

# Pepperell Natural Resources Association

23 May 2006

Zoning Board of Appeals  
Town Hall  
One Main Street  
Pepperell, MA 01463

RE: Comments on Bayberry Enterprise Realty Trust Application

Dear Board Members:

These comments are provided by members of the Pepperell Natural Resources Association in opposition to the application by the Bayberry Enterprise Realty Trust for “Bayberry Estates”.

## *General Comments*

We are not opposed to affordable housing. We support the paper mill redevelopment in our town.

The proposal for “Bayberry Estates” is for a large, high density development to be built in a rural, isolated part of Pepperell, far from town services. Dense, cluster housing in this environmentally sensitive and rural part of Pepperell raises numerous questions and issues that need to be investigated and studied very carefully and very thoroughly.

There is no mass transit in Pepperell. The roads in the area are narrow, hilly and winding, with numerous blind spots, and no shoulders for taking evasive action. The proposed 44 units, and expected follow-on development, will overload traffic capacity in the entire area, and greatly increase the risk of death and injury to all residents, both current and new.

The site is part of a watershed protection district for the entire Town of Pepperell, and most homes in the area are served by private wells. The proposal plans to install on-site sewage disposal for 44 2-bedroom units, yet these units will also have a second floor den and third floor walk-up room. Even as planned, we have serious concerns about the effect on surface streams, ground water and water resources for such a large system. The potential that the proposed system can be significantly overloaded makes it a serious hazard.

The site is a wooded area with significant wetlands just down the street from the Pepperell Springs land. The proposed high density development will destroy a precious wildlife habitat that shelters a wide variety of transient and indigenous species. Recent sightings in the area include fox, skunk, woodchucks, fisher, moose, deer, porcupines,

black bears, beaver, coyotes, turkey flocks, red, gray and flying squirrels, raccoons, feral cats, owls, hawks, vultures, a rich variety of song birds, and a host of other species that are not often observed. The area is a known and documented habitat for endangered species.

This proposal does not make sense for the area, and it does not make sense for intended occupants as an affordable housing solution. Is this smart growth? No, it is simply an opportunistic attempt to exploit a state law for profit, leaving the new residents, current residents and the Town holding the bag for years to come. We are 100% opposed to this development as it has been proposed.

We ask that our Zoning Board of Appeals consider this proposal very carefully and very thoroughly, and use every legal and technical means at your disposal to deny this application and to ensure that your denial will be upheld on appeal.

### *Specific Questions and Comments*

What procedures can be put in place so that all public documents, submittals, meeting minutes and so forth on this matter can be readily made available for public dissemination?

What does the ZBA intend to do to obtain qualified, unbiased technical expertise and assistance for evaluating this application?

Applicant states (p. 6) that gas lines will be provided to each unit. The Architectural Plans (Exhibit I) show zero clearance gas fireplaces. Is some type of gas storage facility being proposed?

It is proposed that a Condominium Association will conduct maintenance of the Project. What assurances can be required that this association will in fact comply with its obligations, and not default either technically or financially? Will these financial obligations be sustainable 5, 10 or 30 years down the road?

The application states “The lighting of the driveways and parking lots will also be the responsibility of the Association”.

What parking lots are being proposed?

Lighting for such a dense development could potentially have a severe adverse impact on abutters and be objectionable.

Re: Traffic impact: The application states “No significant impact to the current level of service existing on Bayberry Street is anticipated”. There are currently 26 homes on Bayberry Street. Bayberry Estates proposes to add an additional 44 housing units, funneling out onto the street from a single driveway. Traffic on this street will be nearly **tripled** if not more. This is clearly significant.

Site plans (Exhibit F) show Bayberry Street being widened from the proposed entrance to Heald Street. If “no significant impact is anticipated”, why is this widening proposed?

Bayberry Street has significant sharp slopes, up and down, off the sides of the road. How will widening be accomplished within the existing right-of-way, or is land taking anticipated? Abutters are concerned about road cuts or fills affecting their property, runoff, erosion and loss of shade trees.

