



# TOWN OF WEST NEWBURY

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July 2, 2020

MassHousing  
Michael Busby, Relationship Manager  
One Beacon Street  
Boston, MA 02108-3110

RE: The Cottages at Rolling Hills  
West Newbury, MA 01985

Dear Sir:

The Town is in receipt of Ms. Robbins' June 30, 2020 letter to your agency which submitted a new plan for consideration for Project Eligibility / Site Approval. It is inaccurate to characterize this plan as a revision, when it more appropriately should be considered a new plan. The developer was informed at the beginning of this process that his original submittal constituted a Large Project as defined in 760 CMR 56, and as such would unlikely receive the consent of the Town. The original proposal would be triple the size of any project in the history of the Town. The Developer insisted on continuing with the original proposal despite being told directly that it was clear that the proposal constituted a Large Project. The Town Boards and the citizens spent considerable hours in order to provide your office with thoughtful and comprehensive comments and analysis. This was accomplished despite the considerable handicaps imposed by the Covid 19 state of emergency. The inescapable conclusion is that the Developer has engaged in a "bait and switch" tactic in an attempt to evade a review of a plan that would be in compliance with the Regulations. It would be improper for your agency to permit such a maneuver that could deprive the Town of a meaningful opportunity to be heard on this new application. The Town deserves the chance to provide a review and critique of this new plan equal to the original submittal. The Planning Board, the Open Space Committee, the Conservation Commission and the Board of Water Commissioners would all want to meet to discuss this new proposal. As was done previously, the Board

## LETTER TO MASSHOUSING

of Selectmen wishes to tailor its response with the expertise and input from these Boards. Obviously given the limitations of the summer season and Open Meeting requirements, and the continuing impacts of Covid 19 on all aspects of our operations, an appropriate amount of time is required to allow each of these public bodies to convene, prepare comments, then for the Board of Selectmen to convene and finalize its own comments, taking into account the input of other public bodies, Town departments, and residents.

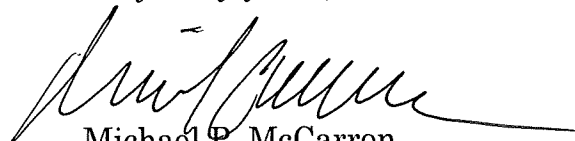
Therefore, the Town would respectfully request the following:

1. That in order for your agency to consider this proposal, that the Developer be instructed to provide a new application detailing the impacts of the new plan. (Whether there should be new fees associated with this submittal is left to your agency.)
2. As before, given the difficulties attendant to the Covid 19 state of emergency, upon submittal of the new application and plan, the Town be granted seventy-five days to submit comments.
3. That the costs associated with the original application not be included in the pro forma analysis of the Project. The Town should not be limited in proposing meaningful and appropriate conditions, due to a claim of such conditions would make the Project uneconomic.

I must reiterate that the Town and the citizens of the Town feel some frustration in this turn of events which culminates in their considerable work being wasted. Fundamental fairness requires that the Town and the citizens of the Town be granted the chance to meaningfully address this new proposal which is, as proposed, the largest development in the history of the Town by a factor of two.

Let me thank you in advance for your consideration in this matter, and if you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,



Michael P. McCarron

cc: Town Manager  
Board of Selectmen  
Planning Board  
Open Space Committee  
Conservation Commission

Board of Water Commissioners  
Board of Health  
Melissa E. Robbins, Esq.

## Town Manager

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**From:** Building Inspector  
**Sent:** Monday, July 13, 2020 9:37 AM  
**To:** Town Manager  
**Subject:** 40B Comments

Not may comments on my end. The buildings are required to meet the Building Code and the zoning that they are in violation of they are asking for waivers from. I did have a couple of minor comments:

1. On the site plan page 1 (may have been corrected on the latest drawing) indicated the proposal was in an RA zone with 15' setback required. It is in RB/RC and the setback is 20' which is reflected on the second page. Again where waivers are requested this may not make any difference other than for accuracy.
2. Lot 2 on the yield plan shows a lot 19,600sf when a compliant lot is 20,000. Not sure if one lot in the yield plan would make a difference and looking at the plan it looks like they could easily adjust adjacent lots to make it compliant.
3. Any "offices" that qualify for a bedroom under Title 5 should be deed restricted if they are not to increase the flows to the sanitary disposal system.
4. Based on the width of the road at Dailey I would suggest we try to get a wider roadway for fire apparatus to be able to pass vehicles on the road. I've been on daily trying to pass a truck similar in size to mine and it is a tight fit.

Regards,

Sam Joslin  
Building Commissioner  
Town of West Newbury  
381 Main Street  
West Newbury, MA 01985  
(978) 363-1100 x122

## Memorandum

TO: Angus Jennings, Town Manager  
FROM: Wayne S. Amaral, DPW Director  
DATE: July 14, 2020  
RE: The Cottages at Rolling Hills – DPW Comments

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Per your request, I have conducted a preliminary review of the proposed development named The Cottages at Rolling Hills which is located between Main Street and Coffin Street.

I understand that DPW will have multiple opportunities to review this project in greater detail as project progresses, but a preliminary review is the town's chance to comment on any large-scale concerns that the developer should be aware of as they progress into full design. It is understood that the roadway will remain private with no DPW services required.

### **1. Conservation Land / Wetland**

The Conservation Commission will be reviewing the overall site as required by state and local regulations. However, I am concerned on how lawn fertilizers will be used near all the defined wetland areas. Seems they show the buffer zone around the wetlands, just not sure what is required for such heavy chemical use.

I would like to suggest predetermined snow storage areas throughout the development to ensure that roadway snow runoff is treated before entering any wetland.

### **2. Roadway Design**

- It has been stated that the development will have a sidewalk on at least one side of the roadway. There should also be a discussion if sidewalks should be installed on both sides of the roadway. This is a large clutter development. We as a town should be encouraging walking and biking and with the narrow roadway widths, sidewalks would provide safe pedestrian routes. Minimum five-foot wide sidewalks with typical driveway treatment that prioritize the pedestrian movement over the vehicle movement should be the design. The sidewalk issue should be confirmed early in the design phase.
- The sidewalk material should also be defined. A granite curb with concrete sidewalk may be too urban for West Newbury, however a bituminous berm curbing may not withstand typical plowing operations.

