

Received 7/12/21

7/14/21

I would like to know what the plan for water management says regarding the south west draining through a swale that heads towards the wetlands, which already has quite a flooding issue.

This is where my house is. Currently, I see 4 catch basins that eventually end, leading to quite a slope that ends up in my yard.

635 Wallingford Rd  
- 2 Easements - 649 + 631  
for driveway.

# Town of Cheshire

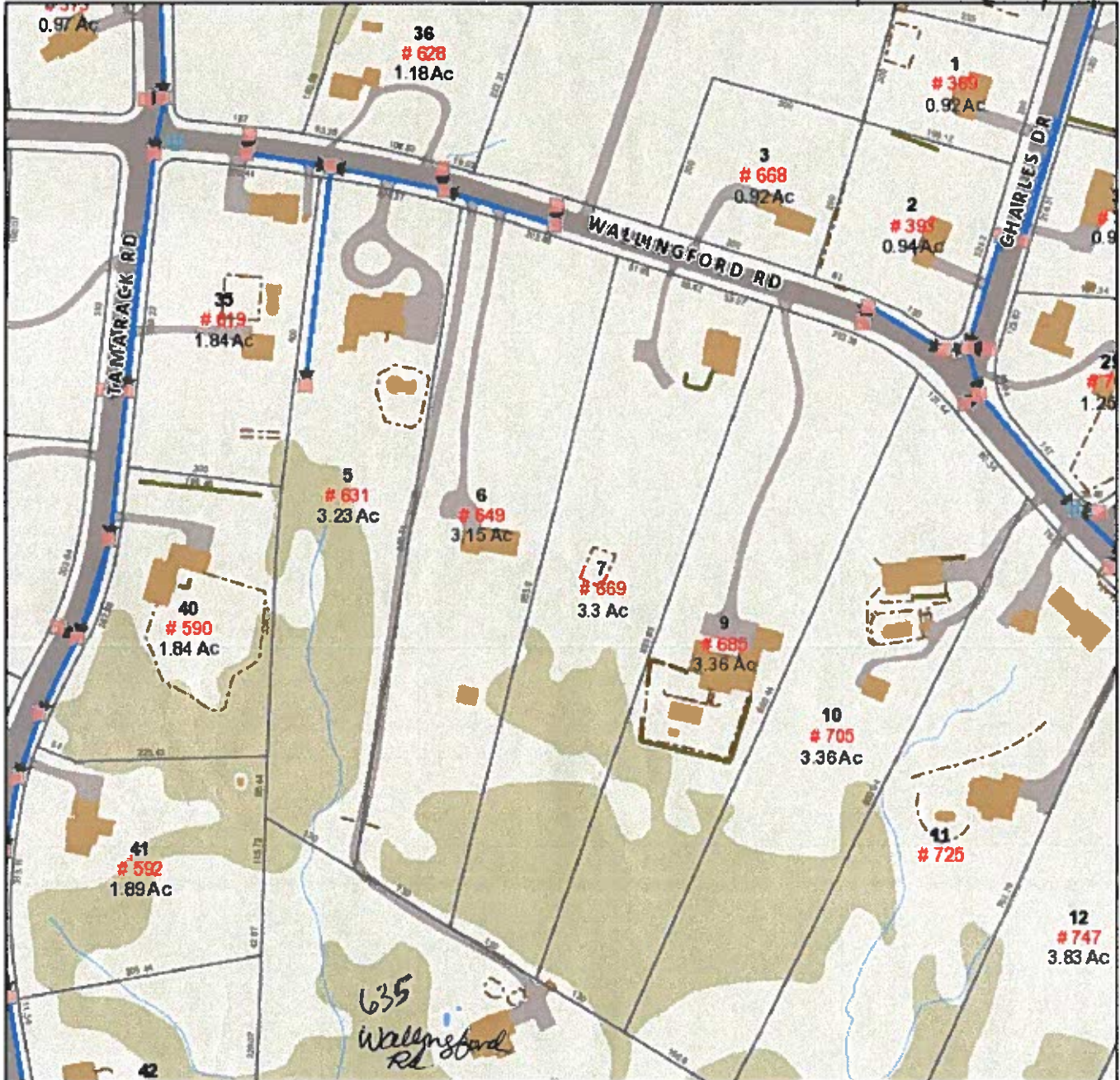
Geographic Information System (GIS)



635 Wallingford Rd.

Received 7/12/21

Date Printed: 7/11/2021



Laura + Troy Clark

## MAP DISCLAIMER - NOTICE OF LIABILITY

This map is for assessment purposes only. It is not for legal description or conveyances. All information is subject to verification by any user. The Town of Cheshire and its mapping contractors assume no legal responsibility for the information contained herein.

Approximate Scale: 1 inch = 200 feet

0 200 Feet



*Received 7/12/21*

(/) U.S. Department of  
Housing and Urban  
Development

Home (/) / Program Offices  
(/program\_offices) / FHEO Home  
(/program\_offices/fair\_housing\_equal\_opp)  
/ The Fair Housing Act: Housing for  
Older Persons

## THE FAIR HOUSING ACT: HOUSING FOR OLDER PERSONS

The Fair Housing Act prohibits discrimination because of race, color, national origin, religion, sex, disability or familial status (families with children under the age of 18; pregnant women and people in the process of obtaining custody of children under 18, or persons with written permission of the parent or legal guardian). However, it contains a limited exemption from the familial status prohibitions for housing for older persons.