Between Heald Street and the proposed entrance, there are two significant blind spots caused by hills. Widening Bayberry will not have any effect on these traffic hazards.

There is no storm drain system in the area at all. Given the slope and orientation of Bayberry, widening this portion of the street would be creating a sluiceway to flush all road salt and contaminants right down into Heald Pond.

Widening this portion of Bayberry Street directs traffic out to Heald Street. In addition to the hazards of normal driving, Heald Street is often impassable due to winter snow and ice, and to flooding at the dam during other times of the year. Current residents of Bayberry Street simply go the other way out to Chestnut Street. New residents will quickly learn to do the same. If widening Bayberry Street is truly required, the full length from Heald to Chestnut will need to be widened.

Traffic accidents on Heald and West Streets from 2003 through March 9, 2006 are listed by date in the following table:

<b>Year</b>	<b>Heald Street (Date of Accident)</b>	<b>Year</b>	<b>West Street (Date of Accident)</b>
2003	3-13-03 3-13-03 3-13-03 3-22-03 5-13-03 6-17-03 7-23-03 10-25-03 12-8-03 <b>TOTAL 9</b>	2003	2-9-03        <b>TOTAL 1</b>
2004	2-2-04 2-6-04 5-29-04 8-23-04 11-21-04 12-12-04 <b>TOTAL 6</b>	2004	1-15-04 1-17-04 1-29-04 2-7-04 4-21-04 6-12-04 11-12-04 11-19-04 12-15-04 <b>TOTAL 9</b>

2005	2-10-05 2-10-05 12-18-05	2005	3-8-05 4-12-05 11-11-05 11-25-05
	<b>TOTAL 3</b>		<b>TOTAL 4</b>
2006	1-17-06 2-12-06	2006	
	<b>TOTAL 2</b>		
<b>TOTAL</b>	<b>20</b>	<b>TOTAL</b>	<b>14</b>

Source: Pepperell Police Department 3/9/2006

### Facts and Assumptions

- ⇒ **FACT:** The most narrow point on Heald Street is located half way up the hill from the pond. The width is exactly 17.5 ft. (two-way traffic at this point is extremely tight even for two small cars). Two-way traffic involving trucks is nearly impossible. The steep grade coupled with the sharp turn near the Heald Pond dam has contributed to numerous recorded traffic accidents.
- ⇒ **FACT:** Access up Heald Street from the pond during the winter season is extremely treacherous. Seventy nine percent (79%) of all reported traffic accidents occurred during the winter months (Oct – Mar)
- ⇒ **FACT:** Access to Bayberry Estates site is directly off Bayberry St. Primary access to Bayberry Street will be Heald St. The adequacy of Heald Street serving the site raises many safety concerns regarding motor vehicle and pedestrian traffic.
- ⇒ **ASSUMPTION:** Phase 1 of the Bayberry project includes 44 units. Assume 2 cars/unit and 1 round trip each day = 88 additional round trips/day thereby increasing the opportunities for traffic accidents and also increasing the risk to the public safety. Additional cars per unit, visitors and service vehicles, and peaks in road use are factors that further increase the risk of death or serious injury due to traffic overloading.
- ⇒ **ASSUMPTION:** The proposed widening of Bayberry Street by the developer serves little to no purpose since the primary access to Bayberry Street is Heald Street.

Re: Traffic Consultant. We request that the town retain its own independent traffic consultant, and that an extensive, detailed traffic study of the impact of this proposed development be performed. Recently, a simple 2-day count of cars passing a single point on Bayberry Street was done. We hope that is not considered a traffic study.

Contrary to the application's directions to the site via Park and Oak Hill Streets, we are all very aware that the principal access is via Heald Street. We are also very aware that Heald Street is one of the most hazardous streets in town, with hills, sharp turns, and numerous blind spots along its length. The intersection of Bayberry and Heald is very dangerous – there are blind spots in all three directions. The slope of Heald Street at the intersection, and the angle of the

intersection, mean that you cannot turn onto Bayberry from Heald without swinging wide into potentially oncoming traffic that you cannot see.