### **3. Traffic**

- Will the developer be preparing a basic traffic study for the development? I really don't believe there will be major impact, but we need to know what the impact is on Coffin Street and if any mitigation or other traffic management tools are needed to address these additional volumes. Before and after volumes / turning movement would be helpful.
- The developer should prepare a traffic management plan of the roadway network.

- To reduce vehicle turning movements at the intersection of Main Street at Coffin Street it may be worth proposing one-way direction for the roadway that enters the development from Coffin Street. Making this roadway a one-way into the development should reduce the increased turning movement at the Main Street intersection by 50%.
- What are the expected vehicle trips for the proposed community center? Will the center be rented out for functions? These vehicle volumes should also be included into a traffic study.
- The proposed roadway / curb-cut onto Coffin Street will require DPW Director approval. A detailed construction plan will be required.
- The proposed roadway / curb-cut onto Main Street will require MassDOT approval. This process should be started early in the design phase, in case MassDOT requires roadway / sidewalk mitigation on Main Street.

#### **4. Site Drainage / Stormwater Management**

I understand that the Conservation Commission will be reviewing site drainage in greater detail and I would also like to review the overall infrastructure design and placement. Greater detailed plans must be submitted for this review. Please note that this development is not in the MS4 area.

#### **5. Sanitary System**

Developments of this size must receive MassDEP approval for overall permitting, which includes the construction and operating such a large system. DPW and BOH has no jurisdiction over such a large system.

If there are other topics you would like me to address, please feel free to request.

## COMMENTS OF THE WEST NEWBURY PLANNING BOARD REGARDING THE PROPOSED COTTAGES AT ROLLING HILLS

The Planning Board is in receipt of the Project Eligibility/Site Approval request submitted to MassHousing by Cottage Advisors MA, LLC (Howard J. Hall, Manager) and Deschene & Farrell, P.C. (Melissa Robbins, Attorney). Pursuant to 760 CMR 56.04(3) “*Review and Comment Process*,” Local Boards may submit comments to MassHousing, and the West Newbury Board of Selectmen have also requested comments from Town Committees and Departments.

### Materials Reviewed and Referenced:

- MassHousing Application for Project Eligibility/Site Approval, 28 Coffin Street & 566 Main Street, dated March 27, 2020, submitted by Cottage Advisors MA, LLC (Howard J. Hall, Manager) and Deschene & Farrell, P.C. (Melissa Robbins, Attorney)
- Plans entitled, “Site Plan the Cottages at Rolling Hills 28 Coffin Street and 566 Main Street West Newbury, MA”, drawings C-0, EX-1 – EX-7, C-1, C-2, A-1 & A-2, dated March 24, 2020, prepared by Landtech Consultants, 515 Groton Road, Westford, MA 01886 and Scott M. Brown, 48 Market Street, Newburyport MA 01950.
- Handbook: Approach to Chapter 40B Design Reviews: Prepared for Massachusetts Department of Housing and Community Development, MassDevelopment, Mass Housing, The Cecil Group, January 2011.
- Town of West Newbury Zoning Bylaw, with amendments, April 29, 2019. (Referred to herein as the “Zoning Bylaw.”)
- Town of West Newbury Planning Board, Rules and Regulations Governing the Subdivision of Land Adopted October 3, 2006, as amended April 21, 2009, and December 21, 2010. (Referred to herein as the “Subdivision Regulations.”)
- Plans entitled, “Site Plan the Cottages at Rolling Hills 28 Coffin Street and 566 Main Street West Newbury, MA”, drawings C-0, EX-1 – EX-7, C-1, C-2, dated March 24, 2020, Revised June 19, 2020 prepared by Landtech Consultants, 515 Groton Road, Westford, MA 01886 and Scott M. Brown, 48 Market Street, Newburyport MA 01950.
- Letter from Melissa E. Robbins, Attorney, Deschenes & Farrell, P. C., Westford, MA to MassHousing, dated June 30, 2020.
- Letter from Michael P. McCarron, Town Counsel, Town of West Newbury, MA to Michael Busby, Relationship Manager, MassHousing dated July 2, 2020.

### I. General Comments

In the Handbook: Approach to Chapter 40B Design Reviews, it states that there are “a number of terms to consider related to use and design” and it then cites the following as one of the “Findings in Determination:”

(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail).

The West Newbury Planning Board finds that the proposed plan fails to meet these criteria as outlined herein.



- A. While the proposed project would contribute toward some of the Town's goals for affordable residential development, the project is inconsistent with building massing, topography, environmental resources, and integration into existing development patterns. The proposed plan has significant impacts on municipal infrastructure, traffic, public safety, protection of environmental resources, protection of viewsheds, and the preservation of open space. The developer should provide further information as noted and seek public input (particularly from nearby residents) regarding the development plans.
- B. The Board acknowledges the need for the development of additional affordable housing in West Newbury. The Town worked with the Merrimack Valley Planning Commission to update its Housing Production Plan (HPP) in 2017-2018. The plan identifies housing needs and strategies to help the Town achieve its goal of attaining 10% affordable housing. Identified issues included the need to accommodate the housing needs of our aging population, a general lack of housing options other than single-family homes, need for starter homes and other moderately priced residential units, the scarcity of rental properties, and the gap between housing prices and income levels, among others. The proposed development, which includes a mix of smaller single-family and duplex units and moderate and affordable units, meets some of the identified needs.
- C. A public workshop was held during the development of the HPP, where participants were asked to identify areas in Town that might be conducive to housing development. Locations were chosen that provided access to public services and public transit and proximity to existing housing (reducing sprawl). The 28 Coffin Street property was noted with the caveat that there are other criteria that should be considered should the Town decide to prioritize sites further, including the presence of environmental resources. The HPP noted this, as, at that time, the site was being evaluated for a solar energy field, with areas set aside for conservation.
- D. The Town's housing goals must be balanced with its other community goals, including the protection of natural resources and rural character, which is germane to the subject property. The proposed development would be, by far, the largest residential development ever in West Newbury, and the density and size of the development, though consistent with developments in large cities and towns, is not consistent with rural communities such as West Newbury<sup>1</sup>. The comments below are made with the intent of identifying elements of the plan that are deficient or diverge from good planning practices and the Town's standards for development and facilitating a project that will fit better with its surroundings in terms of site and building design, open space and the natural environment, traffic, pedestrian, rider and cyclist safety, and existing development patterns.
- E. In evaluating the proposal, note that the Town has already made efforts to maintain and expand its existing affordable housing stock and to facilitate the creation of new moderately-priced and affordable units. In addition to the HPP, the Town has made the following efforts:
- The Town adopted an Inclusionary Housing Bylaw (IHB), which requires 10% affordable housing in developments of three or more units.
  - Through the IHB, the Town has generated 13 affordable units and \$201,200 in funds since 2005.
  - The Town has adopted provisions in its Open Space Preservation Development (OSPD) bylaw to encourage the production of smaller, more affordable units.