What Are the Fair Housing Act's  
"Housing for Older Persons"  
Exemptions?

How to Qualify for the "55 or Older"  
Exemption

File a Complaint

Provide Feedback

## Additional Resources

### What Are the Fair Housing Act's "Housing for Older Persons" Exemptions?

The Fair Housing Act specifically exempts three types of housing for older persons from liability for familial status discrimination. Such exempt housing facilities or communities can lawfully refuse to sell or rent dwellings to families with minor children *only* if they qualify for the exemption. In order to qualify for the "housing for older persons" exemption, a facility or community must comply with all the requirements of the exemption.

The Housing for Older Persons exemptions apply to the following housing:

1. Provided under any state or federal program that the Secretary of HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program);
2. Intended for, and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by persons 55 years of age or older.

The 55 or older exemption is the most common of the three.

**Provide Feedback**



## How to Qualify for the "55 or Older" Exemption

In order to qualify for the "55 or older" housing exemption, a facility or community must satisfy *each* of the following requirements:

- At least 80 percent of the units must have at least one occupant who is 55 years of age or older; and
- The facility or community must publish and adhere to policies and procedures that demonstrate the intent to operate as "55 or older" housing; and
- The facility or community must comply with HUD's regulatory requirements for age verification of residents.

The "housing for older persons" exemption does not protect such housing facilities or communities from liability for housing discrimination because of race, color, religion, sex, disability, or national origin.

## File a Complaint

If you think your fair housing rights have been violated, you may file a complaint

(/program\_offices/fair\_housing\_equal\_opp/online-complaint) with HUD or contact

(/program\_offices/fair\_housing\_equal\_opp/contact\_fheo) your local FHEO office.

## Provide Feedback

## Additional Resources

HOPA Regulations at 24 C.F.R. §§  
100.300 – 100.308  
(<https://www.gpo.gov/fdsys/pkg/CFR-2017-title24-vol1/xml/CFR-2017-title24-vol1-part100-subpartE.xml>)

HOPA Questions and Answers  
([/sites/documents/DOC\\_7769.PDF](/sites/documents/DOC_7769.PDF))

FHEO's Disability Page  
([/program\\_offices/fair\\_housing\\_equal\\_opp/disability\\_main](/program_offices/fair_housing_equal_opp/disability_main))

Pet Ownership for the Elderly  
and Persons with Disabilities;  
Final Rule  
(<https://www.federalregister.gov/documents/2008/10/27/E8-25474/pet-ownership-for-the-elderly-and-persons-with-disabilities>)

Back to FHEO Home  
([/program\\_offices/fair\\_housing\\_equal\\_opp](/program_offices/fair_housing_equal_opp))

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## Agency

### Resources

U.S. Department of  
Housing and Urban Development

451 7th Street, S.W., Washington, DC 20410  
T: 202-708-1112  
TTY: 202-708-1455

Find a HUD office near you (</localoffices>)

**Provide Feedback**



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**Provide Feedback**

Received 7/12/21

IN RE: ) TOWN OF CHESHIRE  
WHISPERING OAKS )  
648 WALLINGFORD ROAD, CHESHIRE, CT ) PLANNING AND ZONING BOARD  
)  
) JULY 12, 2021

**MEMORANDUM IN LAW IN OPPOSITION TO THE ZONE CHANGE APPLICATION  
REGARDING 648 WALLINGFORD ROAD FROM R-40 TO ARPRD**

The Undersigned, acting both in an individual capacity as an affected fee-owner of the proposed change and in a representative capacity for other likewise affected fee owners respectfully submits the instant Memorandum in Opposition to the Amended Application for Zone Change sought by Mark Lovely (hereinafter, "Applicant") as developer on behalf of the property owners of 648 Wallingford Road, Cheshire. In opposition thereto, the undersigned respectfully submits the following:

**Introduction**

The Applicant has submitted a proposal to spot change the zoning of a parcel of land that currently sits in an R-40 zone, and directly borders on an R-80 zone to a zoning designation labeled ARPRD or Age Restricted Planned Residential Development. The accompanying revised plans call for the development of 34 single family residences (SFRs), all of which being approximately 1700 square feet in size, and all of which contain three bedrooms. The plans call for the SFRs to be placed between 15 and 22 feet from each other, and less than 40 feet from existing property lines on the east and 26 feet on the west. The development will be visible from Wallingford Road. The 34 SFRs will be on a portion of the land which is approximately 9.66 acres in area meaning the density of the development is nearly four housing units per acre.

The Applicant has represented to the Commission that no children will live in any of the units and that no one under the age of 55 is able to live in the units. The Applicant has compared, by way the submitted traffic study, the initial 40 unit AR development to a traditional 40 unit SFR development. The Applicant has submitted a market study which represents that all of the properties will be sold. However,



the Applicant has not met the standard for showing that a zone change of this type in this situation is warranted. Based on the foregoing and the below, the zone change application is properly denied by this honorable Commission.

