % of Building Footprint	Total Number of Parking Spaces	Ratio of Parking Spaces to Units
174,240	25%	65%	10%	75	1.25

- **Building Narrative**

Wenham is a Town with no multi family zone and very few multi family structures. We understand that the concept of multi family housing in a mostly single family area is a nuanced and sensitive idea. It was important to HCP as the sponsor to respect the neighborhood and the Town at large by trying to manage the building size, elevation, distance from other properties, distance from the road, and overall design in a way that mitigated any concerns people might have. We have had a variety of discussions with people in Town and have adjusted the building layout accordingly. Our goal was to create a high quality building that reflected the design motif of the area, served the residents well, and respected the neighbors concerns for distance and visibility. The current concept then calls for the following. First, the proposed building is within the regulation set back areas. The closest point of the building is now 84 feet from the front lot line with abutters. It is 20 feet from the rear lot line where there are no abutters. It is 50 feet from the left lot line where there is no abutter. The right lot line is involved in the sale of the lot. The seller owns the parcel to be developed and the parcel to the right. The building will be outside of the lot line requirement. Second, the proposed building is under the 35 foot height limit required for a single family house. Furthermore, while the building is three stories the third level is accommodated inside a gambrel style roof line. The effect we are seeking is that the building appears as a structure with two levels and a roof line. Third, the proposed building is set back a long distance from the road and other single family houses. The closest point of the building is estimated to be 275 feet from the nearest home. The closest point of the building is estimated to be 475 feet from the road (Maple Street). Fourth, the wide section of the building, which was originally closest to the abutter lot line, has been moved to the rear. The result is that the narrowest part of the building is also the section closest to the street and the abutters. Fifth, the design of the proposed building in addition to the gambrel roof calls for white cement board clapboard siding with offset black shutters. These building lengths are interspersed with brick sections, including at the ends of the building. The intent here is to match the design style of other houses in town (white with black shutters) while also breaking up the length of the building with the brick offsets. Sixth, it is intended that the natural tree line between the proposed building and the

Harborlight Community Partners is a 501(c) (3) non profit organization.