Hills on Bayberry between the proposed entrance and Heald Street give severely restricted sight distance in two locations. There are other points of restricted vision in the stretch in the other direction out to Chestnut Street, and vision of oncoming traffic at that intersection is limited as well.

Demographics of the expected new residents must also be considered. Homes with young children, teenagers and young adults will place a far greater burden on local roads than a retirement community.

A traffic study is needed, and it must be detailed and extensive. All routes from this proposed development to Route 119, Route 113 and Hollis Street must be studied, and potential traffic hazards assessed. The risk of death or serious injury demands that we can expect nothing less.

Re: driveways and on site parking. Each unit will have its own private driveway with a one-car garage and an outside parking space. Exhibit N shows a typical driveway configuration that is inconsistent with the Architectural Plans in Exhibit I. If the Architectural Plans are correct, driveway paving to the proposed parking will cover substantially all the front yard area of each unit.

Re: Archaeological Significance. The site contains numerous artifacts of apparent Native American origin (representative photographs are attached). These include stacked stones, turtle representations, stone alignments, perched stones, stone piles, stone grinding bowls and wedged split stones. These artifacts have been viewed by members of the Pepperell Historical Commission, Concord Historical Commission, New England Antiquities Research Association and Narragansett Tribal Historic Preservation Office. These artifacts are an important part of our town's history and heritage. A detailed survey and study to determine their extent on the site and their significance should be required before these artifacts are disturbed or destroyed.

Re: Construction Impacts. Routing of construction vehicles, hours of operation, and so forth will need to be monitored and controlled very carefully. Significant traffic impacts from just this phase are likely. Potential damage to the Heald Street dam needs to be considered.

The application states that this project will help the town to fulfill its duty to provide affordable housing. We suggest that the applicant join with us in fulfilling this duty by increasing the number of affordable units in this development.

Re: Affordable Units. There are questions about the marketability of both the market rate and affordable units in this remote area. There has been substantial discussion about the market analysis for these units - concern that realistic comparables have not been used, coupled with concern about the current outlook for the real estate market. It has been

noted that Mass Housing will only grant a final approval if marketability is firmly established using comparable MLS listings. Will our ZBA have any approval authority over that final market analysis?

What happens if an affordable unit remains unsold for an extended period of time? What is the time period that they remain “affordable”? If they can revert to market rate down the road, the vicious cycle of needing more affordable units just perpetuates itself.

MassHousing Guidelines state that the affordable housing units must contain a variety of bedroom sizes and unit styles. How will that be accomplished in this proposed development?

Re: Preliminary Construction Budget. The preliminary construction budget lacks any detail for even a cursory understanding or evaluation. How will the town monitor and verify these costs during the development stage? How is the project to be run to prevent passed-through profits being labeled as ‘expenses’?

Re: Site Acquisition Costs. With some digging, some details about site acquisition costs can be uncovered.

Site acquisition costs are shown in the application as \$399,000 which includes carrying costs of \$49,000 for a two year period. That indicates land purchase costs of \$350,000 which can be attributed to two separate transactions of \$233,333.34 and \$116,666.66 for four (4) parcels of land. That second transaction of \$116,666.66 appears to be incorrectly recorded in the Registry of Deeds as \$166,666.66. The four parcels of land are two between Bayberry and Ashley Streets, and two others in the area of West and Harbor Streets. Yet the full acquisition cost of \$350,000 for all four parcels is included in this project’s budget. Something is not right.

One, or perhaps both, of the two parcels actually off Bayberry Street were subdivided to create four (4) fully approved frontage lots on Bayberry Street, and these were sold for a total of \$604,500, yielding a profit on land transactions of \$254,500, yet the original purchase price of \$350,000 is still included in the budget. Something is very not right.

It appears that, on land alone, the developer has gained a substantial profit beyond that indicated in the application to the state. This reduces the paper profit on the 40B application which further reduces the ability of the town to apply conditions that might be considered to make the project ‘uneconomic’.