**The Zone Change Application is Impermissible Spot Zoning.**

The Applicant has requested that the parcel of land in question be changed from R-40 to ARPRD. This constitutes Spot Zoning. "Spot zoning has been defined as 'a provision in a zoning plan or a modification in such a plan, which affects only the use of a particular piece of property or a small group of adjoining properties and is not related to the general plan for the community as a whole.' Maltbie, 'The Legal Background of Zoning,' 22 Conn. B.J., pp. 2, 5.' *Kimball v. Court of Common Council* \* \* \* (148 Conn. 97, 102, 167 A.2d 706). Spot zoning is an 'attempt to wrench a single small lot from its environment and give it a new rating that disturbs the tenor of the neighborhood.' *Linden Methodist Episcopal Church v. Linden*, 113 N.J.L. 188, 191, 173 A. 593 (cited with approval in *Eden v. Town Plan & Zoning Commission*, 139 Conn. 59, 63, 89 A.2d 746). Two elements must coexist in order to constitute spot zoning. First, there must be a change in zone applicable only to a small area. Second, this change must be out of harmony with the comprehensive plan for the good of the community as a whole. *Guerriero v. Galasso*, 144 Conn. 600, 607, 136 A.2d 497.' *Metropolitan Homes, Inc. v. Town Plan & Zoning Commission*, 152 Conn. 7, 12, 202 A.2d 241.

Here, the two stated elements of spot zoning exist. First, the change in zoning is applicable to a small area. This application concerns one parcel of land. While the overall acreage of the parcel is about 24 acres, it is still one parcel, which is a small area. Secondly, the change is out of harmony with the comprehensive plan for the good of the community as a whole.

As the Commission knows, the Comprehensive Plan for the Town of Cheshire is found in Article 1 of the Zoning Regulations and states, as is relevant to the Application here,

11.1: To guide the future development of the Town in accordance with a comprehensive plan...with due consideration to a) the particular suitability of each of these areas for various use and b) existing conditions and trends in population, economic activity, land use and building development.

11.2 To encourage an orderly pattern of residential development in the Town, in order to facilitate the adequate provision of schools and other public services on an economical basis, and to avoid the disorderly and blighting pattern of unguided development.

11.5 To protect the value of land and the value of buildings appropriate to the various districts established by these Regulations and to protect and improve the general visual appearance of the Town.

As Cheshire currently already has the highest number of ARPRD units per capita in New Haven County, the approval of this development runs counter to the Comprehensive plan.

Regarding 11.1, this proposed area is in R-40 zoned land, which means one SRF per building acre. However this parcel is bordered by Wallingford Road on the South. On the other side of Wallingford Road is R-80 zoned land, which means one SFR for every 4 building acres. This development will have ten times the building density of its neighbors to the direct south and nearly four times the density of its immediate neighbors to the east and west. From a housing density standpoint alone, this development pays no service to the consideration of the surrounding area. Were the Applicant to propose a plan in conformity of R-40 zoning, there would be no issue, however from a density standpoint, this development runs counter to the Comprehensive Plan.

Regarding 11.2, This Honorable Commission has recently approved over 100 units of AR housing on the north end of town. The approval of an additional 34 units of ARPRD housing, within a mile of another ARPD development, constitutes unguided development and should not be allowed.

Section 11.5 imposes on the Commission a duty to protect the value of the land and buildings in the various zones and to protect the general visual appearance of the Town. The approval of this development would do the opposite. The placement of 34 high-density units where one exists would have

a negative effect on surrounding property values, and as the development would be visible from the road, would also have a negative effect on the appearance of the town.

Based on the foregoing, the Applicant's submission is considered Spot Zoning and should be denied by this Commission.

**The Requirements of Section 43.4.4 of the Zoning Regulations Have not Been Met.**

Cheshire Zoning Regulations set forth what an applicant needs to do in order to ensure that a zone be approved for an ARPRD. Such a showing has not been made. Importantly, Section 43.4.4(F) requires that a need exists in the community for a different type of housing unit than is allowed under the base zone. This requirement has not, and cannot be met. The size of the SFRs being proposed by Applicant are virtually identical to the surrounding homes in size, however the only reason this is being sought is to increase the allowed density on the parcel. There is nothing preventing the Applicant from building these exact homes with a density sufficient to meet the currently existing R-40 zone

Section 43.4.4(G) provides, "The development and design of the ARPRD will not have an adverse effect on surrounding properties, will be in harmony with the neighborhood, and will not have an adverse effect on property values in the area. The proposed development will not create an undue concentration of PRD's, particularly ARPRD's". This requirement likewise has not and cannot be met by the Applicant. As stated, the density of the units proposed is completely out of character with the surrounding area and will result in the diminution of value of the surrounding area. As stated, there is already an ARPRD less than one mile from the current site, which will cause an undue concentration of ARPRDs in the area.

Further, the Applicant has failed to show that no congestion on the streets surrounding the site will result from the ARPRD. The applicant has agreed to perform an additional traffic study, however no traffic study has yet been provided. There has been no showing that water problems will not be created offsite.

For this particular development, the requirements needed for the conversion of this R-40 parcel to ARPRD simply have not and cannot be met.