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<sup>1</sup> West Newbury is classified by the Commonwealth as a rural community, having a population density of less than 500 persons per square mile. See M.G.L. c23A, Section 66(a)



- The Planning Board negotiated with Cottage Advisors for the creation of four duplex units with a moderate initial sale price at the Drakes Landing housing development.
  - The Town adopted a bylaw allowing for mixed-use development by special permit in the Business District.
  - The Town maintains a balance for affordable housing in its Community Preservation Act fund, which has been used to maintain its existing affordable housing units.
  - The Town will be developing a system to administer the Town's Affordable Housing Funds and implementing goals and strategies in the HPP.
- F. For each of the large residential developments that have required Planning Board approval in the last six years, West Newbury has added seven affordable units and four moderately priced units, out of a total of 64 units.
- G. The largest development to date in West Newbury is Ocean Meadow, an age-restricted community with six affordable units and a total of 56 units.
- H. The number of housing units in West Newbury, according to West Newbury's 2018 Housing Production Plan, was 1,609 units based on information in a 2015 American Community Survey. Since that time, it's reasonable to assume that new construction has resulted in roughly 1700 housing units today.

## II. Plan Set Comments

### B. Existing Conditions Plans:

3. Property Line Discrepancy: The the west side property line segment on the Existing Conditions Plans vary from those shown on the the Yield Plan.

### C. Site Plan:

1. Development Patterns: The proposed Site Plan is inconsistent with development patterns near the proposed site and inconsistent with development throughout the Town. Traditional subdivisions, such as the abutting development on Cortland Lane, have substantially fewer units on larger lots, and wider roadways. The density, expanse, size, and scope of the development exceeds any other development existing or proposed in West Newbury. The proposed site not only abuts residential development but also conflicts with small farms, stables, and open space in the immediate vicinity.
2. Open Space Preservation: The Town provides for cluster developments under our OSPD bylaw (Section 6.B. of the Zoning Bylaw). In the application materials, the developer states, "The development is following the residential design principles of open space clustering as instituted by most of the progressive communities throughout the Commonwealth of Massachusetts. The goal of these types of residential developments is to minimize the disruption of the existing land, therefore, minimizing the impact to wetlands and preserving as many trees as possible." The original application materials state that 66% of the property is open space, though it is not clearly defined or called out on the plan. An analysis of the plan shows that approximately 77% of contiguous and buildable land will be disturbed and developed for roads, homes, the leaching field, leaching field utilities, parking, drainage, and other improvements. The remaining undisturbed land on the proposed site consists of wetlands, areas of steep slopes, and areas located in or beyond

an easement for high voltage transmission lines. Such land areas are already prohibited from development and have questionable value as open space as defined in the OSPD bylaw.

4. Steep Slopes: By the definition of “Contiguous and Buildable Area” of the Zoning Bylaw, only areas with grades of less than 20% are considered buildable and by Section 6.A.2 of the Zoning Bylaw, “...slopes in excess of 20% shall not be considered buildable land...” A preliminary analysis by the Planning Board indicates that approximately 263,200 ft<sup>2</sup> (6.04 acres) of the site have slopes in excess of 20% and that the site plan proposes eight buildings comprising fifteen units located partially within such areas (Appendix A).
5. Wetlands and Wetland Crossings: A preliminary analysis of the wetlands on the site along with corresponding 25’ buffers indicates an area of approximately 1,006,800 ft<sup>2</sup> (23.11 acres) is unbuildable land (Appendix B). The West Newbury Conservation Commission requires this buffer as a delineated and marked area that must remain undisturbed. Though no proposed buildings are within the 25’ buffer, there are four duplex buildings for a total of eight units that are within 10’ of the buffer area (Appendix B, in red). It is highly probable that residents of such units will intentionally or inadvertently disturb these buffer zones as they maintain their dwellings and yard spaces.

The site plan shows two wetland crossings. Wetland crossings are not automatically allowed by the Conservation Commission, even with mitigation. Should the crossings be allowed, it is unclear where constructed wetlands, as part of the mitigation efforts could be constructed as, again, very little non-wetland, non-steep-slope area remains in the development.

Wetland boundaries have not been verified by the Town through the Conservation Commission. Some delineations will likely move. Since the planned roads and units are extremely close to the wetlands and wetland buffers, changes in the wetland delineations will likely require significant changes in the number of wetland crossings, the location and configuration of roads, and the location and number of dwelling units.

6. Area Within Easement of High Voltage Transmission Lines or Beyond Assumed Easement: A preliminary analysis of the power line easement and the area beyond that easement, which is inaccessible because of that easement is 405,544 ft<sup>2</sup> (9.31 acres) (Appendix C).
7. Buildable Area: A preliminary analysis indicates that there are three separate buildable areas, not contiguous, that are exclusive of wetlands, the 25’ wetland buffers, slopes in excess of 20%, the power line easement, and the inaccessible area beyond the power line easement: an area to the south of approximately 599,700 ft<sup>2</sup> (13.77 acres), an area to the north of approximately 1,046,100 ft<sup>2</sup> (24.02 acres), and a wetland “island” of approximately 44,200 ft<sup>2</sup> (1.02 acres) for a total of approximately 1,690,000 ft<sup>2</sup> (38.80 acres) (Appendix D). Thus, of the 75.37 acres of the project, only 51.5% is “buildable,” these areas are not contiguous, and most of these areas are developed by the proposed site plan.