Google

68
Address ~~67~~ Maple Street
Address is approximate



78
MAPLE

Environmental Information

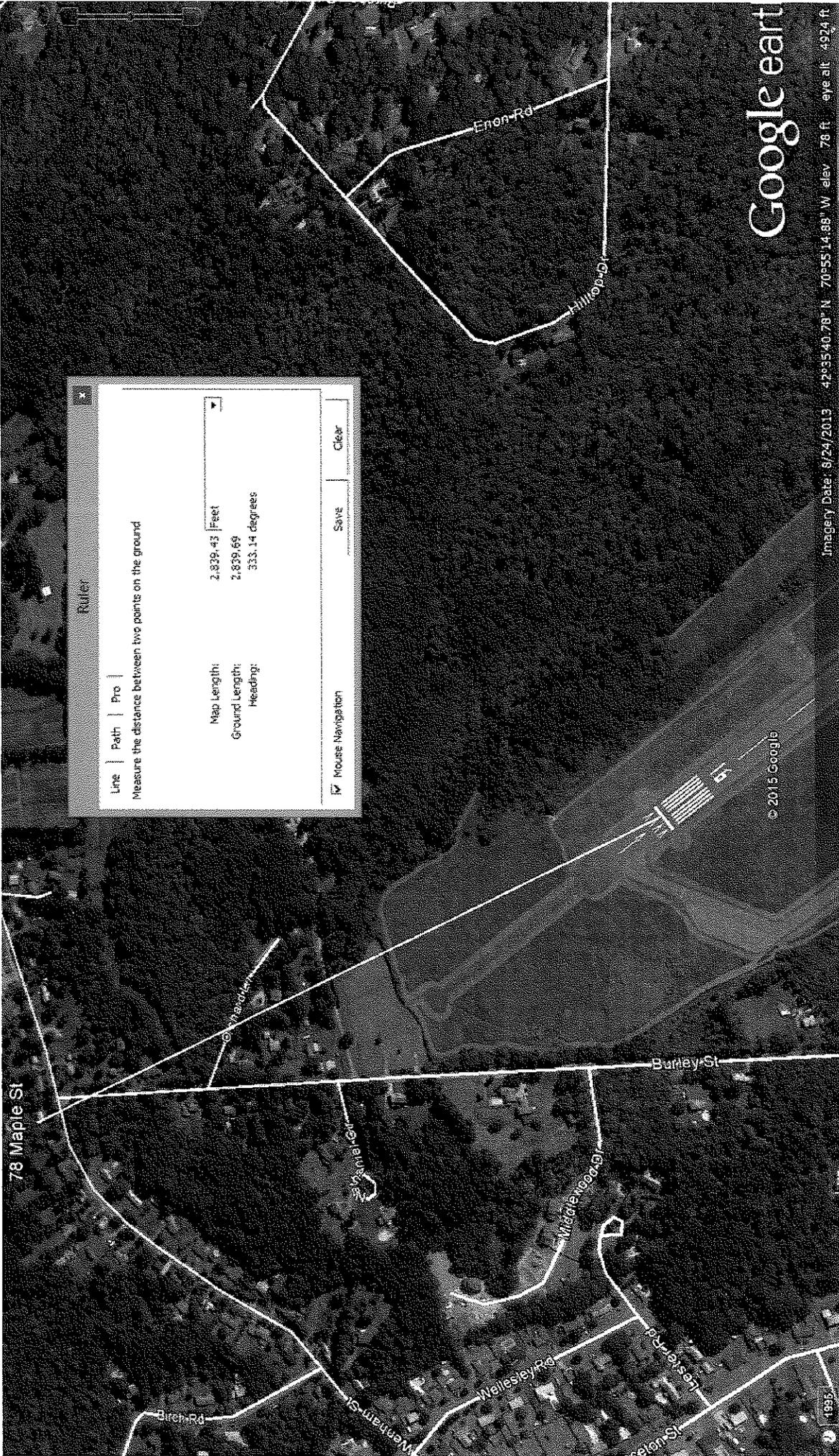
- 50 . Is there any evidence of underground storage tanks or releases of oil or hazardous materials, including hazardous wastes, on the site or within close proximity to the site?
- 51 . Has a Chapter 21E assessment been performed?
- 52 . Does the project consist of either: (a) new construction of more than 100 units; or (b) substantial rehabilitation of more than 200 units, or where more than 10% new floor space is added?
- 53 . Does the building require lead paint abatement?
- 54 . Does the building require asbestos abatement?
- 55 . Do radon tests show radon levels exceeding four picocuries/liter?
- 56 . Is there any evidence that the premises are insulated with urea formaldehyde foam (UFFI)?
- 57 . Is the site located in an historic district, or contain buildings listed or eligible for listing in the State Register of Historic Places?
- 58 . Are there any above ground storage containers with flammable or explosive petroleum products or chemicals within 1/2 mile of the site?
- 59 . Is the site located in a floodplain or wetlands area?
- 60 . Does the site contain endangered animal or plant species?
- 61 . Is the site subject to noise impact from jet airports within five miles, major highways within 1,000 feet, or rail traffic within 3,000 feet?

	Total Residential	Percentage of Costs Not in Depreciable Basis	Acquisition Credit Basis	Rehabilitation Credit Basis	Not In Basis
361 . Acquisition: Land	\$750,000				\$750,000
362 . Acquisition: Building	\$0		\$0	\$0	\$0
363 . Acquisition Subtotal	\$750,000		\$0	\$0	\$750,000
364 . Direct Construction Budget	\$7,689,300		\$0	\$7,689,300	
365 . Construction Contingency	\$768,930		\$0	\$768,930	
366 . Subtotal: Construction	\$8,458,230		\$0	\$8,458,230	\$0
General Development Costs:					
367 . Architecture & Engineering	\$211,456	0%		\$211,456	\$0
368 . Survey and Permits	\$45,000	0%		\$45,000	\$0
369 . Clerk of the Works	\$75,000	0%		\$75,000	\$0
370 . Environmental Engineer	\$50,000	0%		\$50,000	\$0
371 . Bond Premium	\$0	0%		\$0	\$0
372 . Legal*	\$100,000	25%	\$0	\$75,000	\$25,000
373 . Title and Recording	\$32,500	0%	\$0	\$32,500	\$0
374 . Accounting & Cost Certificat.	\$30,000	0%	\$0	\$30,000	\$0
375 . Marketing and Rent Up*	\$25,000	0%			\$0
376 . Real Estate Taxes*	\$4,500	0%	\$0	\$4,500	\$0
377 . Insurance	\$5,000	0%	\$0	\$5,000	\$0
378 . Relocation	\$0	0%	\$0	\$0	\$0
379 . Appraisal	\$8,500	0%	\$0	\$8,500	\$0
380 . Security	\$0	0%	\$0	\$0	\$0
381 . Construction Loan Interest*	\$260,000	30%	\$0	\$182,000	\$78,000
382 . Inspecting Engineer	\$30,000	0%	\$0	\$30,000	\$0
383 . Financing Fees* Market Study	\$7,500	0%	\$0	\$7,500	\$0
384 . Financing Fees* DHCD	\$44,600	100%	\$0	\$0	\$44,600
385 . MIP	\$0	0%	\$0	\$0	\$0
386 . Credit Enhancement Fees	\$0	0%	\$0	\$0	\$0
387 . Letter of Credit Fees*	\$0	0%	\$0	\$0	\$0
388 . Other Financing Fees*	\$50,000	100%	\$0	\$0	\$50,000
389 . Development Consultant	\$0	0%	\$0	\$0	\$0
390 . Other* Holding Interest	\$175,000	33%	\$0	\$117,250	\$57,750
391 . Other* Traffic Study	\$22,000	0%	\$0	\$22,000	\$0
392 . Soft Cost Contingency*	\$130,000	50%	\$0	\$65,000	\$65,000
393 . Subtotal: Gen. Dev.	\$1,306,056		\$0	\$960,706	\$320,350
394 . Subtotal: Acquis., Const., and Gen. Dev.	\$10,514,286		\$0	\$9,418,936	\$1,070,350
395 . Developer Overhead	\$525,714		\$0	\$525,714	\$0
396 . Developer Fee/Profit	\$525,714		\$0	\$525,714	\$0
397 . Capitalized Reserves	\$650,000		\$0	\$650,000	\$0
398 . Total Development Cost	\$12,215,714				
399 . Total Net Development Cost	\$11,565,714				
400 . Total Eligible Tax Credit Basis	\$11,120,364		\$0	\$11,120,364	