**Those Under the Age of 55 Cannot be Prevented From Living in an ARPRD Zone Under Federal Law.**

The Applicant has testified, and supplied exhibits to the Commission showing that no one under the age of 55 will be allowed to live on one of the properties. This is outside of the Applicant's power to state or guarantee. The Fair Housing Act of 1972 made it illegal to discriminate in housing decisions on the basis of *inter alia*, age. This meant that properties could not be sold exclusively to those of a certain age and it was in fact illegal to prevent a younger person from buying one. This was modified by the Housing for Older Persons Act of 1995 (HOPA) which clarified some of the provisions of the Fair Housing Act. HOPA enacted an exception to the FHA which set forth a bright line rule as to what qualified as housing for older persons.

HOPA requires that, in order to be considered an age restricted development, that one person must be over the age of 55 in eighty percent of the dwelling units. This means that the only age restrictions, by federal discrimination law, that there are allowed to be on this development is that one person over the age of 55 must live in 27 of the 34 units. There are no age restrictions in 7 of the 34 units and there is no prohibition, nor can there be, against children, teenagers, 20m 30 or 40 somethings living in any of those properties. As such, there is absolutely no benefit, compelling reason, or public directive which would tend to support the approval of this application.

**Conclusion.**

Based upon the foregoing, the undersigned respectfully requests that this Honorable Commission deny the Application for change of zoning related to 648 Wallingford Road as it is not in line with the comprehensive plan of the Town of Cheshire, the requirements needed for the approval of the application have not and can not be met, and there is simply no need for the Commission to deviate from the set zoning rules and regulations that have been established according to the Plan for this town. As stated by

one of the Commissioners in a prior hearing, "These rules are here for a reason." Approving this application when there is no legal, logical or compelling reason to do so would render the zoning rules and regulations meaningless and vitiate all the hard work the commissioners do for this town.

Respectfully Submitted.

A handwritten signature in blue ink, appearing to read 'Robert J. Wichowski', is written over a horizontal line.

Robert J. Wichowski, Esq.  
Bendett & McHugh, PC  
270 Farmington Ave  
Farmington CT 06032

Fee Owner of:  
685 Wallingford Road  
Cheshire, CT 06410



Name	City	State	Postal Cod	Country	Signed On
Kerry Wichowski	Cheshire	CT	US		5/29/2021
Brooke Redmond	Cheshire	CT	6410 US		5/29/2021
Matthew Planeta	Cheshire	CT	6410 US		5/29/2021
Theresa Gumpert	Cheshire	CT	6410 US		5/29/2021
Rrick Morico	Cheshire	CT	6410 US		5/29/2021
Mark Izzo	Cheshire	CT	6410 US		5/29/2021
Lisa Plumley	Cheshire	CT	6410 US		5/29/2021
Kim Morico	Cheshire	CT	6410 US		5/29/2021
Chris Plumley	Cheshire	CT	6410 US		5/29/2021
Michelle Solis	Cheshire	CT	6410 US		5/30/2021
Wesley McIntire	Cheshire	CT	6410 US		5/30/2021
John Pagano	Cheshire	CT	6410 US		5/30/2021
Adam danielson	wallingford	CT	6492 US		5/30/2021
Joanne Newton	Cheshire	CT	6410 US		5/30/2021
Shelly Fisher-Parsley	Cheshire	CT	6410 US		5/30/2021
Lisa McNabb	Cheshire	CT	6410 US		5/30/2021
Nicole Smith	Cheshire	CT	6410 US		5/30/2021
Laura Clark	Cheshire, CT	CT	6410 US		5/30/2021
Daniel Smith	Cheshire	CT	6410 US		5/30/2021
Paul DeFelice	Hollywood		33024 US		5/30/2021
Jill Feinberg	Cheshire	CT	6410 US		5/30/2021
Christine Morico	Cheshire	CT	6410 US		5/30/2021
Kelsey Davis	Cheshire	CT	6410 US		5/30/2021
Linda Kelly	Mansfield	MA	2048 US		5/30/2021
Megan Defelice	Cheshire	CT	6410 US		5/30/2021
Ruth Koleske	Cheshire	CT	6410 US		5/30/2021
Anthony Koleske	Cheshire	CT	6410 US		5/30/2021
Sarah Pisani	Cheshire	CT	6410 US		5/30/2021
Adam Kaluba	Burleson	TX	76028 US		5/30/2021
Karla Jespersen	Cheshire	CT	6410 US		5/30/2021
Pamela Guglielmino	Cheshire	CT	6410 US		5/30/2021
Juliet Rivera	Cheshire	CT	6410 US		5/30/2021
Robert Wichowski	Cheshire	CT	6410 US		5/30/2021