By the Zoning Bylaw, Section 6.A.2, at least 75% of a lot must be “contiguous and buildable.” This preliminary analysis shows that this lot does not meet this condition.

It can also be argued that these buildable areas are the only areas useful for passive recreation as open space. A preliminary analysis indicates that only approximately 8.7 acres of the 38.8 acres will remain undeveloped and potentially useful for passive recreation.

8. Scale and Setbacks: The height and scale of the proposed homes abutting residential properties should be mitigated. Conventional zoning requires a 40-foot front yard setback and 20-foot side and rear yard setbacks while the OSPD bylaw requires a buffer area of 75-feet around the perimeter

of the property in the Residence B Zoning District. New homes are proposed in close proximity to the property lines (Appendix E). Noting that the developer categorizes this project as a cluster development, the OSPD bylaw buffers should be respected. By Section 6.B.11.b.iii).a. of the Zoning Bylaw, a 75' buffer (setback) is required. The plans show eight duplex buildings and four single-family homes within the 75' setback for a total of 38 units (Appendix E, blue emphasis).

Furthermore, it is the Planning Board's opinion that the developer should consider additional measures to create a better transition from the new homes to abutting properties such as landscaping solutions and gradual increases in height and massing of buildings, so the scale of the development appears less obtrusive to abutters.

Cottage Advisors has extensive experience with the Town's OSPD bylaw, having designed and constructed two such developments in Town. The developer should provide further information, as noted above. More effort should be made with this plan to incorporate the goals and principles of the Town's OSPD mentioned above.

9. Summary: As a result of this preliminary analysis, 17 duplex buildings and five single-family buildings for a total of 39 units of the 92 proposed (~42%) were found to be within the 75' buffer, too close to the wetlands buffers, or built in areas of steep slopes.

#### D. Yield Plan:

1. Relevance: The applicant has provided a Yield Plan but has not explained why the yield plan is required or provided. The Yield Plan, if it is found to be useful or necessary, has deficiencies as outlined herein.
2. Deficiencies: It is not possible to determine whether the lots shown on the Yield Plan are valid building lots as the information has not been provided:
  - Building setback lines have been left off of the Yield Plan.
  - Lots, such as Lot 38, have the majority of the lot comprised of wetlands, power lines, or both and thus are unlikely to qualify as valid building lots.
  - Calculations for Contiguous and Buildable Area (Zoning Section 6.A.2.) and Lot Width at the Front Yard Setback (Zoning Section 6.A.6.) for the lots are not provided.
  - Steep slopes, difficult clay soils, wetlands, and areas of ledge can be found throughout the Town. Because the entire Town is reliant on private septic systems, the buildability of a lot is dependent upon the land's ability to host one. The Yield Plan does not provide information demonstrating that suitable soils exist on each lot to accommodate a septic system, thus further bringing into question whether each lot shown on the Yield Plan is buildable.

### III. Evaluation of the Site Plan and Yield Plan with Respect to the Subdivision Regulations

#### A. Frontage and Entrance Locations

Frontage and location requirements are in place to allow sufficient space for the new roadway, to ensure a safe distance between the new roadway and abutting curb cuts, and to provide a minimum buffer to abutting lots. These deficiencies appear on both the Site Plan and the Yield Plan.

1. Insufficient Frontage: The frontage on Coffin Street is 165.37'. Section 4.2.4.9 of the Subdivision Regulations requires "The minimum frontage on the existing street of the parcel to be subdivided shall be at least the frontage required for the zoning district to provide for the right-of-way and buffers to abutting properties." By Section 6.A.1 of the Zoning Bylaw, 200' is required. Thus, the proposed roadway entrance on Coffin Street is in conflict with Section 4.2.4.9 of the Subdivision Regulations.
2. Offset Entrance: The site plan shows the proposed roadway entrance from Main Street to be within the western portion of the 150.00' frontage. This conflicts with Section 4.2.4.11 of the Subdivision Regulation, which requires that "the centerline of the road shall be located from the sidelines of the existing abutting lots a distance of at least one half the frontage required for the zoning district."
3. Radius at Entrance: Section 4.2.4.7 of the Subdivision Regulations requires that property lines at street intersections shall be rounded or cut back to provide for a curb line radius of not less than 15 feet. No such radius is provided at the property line on the west side of the Main Street access on the Yield Plan or the Site Plan.

#### B. Cut, Fill, and Steep Slopes

1. Cut and Fill Depth: Section 4.2.10.1 of the Subdivision Regulations states, "No road construction requiring cut or fill of an area in excess of 8-feet in depth shall be allowed without an analysis justifying a need for additional cutting or filling. The cut or fill depth shall be measured from the pre-construction natural grade to the elevation of the proposed road at centerline." The proposed Site Plan has areas of cut and fill in excess of 8-feet in depth, particularly on the southern end of the project. These areas will require considerations of slope stability, tall retaining walls, complex grading, potentially hazardous roadways, and the lack of useable yard areas. Furthermore, mitigation is likely to require an unwieldy schedule of required and regular maintenance, which, if not followed rigorously, could cause a rapid deterioration of the development's infrastructure.
2. Steep Slopes: Section 4.2.10.2 of the Subdivision Regulations states, "Construction shall not be proposed of roads, storm water management systems, driveways, pipes, or other infrastructure construction shown on a subdivision plan on a land area which slopes at a pre-construction grade of 25% or more." Areas of slopes in excess of 25% exist in multiple locations throughout the site, especially in the southern area.