* Some or all of these costs will typically be allocated to intangible assets or expensed.

Site Grading Plan

Beverly Airport
Google Earth Image



Ruler

Line | Path | Pro

Measure the distance between two points on the ground

Map Length:	2,839.43 Feet
Ground Length:	2,839.69
Heading:	333.14 degrees

Mouse Navigation Save Clear

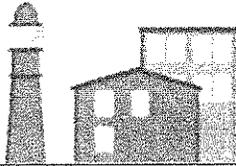
Google eart

Imagey Date: 8/24/2013 42°35'40.78" N 70°55'14.88" W elev 78 ft eye alt 4924 ft

© 2015 Google

1995

**Harborlight Community
Partners Letter to Wenham
Affordable Housing Trust**



Harborlight Community Partners
Providing Homes & Community Support

March 18, 2014

Mr. Joshua Anderson, Chairman
C/O Wenham Affordable Housing Trust
138 Main Street
Wenham MA 01984

RE: Funding Request for Senior Affordable Housing Project

Mr. Anderson,

We applaud the Town of Wenham for setting up the Wenham Affordable Housing Trust to support the creation of affordable housing in Wenham. We would like to partner with Town of Wenham to achieve those affordable housing goals. Harborlight Community Partners (HCP) is a long standing, community based, affordable housing developer and property manager. HCP is a non profit whose mission is to create and operate quality affordable housing for fixed income seniors, working families, and people with disabilities. To that end we have been looking for some for property in Wenham to develop a senior only affordable housing building. We are in the process of negotiating the purchase of a portion of the property at 62 Maple Street. The portion of land for this project would be less than 4 acres as currently configured. We expect this project to be built in two phases and in total to involve an investment of over \$21,000,000.

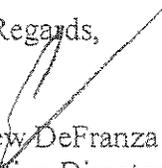
We believe that this project can do a great social good to create homes for fixed income elders, while achieving the Town's affordable housing goals and putting the town well over 10% on its affordable housing inventory for many years to come.

We are requesting that the Wenham Affordable Housing Trust award a grant to Harborlight Community Partners to support this project. The grant would be **contingent** upon achieving a successful comprehensive permit. We are requesting a grant of \$850,000 to create leverage for other regional, federal, and state sources needed to accomplish this project.

I am attaching here a description of the various project elements. Third party reports, architectural plans, and other requested data will be made available to the Trust as they are developed in the permit process.

On behalf of our Board of Directors, our current residents, and the potential future residents of this 62 Maple Street building, I thank you and your colleagues for your time and consideration.

Best Regards,


Andrew DeFranza
Executive Director

Harborlight Community Partners is a 501(c) (3) non profit organization.

P.O. Box 507, Beverly, MA 01915 | 978-922-1305 | www.harborlightcp.org

78 Maple
Street View



- Layers
- My Places
- Software Tour
- Temporary Places

- Earth Gallery
- Primary Database
- Borders and Labels
- Places
- Photos
- Roads
- 3D Buildings
- Sea Level
- Weather
- Gallery
- Global Awareness
- More