Kellie Booth	Plantsville	CT	6479 US	5/31/2021
William McCarthy	Cheshire	CT	6410 US	5/31/2021
Dorothy Anthony	Cheshire	CT	6410 US	5/31/2021
Jessica Persico	Cheshire	CT	6410 US	5/31/2021
Drew Fraser	Cheshire	CT	6410 US	6/1/2021
David Schrumm	Cheshire	CT	6410 US	6/2/2021
Kimberly Shelby	Henderson		42420 US	6/2/2021
Mark Hall	Cheshire	CT	6410 US	6/2/2021
Katherine Hail	Cheshire	CT	6410 US	6/2/2021
Cheryl Guetens	Cheshire	CT	6410 US	6/2/2021
Justin Mercugliano	Millinocket	CT	6489 US	6/2/2021
Anne McNulty	Cheshire	CT	6410 US	6/2/2021
Christine Plittsley	Cheshire	CT	6410 US	6/2/2021
J Montgomery	Millford	CT	6461 US	6/2/2021
Patricia Pepe	Cheshire	CT	6410 US	6/2/2021
Linda Boulanger	Cheshire	CT	6410 US	6/3/2021
Rick Cannavaro	Cheshire	CT	6410 US	6/3/2021
Cliff Gillman	Cheshire	CT	6410 US	6/3/2021
Cameryn Guetens	Cheshire	CT	6410 US	6/3/2021
Elizabeth Alexander	Warwick	RI	2888 US	6/3/2021
Mark Alexander	Cheshire	CT	6410 US	6/3/2021
Destiny Gillman	Cheshire	CT	6410 US	6/3/2021
David Dent	Cheshire	CT	6410 US	6/3/2021
Michelle Daniels	Coventry	CT	6238 US	6/4/2021
Megan Heldgerd	Hlxson	TN	37343 US	6/4/2021
Kathy Gillman	Cheshire	CT	6410 US	6/4/2021
Kellen Murray	Westbrook	CT	6498 US	6/4/2021
Margaret Montagna	Cheshire	CT	6410 US	6/4/2021
Eric Fekete	Cheshire	CT	6410 US	6/4/2021
Occhio Orsini	Skillman	NJ	8558 US	6/5/2021
Cindy Smith	Cheshire	CT	6410 US	6/8/2021
Kirstin Avitable	Cheshire	CT	6410 US	6/9/2021
Gabriella Beisler	East Haven	CT	6513 US	6/9/2021
Candice Meyer	Cheshire	CT	6410 US	6/9/2021

Kelly Pattison	North Kingstown	RI	2852 US	6/9/2021
V MP	Cheshire	CT	6410 US	6/9/2021
Jody Daniels	Cheshire	CT	6410 US	6/9/2021
Anthony Avitable	Cheshire	CT	6410 US	6/9/2021
Linda Sheintop	Cheshire	CT	6410 US	6/9/2021
spyro kallivrousis	Cheshire	CT	6410 US	6/9/2021
Emily Trocchi	Cheshire	CT	6410 US	6/9/2021
Nancy Bergvik	Cheshire	CT	6410 US	6/9/2021
Henry Bolden	Cheshire	CT	6410 US	6/9/2021
Benjamin Shafer	Cheshire	CT	6410 US	6/9/2021
John Guglielmoni	Cheshire	CT	6410 US	6/9/2021
Donna Perazella	Cheshire	CT	6410 US	6/9/2021
Mark Rabin	Cheshire	CT	6410 US	6/9/2021
Elizabeth DePalma	West Hartford	CT	6117 US	6/9/2021
Gary Mower	Cheshire	CT	6410 US	6/9/2021
charles martin	Cheshire	CT	6410 US	6/9/2021
Traci Fanning	Cheshire	CT	6410 US	6/9/2021
Concerned Resident	Cheshire	CT	6410 US	6/9/2021
Alex Martin		US		6/9/2021
Dennise Mijangos	Jupiter		33458 US	6/9/2021
Chris Lockery	Cheshire	CT	6410 US	6/9/2021
Chery Lockery	Cheshire	CT	6410 US	6/9/2021
Steve DiSorbo	Cheshire	CT	6410 US	6/9/2021
Taryn DiSorbo	Cheshire	CT	6410 US	6/9/2021
Joseph Perazella	Cheshire	CT	6410 US	6/9/2021
Judy Rabin	Cheshire	CT	6410 US	6/9/2021
Dan Labowsky	Cheshire	CT	6410 US	6/9/2021
Michael Mongillo	Cheshire	CT	6410 US	6/9/2021
Mary Labowsky	Cheshire	CT	6410 US	6/9/2021
Graeme Scandrett	Cheshire	CT	6410 US	6/10/2021
Rebecca Scandrett	Cheshire	CT	6410 US	6/10/2021
Lule Tracey	Cheshire	CT	6410 US	6/10/2021
Christopher Tracey	Cheshire	CT	6410 US	6/10/2021
Viola Leslie-Foley	Burke		22015 US	6/10/2021