### IV. Application Materials:

#### A. Project Eligibility /Site Approval Application

1. Age Restriction: In Section 1: General Information, the applicant indicates the project is not age-restricted, however, the box for "62+" years of age is checked off. Is the project age restricted?
2. Buildable Area: In Section 2: Existing Conditions/Site Information, the applicant is asked to explain the existing conditions of the site. This information is requested to get a better understanding of the site characteristics. While there is no specific checkbox for significant slopes, their existence impacts the buildability of a project. It appears that the proposed Site Plan has such areas of steep slopes as noted above, and that acreage should be provided for as "Other Non-Buildable" in the Table for "Buildable Area Calculations."
3. Powerline Easement: In Section 2, Subsection "Site Characteristics and Development Constraints," the applicant answered "No" regarding "easements, rights-of-way or other restrictions of record affecting the development of the site." This is incorrect as the applicant notes

in the provided plans that there is a National Grid easement with high voltage transmission lines running through the northwest corner of the site. While the Site Plan does not show buildings within the easement, structures are shown within proximity to the easement in that area. It is likely that construction will inadvertently extend into the easement area. Further, the Yield Plan shows a roadway in the easement and directly under the power lines as well as house lots within the easement area. It is unlikely that these activities are permitted within the easement. No information has been provided by the applicant on this matter. The applicant should confirm if there are easements, rights-of-way, or other restrictions that may impact the development of the site, and, if there are, provide updated and corrected information. This information should include confirmations from National Grid and other easement holders, if any, and restriction beneficiaries regarding the acceptability of the proposed construction and other activities.

4. Ledge and Steep Slopes: In the aforementioned subsection, the applicant answered “Yes” when asked whether there are any known significant areas of ledge or steep slopes, however, these areas are not called out in the Existing Conditions Plan or on the existing conditions table In Section 2: Existing Conditions/Site Information.
5. Parking: In Section 3: Project Information, in Subsection “Parking,” the applicant originally indicated that the project would have 510 parking spaces while the site plan indicated that 638 parking spaces were to be provided. The revised Site Plan indicates that there will be 184 parking spaces in the provided garages (2 per unit times 92 units) and only 4 visitor parking spaces all located in the northwestern portion of the development. Such a large development will undoubtedly attract many guests and visitors, therefore additional guest parking will be necessary. The developer should provide clarification.
6. Previous Affordable Housing: In Section 3.3: Narrative, the applicant states that he has “successfully integrated affordable housing... [at] River Hill and at Drakes Landing.” It should be noted that this affordable housing was not part of the developer’s proposal and was either required by the Town’s Inclusionary Housing Bylaw or negotiated by the Board in exchange for favorable development density bonuses under the OSPD bylaw. The Board notes that Drake’s Landing units currently being offered for sale by the developer are at nearly double the price that the Board and the developer agreed represented a moderately priced entry-level unit in 2017.
7. Sustainable Development: In Section 3.5: Sustainable Development Principles, Point 1 “Concentrate Development and Mix Uses,” the developer provides information on how the project complies with the Commonwealth’s Sustainable Development Principles. This Principle is stated as follows: “Support the revitalization of city and town centers and neighborhoods by promoting development that is compact, conserves land, provides historic resources and integrates uses. Encourage remediation and reuse of existing sites, structures, and infrastructure rather than new construction in undeveloped areas.” Except for one parcel to be purchased by the developer for access to Main Street, the parcel is entirely undeveloped and is comprised of forests, fields, streams, and ponds that provide a habitat for many species of animals, birds, and plants. The developer originally stated that its proposed “village concept housing will allow for the site to retain 66% of the site as Open Space.” A summary of areas provided on the revised site plan indicates that 61.3% of the total site is useable open space, yet there is no accounting of areas of steep slopes.
8. Pedestrian Friendly: The developer states that it “is a pedestrian-friendly neighborhood with sidewalks that is within a mile from the Town Hall, Open Space and Trails, Playgrounds, and Schools,” which implies that residents will be able to walk to such areas easily. However, it should be noted that there are no sidewalks from the development location to those facilities, and pedestrians and children would have to walk along State Highway 113, where there are limited shoulders, high traffic density, and high vehicular speeds to arrive at the cited areas.



9. Water Supply and Infrastructure: The developer states that “the development will utilize existing water by connecting to existing municipal water infrastructure that is readily available in the abutting road and is more than adequate to handle the services necessary for the proposed project.” However, West Newbury has a long history of difficulties supplying sufficient water in the aforementioned system and must purchase water from Newburyport annually. This water supply is not guaranteed, and the Town is working to develop alternative sources. Additionally, an engineering analysis of the water system is in order as it is unknown if the existing water main supply lines are adequate or if the addition of 92 units on this supply will adversely affect flows required for fire protection throughout the Town.
10. Rehabilitation of Existing Home: The developer states that he will “rehabilitate the existing home at 566 Main St,” but by doing so, this home’s function will be compromised by its proximity to the main access road to the development, and there is no indication how this home’s driveway can be made to work as there is no apparent safe location for a new curb cut either on Route 113 or the new access road.
11. Equity: The developer has failed to provide any detailed plan to accomplish the goals of promoting “equitable sharing of the benefits and burdens of development,” providing “technical and strategic support for inclusive community planning and decision making to ensure social, economic, and environmental justice” other than to say “The Project creates affordable housing in a community which has not reached their goal of 10%.” To date, the developer has made no effort to seek input from the community or to integrate its development plans with the plans, policies, and goals established by the Town. Furthermore, the developer notes that “The Project also expands the tax base” without also noting that the increased demand for services such as education, police, water supply, and fire protection will likely exceed the increased tax revenue.
12. Protection of Land and Ecosystems: With respect to the goals to “Protect and restore environmentally sensitive lands, natural resources, agricultural lands, critical habitats, wetlands and water resources, and cultural and historic landscapes. Increase the quantity, quality, and accessibility of open spaces and recreational opportunities,” the developer states only that “The site will cluster development and post-development will allow the site to remain as 66% of the site as Open Space and will protect resource areas including wetlands.” A review of the site plan reveals that more than 75% of upland area is compromised, building will occur in areas of steep slopes, remaining open space is mostly wetland, there is no preservation of the pre-development landscape, nearly all of the remaining open space is not accessible, and recreational opportunities will likely be restricted to a small and ill-defined community center and walking on the leach fields. The only conclusion that can reasonably be made is that the majority of the natural resources and habitat described above would be obliterated.
13. Wise Use of Natural Resources: In response to Sustainable Development Principle point 4 “Use Natural Resources Wisely,” the developer refers to the use of plywood, vinyl siding, deck materials, recycled concrete and asphalt, and recycling receptacles, entirely ignoring the aspect of this Principles relating to the conservation of natural resources on the land itself.
14. Expansion of Housing: Sustainable Development Principle 5, “Expand Housing Opportunities,” supports the “construction and rehabilitation of homes to meet the needs of people of all abilities, income levels, and household types. Build homes near jobs, transit, and where services are available. Foster the development of housing, particularly multifamily and single-family homes, in a way that is compatible with a community’s character and vision and with providing new housing choices for people of all means.” In response, the developer notes that the design includes smaller two and three-bedroom units and duplex style units and that the “Project is located near jobs, transit and where municipal services are available.” The only attribute of affordability that