We understand that 4 custom homes in the \$470K - \$530K price range were constructed by others on these lots and then sold. The buyers were told that a couple of comparable custom homes would be constructed on the property behind them, and that one of the 40’ access strips along side their lots would be used for a private driveway. They were totally

unaware that a high density complex of duplex homes was planned. They are currently unaware that more than one of these access strips is likely to be required for adequate Fire Department access.

Re: Development Site. The site plans show two parcels located between Ashley and Bayberry containing 46.52 acres (10.11 and 36.41) – unclear whether these numbers are before or after the frontage lots were split off. A portion of these two parcels is marked showing Limit of Project Area = 19.85 acres. One would assume then that the remainder of the two parcels, something like 26.67 acres, is not part of this project. However, the plans show an “emergency access gravel road” extending outside the bounds of the project area, and crossing over property at 7 Ashley Street.

Who will be responsible for maintaining that access road? It will have to be plowed and otherwise made passable at all times of the year. Will the condominium association be responsible?

If the limit of the project area is the 19.85 acres as shown, why is any construction proposed or to be permitted outside that limit? Would this project be acceptable without that gravel access road?

Does the easement across 7 Ashley from the back land actually exist and is it a town approved easement?

Does the applicant, Bayberry Enterprise Trust, actually own 7 Ashley Street? The deed is in the name of Richard Morello. Is that grounds to disqualify the application?

If the gravel road out to Ashley is required as part of this project, then the project area is in fact using a larger portion of the full 46.52 acres. The question then is why are the 22 buildings being so densely compacted.

The parcel at 7 Ashley Street was not specified in the “Site Eligibility Letter” from Mass Housing. Is it an integral part of the submission? If so, why was it not included with submissions made to the Commonwealth?

What exactly is intended for the remaining open portions of this land?

The plans show three large detention ponds located so close to proposed buildings that they will be unavoidable by young children playing outside. Local vernal pools have been known to fill up to 3 or 4 feet during heavy or prolonged rains, and these detention ponds could present a significant hazard to visitors or residents of these units.

The 22 buildings appear to be served by approximately 1800’ of a gravity flow sewer line to a large tank and pump chamber, then a pumped line of approximately 2000’ to the leaching beds. We understand the area is on a fault line and there are occasional tremors. That in turn gives us very serious concerns about the long term integrity of such a long

pipe line carrying septic waste. An undetected underground leak or rupture would have disastrous consequences.

Typically, a septic system serving only a single residence would have a 1500 gallon septic tank. For 44 units then the expected storage capacity would be  $44 \times 1500 = 66,000$  gallons. The single tank proposed of 20,000 gallons would seem to be seriously under-sized.

The plans indicate a pump chamber to force waste up to the leach fields. Exactly how will this system function during times of power outages while we are waiting for road crews to be dispatched from Canada to restore power? Power failures and under-sized storage capacity, coupled with the fact these 44 units will still have running water, indicate potentially catastrophic consequences. The potential for disposal of hazardous chemicals in the septic system adds yet another dimension to the problem.

Downstream abutters and neighbors have serious concerns about the possible negative impact on well water and wetlands on their property and in the area, beyond the effects of the sewage disposal system planned. Fertilizers and chemicals for maintenance of landscaping, salt and chemicals for snow and ice control in winter, especially with large paved areas, and alteration of the natural water table are all sources of potential damage.

The applicant has request waivers with respect to erosion control, soil removal and site plan review. Perhaps we do not understand the significance of these requests. They would appear to remove important local oversight, and we would like an explanation of the implications of these requests.

The applicant has requested a waiver to allow for a sign for the project that is greater in size than allowed in a residence district. We object to any waiver of our sign bylaw.

What local entity in town will ensure that all required local, state and federal regulations are complied with, all required permits are applied for, approvals not required are verified, and all required approvals have been properly obtained?

We understand an Affordable Housing Plan would help the town work with 40B developers to locate 40B developments in suitable areas. The Chapter 40B law was passed in 1969. Could the Board explain why Pepperell did not develop an affordable housing plan years ago.