Amber Michelle	-		29150 US	6/10/2021
Kim Santino	Manchester	CT	6042 US	6/10/2021
Nicholas Cianciola	Cheshire	CT	6410 US	6/10/2021
Karen Angelo	Cheshire	CT	6410 US	6/10/2021
Raymond Angelo	Cheshire	CT	6410 US	6/10/2021
Raymond Vissat	Cheshire	CT	6410 US	6/10/2021
Brenden lee	Elk Grove Village		60007 US	6/10/2021
Leslie Vélez	West Valley City		84119 US	6/10/2021
John Ellis	Tampa		33614 US	6/10/2021
Lou LaMay	Harrisburg		17111 US	6/10/2021
Ashley Magana	Fullerton		92833 US	6/10/2021
Amire carver	detroit		48234 US	6/10/2021
Melanie Esposito	Cheshire	CT	6410 US	6/10/2021
Kimberly Christensen	Cheshire	CT	6410 US	6/10/2021
Brooklyn Barton	Southlake		76092 US	6/10/2021
Reid Richardson	Atlanta		30339 US	6/10/2021
Jennifer Allen	Indianapolis		46240 US	6/10/2021
Christian Cole	Belleville		48111 US	6/10/2021
Jennifer Tanger-King	Cheshire	CT	6410 US	6/10/2021
Andrew Sacco	Cheshire	CT	6410 US	6/11/2021
Paul Huntley	Cheshire	CT	6410 US	6/11/2021
Raymond Noonan	Cheshire	CT	6410 US	6/11/2021
Shannon Borner	Muncie		47306 US	6/11/2021
Evolet Cervantes	Dallas		75214 US	6/11/2021
Cross Kid			US	6/11/2021
Andrew Hart	Cheshire	CT	6410 US	6/11/2021
Maura Murcko	Cheshire	CT	6410 US	6/11/2021
Mary Barbosa	Boca Raton	FL	33433 US	6/11/2021
Melanie Roman	New Milford	CT	6482 US	6/11/2021
Sarah DeLing	Cheshire	CT	6410 US	6/11/2021
Sophie Yale	Cheshire	CT	6410 US	6/11/2021
Jaime Marie Pagano	Cheshire	CT	6410 US	6/11/2021
Rebecca Honjo	Cheshire	CT	6410 US	6/11/2021
Larissa Lukashenko	Cheshire	CT	6410 US	6/11/2021

Suzanne Periroth	Cheshire	CT	6410 US	6/11/2021
Laura DEGENNARO	Cheshire	CT	6410 US	6/11/2021
James Fanning	Cheshire	CT	6410 US	6/12/2021
Yasmeen Farid	Cheshire	CT	6410 US	6/12/2021
Saima Pasha	Cheshire	CT	6410 US	6/12/2021
Carlton Helming	Cheshire	CT	6410 US	6/12/2021
Mary Helming	Cheshire	CT	6410 US	6/12/2021
Arill Nyquist	Staten Island		10302 US	6/12/2021
ella dubose	Dothan		36305 US	6/12/2021
Alyssa Jimenez	Lehigh acres		33971 US	6/12/2021
Kristine Ford	New London	CT	6320 US	6/12/2021
Vaughn Ditzman	Dawsonville		30534 US	6/12/2021
Tim Maurer	Anaheim		92808 US	6/12/2021
ken eberhardt	Severna Park		21146 US	6/12/2021
Logan Sanders	Glendale		97442 US	6/12/2021
Mohammad Pasha	Cheshire	CT	6410 US	6/12/2021
Stacey Voorhees			US	6/12/2021
All Shuaebi	150 22 128 th st		11420 US	6/12/2021
Zanib Iqbal	Cheshire	CT	6410 US	6/12/2021
Ahmad Sana	Cheshire	CT	6410 US	6/12/2021
Charles Hynes	Cheshire	CT	6410 US	6/13/2021
Gregg Helming	Cheshire	CT	6410 US	6/13/2021
Somia Farid	Cheshire	CT	6410 US	6/13/2021
Fatimah Farid	New York	NY	10013 US	6/13/2021
Abdullah Choudhry	Cheshire	CT	6410 US	6/13/2021
Nicole Jeracka	Cheshire	CT	6410 US	6/13/2021
Courtney McCarthy	Cheshire	CT	6410 US	6/13/2021
Marriyah Farid	Cheshire	CT	6410 US	6/13/2021
Boris Karolicki	Cheshire	CT	6410 US	6/13/2021
Jeannette Karolicki	Cheshire	CT	6410 US	6/13/2021
Barbara Burch	Azle	TX	76020 US	6/13/2021
Jarrold Slater	Cheshire	CT	6410 US	6/13/2021
Jeffrey horowitz	Cheshire	CT	6410 US	6/13/2021
Andrea Bascetta	Cheshire	CT	6410 US	6/14/2021