would be associated with this development is the inclusion of the affordable units that would entitle the developer to proceed under Section 40B. (It is unclear in the revised plan how many affordable units would be provided. Assuming 20% as a minimum, 19 would have long-term affordability restrictions.) The other market-price units would dilute the contribution of the affordable units toward the Town's 10% affordable housing goal. Based on other projects constructed by the developer in the Town, the price of the market units may exceed the median home value in the Town, making no contribution to the effort to make housing in West Newbury more affordable or accessible. As noted in more detail herein, the developer has made no effort to construct a development that is compatible with the community's character and vision.

15. Public Input: In Section 3.5 "Sustainable Development Criteria Scorecard" under "Method 2" Section (2), The developer indicates that there has been a "Concerted public participation effort (beyond the municipally required public hearings." To the Board's knowledge, no efforts to seek public input have been made at this time.

## V. In the Event of Approval from MassHousing:

The Board recommends that the West Newbury Zoning Board of Appeals consider the following:

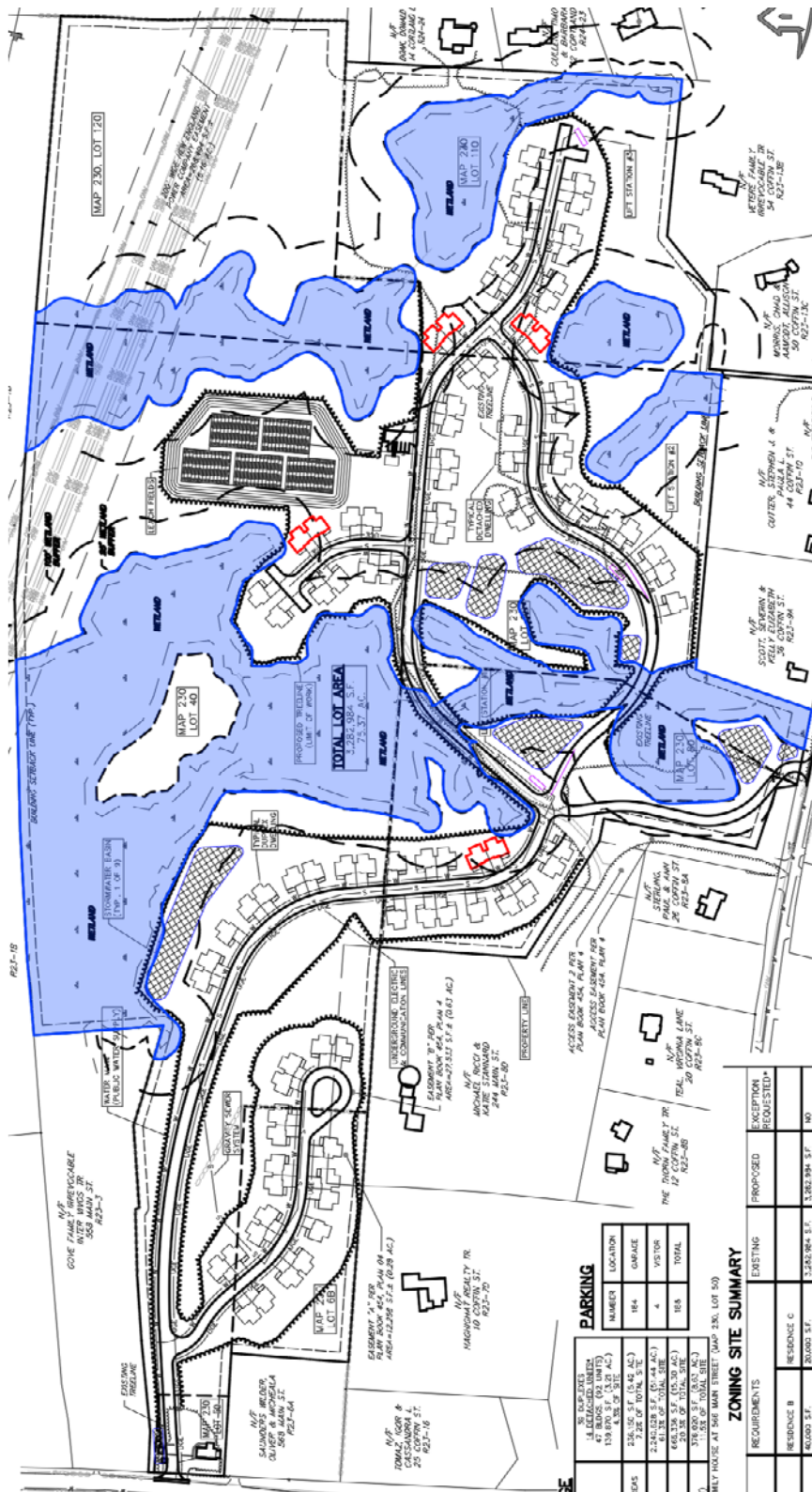
1. Meet with Neighbors Prior to Public Hearing: The developer was asked to meet with the Town in a public setting to share the plans and receive comments prior to submitting the Project Eligibility Application to MassHousing. This did not occur, presumably because of the State of Emergency and associated limits on public gatherings. The ZBA should strongly encourage that the developer meet with neighbors before the Zoning Board's public hearing and outside the public hearing process to address neighborhood concerns, perhaps through internet conferencing, wherever possible.
2. Provide Missing Information: The developer should be required to provide further information, as noted in these comments.
3. Seek Assistance: The ZBA should take advantage of technical assistance opportunities such as the Massachusetts Housing Partnership (MHP) Technical assistance program, Citizen Planner Training Collaborative workshops and publications, and the Mass Department of Housing and Community Development (DHCD) Chapter 40B Conference.
4. Engage Peer Review: The ZBA should hire peer review consultants at the expense of the developer to advise the ZBA on technical matters such as design review, site / civil engineering, traffic management and vehicle/ pedestrian, equine and cyclist safety, environmental and resource impacts, stormwater management, drinking water and fire-fighting supply, and site planning. The ZBA should coordinate with the Conservation Commission, Board of Health, Schools, the Department of Public Works, Public Safety, and the Open Space Committee to share peer reviewers as appropriate.
5. Seek Local Preference: The Developer should be required to work with the Town to obtain approval from DHCD for local preference when selecting tenants for the affordable units.
6. Require Renderings: The Developer should be required to submit graphic materials that clarify height, massing, setbacks, and overall relationship of the project to neighbors with the Comprehensive Permit application.