In closing, we cannot stress enough how dangerous Heald Street can be. The curves and hill around the pond, the bend at the Reese house and the hill at Aubin's are only a few examples of some very treacherous sections. The new guard rail at the pond lasted about one week before it was smashed. There have been numerous accidents and many of us have had terrifyingly close encounters.

Again, we ask that our Zoning Board of Appeals consider this proposal very carefully and very thoroughly, and use every legal and technical means at your disposal to deny this application and to ensure that your denial will be upheld on appeal.

Thank you.

Sincerely,

156 Residents of Pepperell

Attachments:

- (1) Signatures of 156 Residents of Pepperell (6 pages)
- (2) Representative Photographs of Native American Artifacts (2 pages)

1) Bill & Linda Clark

16) Alexander Farguhanson

2) Susan Wilcox

17) Adrienne C. Adams

3) Beverly Davis

18) Oliver E. LaMue

4) ~~Robert J. [unclear]~~

19) ~~[unclear]~~

5) ~~John J. [unclear]~~

20) Jeanne Nevada

6) Bruce [unclear]

21) Scott Walker

7) Deborah O'Connor

22) Kevin D. Arsenault

8) Allen [unclear]

23) David [unclear]

9) James M. [unclear]

24) Wigh. Brune

10) Deborah Dalton

25) Richard W. [unclear]

11) [unclear]

26) Bonnie [unclear]

12) [unclear]

27) Shawn + Colette Murrin

13) Steve & Diane

28) RAY & KELLY UPTON

14) Joan Edwards

29) Terry Fontana

15) Bruce [unclear]

30) Richard J. [unclear]

1) Richard Potts	16) Ken Taylor
2) Wayne Potts	17) Jan M. Vandelder
3) Joyce C. Auger	18) Pramada Paedel
4) <del>Michael P</del>	19) <del>Bob Mangro</del>
5) Christine Westberg	20) <del>Bob Mangro</del>
6) <del>Michael P</del>	21) <del>Bob Mangro</del>
7) Tony A. Rona	22) Kent Mann
8) Russell Allen	23) Brenda Marciniak
9) Sue Ann Maynes	24) Sally Popula
10) Paul A. Ewert	25) Jimmy O'Connell
11) <del>Paul A. Ewert</del>	26) Erlene O'Connell
12) Alex Cooper	27) Amy Bon
13) <del>Black L...</del>	28) Bill Clark
14) <del>John T. Johnson</del>	29) Colleen White
15) Joanne Ellentaylor	30) Patricia M. Franklin

- |                                   |                              |
|-----------------------------------|------------------------------|
| 1) <i>Suzanne Thoma</i>           | 16) <i>Catherine Madigan</i> |
| 2) <i>David Pimen</i>             | 17) <i>Phil W. Long</i>      |
| 3) <i>Cheryl McMahon</i>          | 18) <i>Linda Mangin</i>      |
| 4) <i>Derek McMahon</i>           | 19) <i>Laura Gagnola</i>     |
| 5) <i>Cara McMahon</i>            | 20) <i>Bradford Cooper</i>   |
| 6) <i>David Pease</i>             | 21) <i>James A. Calluck</i>  |
| 7) <i>Deborah + Anthony Celli</i> | 22) <i>Deborah Ceb</i>       |
| 8) <i>Donna + Mike Gendreau</i>   | 23) <i>Richard Casj</i>      |
| 9) <i>Donald E. McQuinn</i>       | 24) <i>Timothy Hart</i>      |
| 10) <i>Bill Cava</i>              | 25) <i>Del We</i>            |
| 11) <i>Stephen P. Quombly</i>     | 26) <i>Paul Whelan</i>       |
| 12) <i>Lucas Kuchny</i>           | 27) <i>Donna Hertler</i>     |
| 13) <i>Virginia Malara</i>        | 28) <i>Lori Purcell</i>      |
| 14) <i>Christine Idrey</i>        | 29) <i>Frances Purcell</i>   |
| 15) <i>Amy Blake</i>              | 30) <i>Fritz O'Brien</i>     |

1) Kathina J. Bell

16) Alyssa O'Callaghan

2) ~~Bell~~

17) Brian McClure

3) Linda Dubois

18) ~~John~~

4) Gemine Kraker

19) Norm J.