Richard Bascetta	Cheshire	CT	6410 US	6/14/2021
Sara Buell	Cheshire	CT	6410 US	6/14/2021
Jeff Buell	Cheshire	CT	6410 US	6/14/2021
Collin Fanning	Cheshire	CT	6410 US	6/14/2021
Jason Como	Cheshire	CT	6410 US	6/14/2021
Cal Odermatt	Cheshire	CT	6410 US	6/14/2021
Robert Roles	Cheshire	CT	6410 US	6/14/2021
Tahir Choudhry	Cheshire	CT	6410 US	6/14/2021
Jerry O'Neill	Hamden	CT	6517 US	6/14/2021
Susan Murray	Cheshire	CT	6410 US	6/14/2021
Julie Robertson	Cheshire	CT	2891 US	6/14/2021
Diane Colechia	Cheshire	CT	6410 US	6/14/2021
Lavanya Subramani	Cheshire	CT	6410 US	6/14/2021
Kevin Murray	Manchester	CT	6040 US	6/14/2021
Beverly Petersen	Cheshire	CT	6410 US	6/14/2021
david Sheehan	Cheshire	CT	6410 US	6/14/2021
Barbara Hekeler	Cheshire	CT	6410 US	6/14/2021
Joan Perry	Cheshire	CT	6410 US	6/14/2021
Robert Thomas	Cheshire	CT	6410 US	6/14/2021
Joel Geffin	cheshire	CT	6410 US	6/14/2021
Beata Grzymala-Puka	Cheshire	CT	6410 US	6/14/2021
Jill LaMadeleine	Cheshire	CT	6410 US	6/14/2021
Samantha Hekeler	Cheshire	CT	6410 US	6/14/2021
Liam Dahlberg	Cumming	GA	30041 US	6/14/2021
James Coleman	Cheshire	CT	6410 US	6/14/2021
PATRICIA YOUNGBERG	Cheshire	CT	6410 US	6/14/2021
Lauryn Carbone	Ceahlire	CT	6410 US	6/14/2021
Susan Hummel	New Haven	CT	6513 US	6/14/2021
Ralph Carbone	Cheshire	CT	6410 US	6/14/2021
Ryan Carbone	Cheshire	CT	6410 US	6/14/2021
eileen geffin	cheshire	CT	6410 US	6/14/2021
Eric Puka	Cheshire	CT	6410 US	6/14/2021
Richard Kelly	Cheshire	CT	6410 US	6/14/2021
Sarah Fraser	Hamden	CT	6518 US	6/14/2021

Bin Zhou	Cheshire	CT	6410 US	6/14/2021
Alison Napolitano	Cheshire	CT	6410 US	6/14/2021
Jillian Moruzzi	Cheshire	CT	6410 US	6/14/2021
Lynn Moruzzi	Cheshire	CT	6410 US	6/14/2021
Chelsea Mannion	Cheshire	CT	6410 US	6/14/2021
Joseph Moruzzi	Cheshire	CT	6410 US	6/14/2021
Devin Mannion	Cheshire	CT	6410 US	6/14/2021
Lisa Splain	Cheshire	CT	6410 US	6/14/2021
Christy Chase	Cheshire	CT	6410 US	6/14/2021
Diane Taylor	Cheshire	CT	6410 US	6/14/2021
Gary Kroeber	Cheshire	CT	6410 US	6/14/2021
JOHN TAYLOR	New Britain	CT	6053 US	6/14/2021
Lisa Musto	Cheshire	CT	6410 US	6/14/2021
Olivia Watson	Cheshire	CT	6410 US	6/14/2021
Samantha Brown	Cheshire	CT	6410 US	6/14/2021
Rick Roemmele	Cheshire	CT	6410 US	6/15/2021
beth wage	cheshire	CT	6410 US	6/15/2021
Kate Sheehan	Cheshire	CT	6410 US	6/15/2021
Christine Trudel	Cheshire	CT	6410 US	6/15/2021
William Silva	Cheshire	CT	6410 US	6/15/2021
Al Harding	Cheshire	CT	6410 US	6/15/2021
Jessica Mayo	Cheshire	CT	6410 US	6/15/2021
Sue Cooper	Cheshire	CT	6410 US	6/15/2021
Adrian Solis	Cheshire	CT	6410 US	6/15/2021
Shawna Barata	Cheshire	CT	6410 US	6/15/2021
Andrew Gal	Cheshire	CT	6410 US	6/15/2021
Christina Regan	Cheshire	CT	6410 US	6/15/2021
Jessica Suomala	Las Vegas	NV	89108 US	6/15/2021
Nick Fischer	Cheshire	CT	6410 US	6/15/2021
Vinny Arana	Delray Beach	CT	33445 US	6/15/2021
Martha Ryzak	San Francisco		94134 US	6/15/2021
Jodi Attwood	Cheshire	CT	6410 US	6/15/2021
Krista Hayes	Cheshire	CT	6410 US	6/15/2021
Jacqui Trusty	Cheshire	CT	6410 US	6/15/2021