APPENDIX A  
 Preliminary Analysis of Steep Slopes



APPENDIX B  
 Preliminary Analysis of Wetlands Including a 25' Buffer



**PARKING**

NUMBER	LOCATION
184	GARAGE
4	VEHICLE
188	TOTAL

**ZONING SITE SUMMARY**

REQUIREMENTS	EXISTING	PROPOSED	EXCEPTION REQUESTED*
RESIDENCE B	2,250 SQA SF	1,800 SQA SF	NO
RESIDENCE C	20,000 SF	2,250 SQA SF	NO





APPENDIX D

Areas Exclusive of Steep Grades, Wetlands, and Power Line Easements



**PARKING**

NUMBER	LOCATION
184	GARAGE
4	STREET
188	TOTAL

**ZONING SITE SUMMARY**

REQUIREMENTS	EXISTING	PROPOSED	EXCEPTION REQUESTED*
RESIDENCE B			
RESIDENCE C			
48000 SF	20000 SF	1,120,004 SF	NO
200 FT	100 FT	825.00 FT	NO





## MEMORANDUM

TO: Board of Selectmen  
Angus Jennings, Town Manager

FROM: Conservation Commission

DATE: 7/27/2020

The Conservation Commission has reviewed the revised plan for the project eligibility/site approval application submitted by Cottage Advisors to MassHousing for the Cottages at Rolling Hill, a 40B development at Coffin Street and Main Street. While The Commission has received an abbreviated notice of resource area delineation for the project at 28 Coffin Street, it has not yet opened a hearing or conducted a site review. Our comments are preliminary and based solely on the revised application site plan submitted to MassHousing.

The application's revised site plan shows that the site contains more than 20% wetlands. The delineations of those wetlands areas have not been reviewed in the field by the Commission. The actual delineations may differ from those shown on the site plan and changes could affect the configuration of the project, including location of units shown in close proximity to wetlands on the plan and wetlands crossings.

We note that the revised plan shows two wetlands crossings. Such crossings are not authorized as a matter of right under the state Wetland Protection Act regulations (310 CMR 10.00). If crossings are allowed and wetlands are lost, replication areas are required and must meet a number of criteria including criteria related to location, surface size, groundwater and surface elevation, and hydraulic connection to the

wetlands associated with the lost area. No potential replication areas are shown on the revised site plan.



West Newbury Open Space Committee  
381 Main St.  
West Newbury, MA. 01985

July 28, 2020

Board of Selectmen  
Town of West Newbury  
381 Main St.  
West Newbury, MA. 01985

Re: 40B Project Eligibility Letter -- 28 Coffin St. and 566 Main St., West Newbury (revised for 92-unit proposal downsized from 152 units)

To the Board of Selectmen:

The purpose of this letter is to state our opposition to the proposed 92-unit residential development proposed for 8 Coffin St. and 566 Main St. in West Newbury.

The Open Space Committee (OSC) supports affordable housing as outlined in the town's recently adopted Housing Production Plan; however, this proposed project is unacceptable given its size and location. The OSC is concerned that the project could seriously jeopardize West Newbury's rural character, which is the cornerstone of the Open Space and Recreation Plan (OSRP). This plan was approved by the Massachusetts Division of Conservation Services in 2019 and its purpose is summarized below:

*"The 2018 OSRP is designed to assist in the dynamic process by which the town evaluates and addresses its open space and recreation needs. The plan's overarching intent is to guide West Newbury as it endeavors to preserve its rural character and plan recreational spaces while community needs change and development increases."* **OSRP, Page 4**

The OSRP lays out goals and includes a long-term action plan related to preserving our town's rural character through sensitive development; protecting natural resources, such as water, wetlands, wildlife habitat and endangered species; safe and passive recreation opportunities and enacting measures that promote climate resilience.

The project would create notably adverse impacts in the six areas described below:

1. **COMPROMISES OPEN SPACE**

The proposed development will result in the loss of 73 acres of open space from the town's inventory of important parcels. The undeveloped space in the project plans no longer meets the criteria that made this parcel significant open space. These include:

- Scenic views
- Hilltops
- Trail corridors and greenways
- Agricultural potential
- Passive and active recreation
- A large contiguous parcel

The developer in his revised plan asserts that, as proposed now, 66.74 (around 61% in the first plan) percent of the property would be usable open space without identifying it in the revised plan set. Our review of the revised plans finds that, as built, undeveloped space throughout the parcel would be sparse, fragmented and generally unusable. The developer in the revised plans claims the open space is not fragmented, citing a 35-acre contiguous parcel of open space. What we

can glean from the revised plan set is the largest open space parcel is almost all wetlands, hence not useable for passive recreation. Nearly 10 acres of undeveloped space in the revised plan remains situated under high-tension power lines, rendering that land off limits to the public. It appears that the tally of open space includes the yards of the housing units as well.