5) John A. Kim

20) Teresa Kang

6) Linda Jordan

21) Dawn H. Hillier

7) Lucille P. Necker

22) Betty C.

8) Mary Lou Dermott

23) Bob

9) Jim Y.

24) Cyndy Kelly

10) Nadia B. Hague

25) Dorenda Auth

11) Kelly Upton

26) Dept. C. Cook

12) Paul F. Keller

27)

13) Necha O'Callaghan

28)

14) Britanny O'Callaghan

29)

15) Robin Accomazzo

30)

1) Mary C Flaherty

2) S. P. [unclear]

3) William A. [unclear]

4) Barbara Z. Stronsted

5) [unclear]

6) Hatcher Needham

7) B. I. S. L. HURST

8) Samir Nelson

9) W. D. M.

10) Mike Jannick

11) Rita Casey

12) [unclear]

13) [unclear]

14) Swamari Proctor

15) M. Proctor

16) Megan Proctor

17) Judith M. [unclear]

18) [unclear]

19) Rebecca Watkins

20) Janet Glenn

21) Rynas Mononiti

22) [unclear]

23) [unclear]

24) Cynthia M. [unclear]

25)

26)

27)

28)

29)

30)

1) Christine M. Yennaco

16)

2) Suzanne Denis

17)

3) Chiffon

18)

4) Terry Lapointe

19)

5) Frank J. Lepke

20)

6) Ellen Mancera

21)

7) Douglas

22)

8) Bruce Hepath

23)

9) Dianne Kettle

24)

10) Harold Chase

25)

11)

26)

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27)

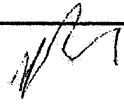
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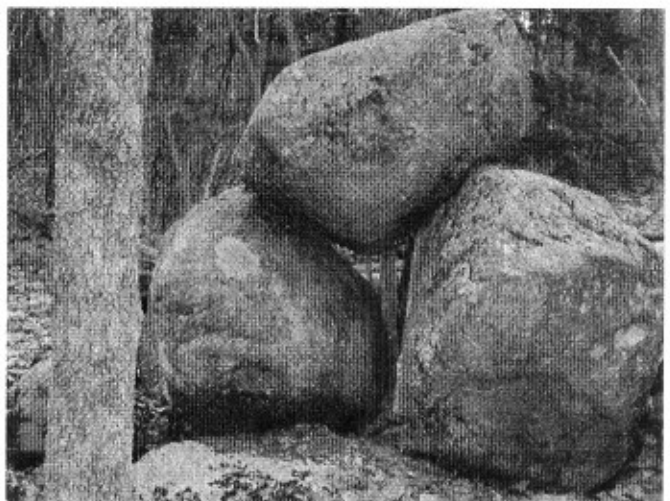
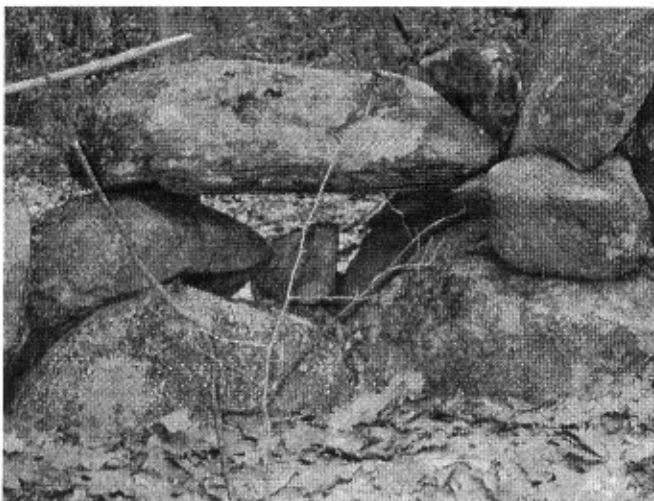
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Representative Photographs of Native American Artifacts (Page 1 of 2)



Representative Photographs of Native American Artifacts (Page 2 of 2)