Also, adjacent tracts of protected open space include Long Hill to the north (295 acres) and Riverbend and Mill Pond (464 acres) to the east. The land for the proposed project currently functions as a connector between these large tracts. The developer mentions trail connections to Long Hill, Riverbend and Mill Point (Mill Pond is the correct name), but none appear in the revised plan set. Trails his firm promised at The Cottages at River Hill in West Newbury were an afterthought and constructed without regard for engineering specifications (they were made from construction grade wood chips shoveled from the back of a truck with no ground preparation). As a result, these trails are impossible to maintain and are barely distinguishable today.

Like the original plan, the new proposal would be significantly improved with expanded, connected and useable open space clearly identified in the revised plan set.

## 2. ENDANGERS WETLANDS

The parcels proposed for development by the project include extensive wetland areas and potential vernal pools. Five leaching fields in both the original and revised plan sets remain situated within 100 feet of these resource areas which are down steep slopes on each side of the leaching fields. Maintaining buffers around wetland areas is the most effective means of protecting water quality, habitat and wetland dependent species of wildlife. Building housing units and site infrastructure within the wetland buffer zones has the potential to compromise these resource areas.

## 3. ENDANGERS WILDLIFE HABITAT

*“Maintaining connectivity of open space parcels is a primary goal of the OSRP. Fragmentation of wildlife habitats by human activities or structures is a critical problem in maintaining biodiversity in populated areas. The stability and long-term success of many wildlife populations is threatened by not being able to move freely and safely between habitats in response to natural causes of food and water shortages and to seasonally migrate or to maintain genetic diversity by interbreeding with other populations”.*

OSRP, Page 38

The parcel being proposed for development currently functions as part of an extended open space corridor from the Merrimack River to interior parts of town on the south side of Route 113. The heavy development of this parcel would result in the severing of this wildlife corridor, threatening the habitats and life cycles of many animals, birds and aquatic life.

Little effort in the first and second proposals have been made toward maintaining existing wildlife corridors. The revised and original plans show significant grading of the property, which would diminish habitat value.

## 4. PROJECT DENSITY INCONSISTENT WITH TOWN'S RURAL CHARACTER

The revised project's proposed 92-unit site plan with hundreds of parking spaces threatens to overwhelm the town. The original plans specified 638 parking spaces, but the revised plan does not disclose if fewer spaces are projected. The Chapter 40B Design Principles Handbook requires projects to use the site and its context to help determine a generally appropriate density. The scope of the project indicates little effort by the developer to build with sensitivity to the neighborhood and topography of the land, as state affordable housing regulations direct. A 2014

A LandVest appraisal report posited a low-density development plan at eight house lots and medium density at 16 as the “maximum theoretical lot yield.”

The high density in the proposal runs counter to the OSRP goals to promote sensitive development and preservation of West Newbury’s rural character. Indeed, the point is addressed in the OSRP.

*“The relatively low population density of West Newbury reflects its agricultural history, current landscape and past efforts to maintain open space.”* **OSRP, page 13**

In the most recent town-wide survey conducted for the OSRP, rural character emerged as a top reason why people move to West Newbury. Similar surveys in 2002 and 2008 revealed the same sentiment. Open space, working farms, access to nature and wildlife and respect for the town’s history are the chief contributors to West Newbury’s “small-town feeling.” Survey respondents also stated that the town is losing its rural character as more building reduces open space and increases population and traffic.

A sampling from the most recent survey respondents demonstrates the importance of the community’s rural character in their lives:

*“People live in West Newbury because it’s rural. We’re surrounded by nature. As we continue to build homes, we lose nature. We lose the very point of living here.”*

*“We love the rural qualities of this town. We moved here 10 years ago because it was beautiful and rural. TOO many new homes and developments. Stone walls, farms and space between neighbors are very, very important.”*

*“We’ve been very disappointed with the ugly developments we’ve seen built [in] the last few years. It’s ruining the town’s character. We should be protecting as much open space as possible. I watched Reading’s last farmland turn into apartment buildings. I don’t want to see it happen here. Unchecked development will turn West Newbury into just another suburb.”*

*“One of the reasons we moved here from the Boston area was for the open space, rural beauty, woods and wildlife.”*

## **5. THREATENS SAFE RECREATION**

River Road is a designated River Trail and link to the town’s Riverbend Recreational Area. Many residents take advantage of the low traffic on River Road to enjoy scenic river views, bird and wildlife watching, fishing, river access, bicycling and walking. Narrow Coffin Street, which has dangerous curves and poor visibility even in good weather conditions, provides access for this recreational use, a place where the site plan shows a point of exit. Based on the number of parking spaces in the original 152-unit plan, 2,552 daily auto trips are anticipated from this project. The projected number of parking spaces for the revised plan was not given. Regardless, the addition of at least several hundred daily auto trips by development’s residents poses a safety concern for residents who use this area for passive recreation.

## **6. INCREASES CLIMATE CHANGE VULNERABILITY**

The OSRP identified climate change as one of the principal environmental challenges that the town faces, with a high priority action item of participating in the Massachusetts Municipal Vulnerability Preparedness (MVP) program. The town has completed the workshop component of this program, identifying the hazards, strengths and vulnerabilities that the town faces related to climate change. As action items to address these vulnerabilities are identified and grant funding sought to implement them, the town will focus on nature-based solutions. These include open

space preservation and low impact development. Developing this large tract of open space without adhering to low impact development principles, such as preserving the natural landscape and especially carbon-sequestering trees, will increase the town's vulnerability to climate change.

In closing, the West Newbury Open Space Committee views this development as inconsistent with the town's open space needs and goals for the reasons outlined. We strongly urge MassHousing to reject granting the developer a Project Eligibility Letter.

Respectfully submitted,



John Dodge, Chair  
**West Newbury Open Space Committee**

**OSC Members**

Jessica Azenaro, Don Bourquard, Brad Buschur, Carol Decker, Jean Lambert, Patricia Reeser, Wendy Reed, Marlene Switzer