Shelby Gregorich	Cheshire	CT	6410 US	6/15/2021
Kate Enders	Cheshire	CT	6410 US	6/15/2021
Emily Scirocco	Cheshire	CT	6410 US	6/15/2021
Aidan Palmer	Rocky Hill	CT	6067 US	6/15/2021
Tanya Cobb	Alexandria		22311 US	6/15/2021
Maryam Farid	Hamden	CT	6514 US	6/15/2021
John Attwood	Cheshire	CT	6410 US	6/15/2021
Peter J Mallia	Cheshire	CT	6410 US	6/15/2021
Kathleen Nankin	Cheshire	CT	6410 US	6/15/2021
Mark Douglas	Hamden	CT	6514 US	6/15/2021
Krista Bergin	Cheshire	CT	6410 US	6/15/2021
lisa mack daly	Cheshire	CT	6410 US	6/15/2021
Richard Roemmele	Cheshire	CT	6410 US	6/15/2021
Brayden Ramsey	Nashville		37215 US	6/15/2021
Eric Andres	temecula		92592 US	6/15/2021
Sam Viles	Metairie		70002 US	6/15/2021
Alexis Solis	Anaheim	CA	92802 US	6/15/2021
Lizete Chavez	Los Angeles	CA	90001 US	6/15/2021
Mario Mora	Rialto		92376 US	6/16/2021
Yasmine Horton	Bessemer		35020 US	6/16/2021
Isabella Graham	Wentzville		63368 US	6/16/2021
Uthman Jung	Cheshire	CT	6410 US	6/16/2021
Michele Fredericks	Cheshire	CT	6410 US	6/17/2021
Celeste Mallia	Cheshire	CT	6410 US	6/17/2021
Stephen Carlan	Providence	RI	2907 US	6/18/2021
Ethan Donovan	Hamden	CT	6514 US	6/18/2021
J T	East Haven	CT	6512 US	6/18/2021
Robert Miller	North Hollywood	CA	91606 US	6/18/2021
Karl Ehrenfels	Cheshire	CT	6410 US	6/19/2021
Brett Sogan and Patricia Wright Sog	Cheshire	CT	6410 US	6/19/2021
Helene Ly	Alhambra		91801 US	6/20/2021
Bonnie Winer	Cheshire	CT	6410 US	6/21/2021
Tom Winer	Cheshire	CT	6410 US	6/21/2021
Mary Grace Bassett	New York	NY	10016 US	6/24/2021

Susan Pier	Cheshire	CT	6410 US	6/24/2021
Guy Mason	Cheshire	CT	6410 US	6/25/2021
Jenifer Blafore	Cheshire	CT	6410 US	6/25/2021
David Czarnecki	Cheshire	CT	11225 US	6/25/2021
Sara Longo	Cheshire	CT	2878 US	6/26/2021
Loretta Gosselin	Venice	FL	34285 US	6/27/2021
Allison O'Brien	Cheshire	CT	6410 US	6/27/2021
Lisa Fekete	Cheshire	CT	6410 US	6/27/2021
Derek Paluch	Southington	CT	6489 US	6/27/2021
Summer Galecki	Cheshire	CT	6410 US	6/27/2021
Todd Cummings	Rushville		14544 US	6/30/2021
Tyler Layton	Penfield		14526 US	7/3/2021
NICOLETTE MAIGNANT	Waterbury		6708 US	7/5/2021
Robert Giza	Cheshire	CT	6410 US	7/8/2021
Dalton Bassett	Cheshire	CT	6410 US	7/12/2021
Craig Bassett	Cheshire	CT	6410 US	7/12/2021
Jensen Bassett	Cheshire	CT	O6410 US	7/12/2021
Leslie White	Cheshire	CT	6410 US	7/12/2021

July 12, 2021

Planning and Zoning Commission  
Town of Cheshire  
84 South Main Street  
Cheshire, CT 06410

Dear Commission Members:

I attended the 6/14/2021 TPZC meeting, submitted to the town a letter with my concerns about the impact on the wetlands on the property (rcv'd by the town and posted 7/6/21), watched and reviewed the minutes from the 4/20/21, 5/4/21, 5/18/21, 7/6/21 IWWC meetings (5/18 minutes only – video is not available), walked the wetland area where sewer line is proposed, and obtained a copy of the ***“Proposed 40-Unit Active Adult Community – Wetland Impact Assessment”*** which was provided to the IWWC on 5/4 and referenced heavily during this meeting. This report is not on any public record, and I received it by email request on 7/9/21.

I was relieved that some discussion occurred concerning the two large vernal pools on the property but dismayed at some of the representations made concerning these wetlands. The omission of smaller vernal pools, an omission of a wetland area, and a disregard of several factors of the plan that immediately impact the wetlands should be considered in the approval of the ARPRD. Since IWWC approval was sought prior to any public hearings, and without notice to property owners effected by this application, it falls upon the TPZC to resolve and/or act on these issues.

The issues that I would like the TPZC to address are as follows:

Issue 1 – A true and accurate assessment of the wetlands

The site needs an environmental impact study. The wetlands assessment done as stated in the May 2021 document provided to the IWWC on page 8 was:

*“Within the project area, two vernal pools were identified. Our survey can be considered a snapshot survey in that a more comprehensive assessment was not conducted within each of the pools. Such detailed assessments may include setting of minnow traps for adult species verification and quantification, adult auditory frog playback surveys, dip netting for hatched amphibian larvae, monitoring of hydrology with staff gages, and/or completing multiple site visits over the breeding season.”*

Additionally, according to the 4/20/21 IWWC meeting (line 44 pg20):

*“Mr. Sanford said the one last thing he'd say is that we did look at the DEEP Natural Diversity Database layers and this particular site is located outside of NDB circles therefore there is no NDDB hits on this particular site.”*

What this implies is that no request was made to the DEEP for a review of the property. There are NDB circles near the property, and throughout Cheshire which would indicate a good possibility that a species of concern may be impacted by the proposed development. A single day (3/30/21) is not sufficient time



for an environmental impact assessment. There are several indicator species (9 in CT 4 special concern or greater), and 7 or more facultative species (5 of which are special concern.). Facultative species are animals that use the pools for various purposes, but don't necessarily use the pools for breeding. And none of the smaller vernal pools have been assessed at all. Their existence is noted in the field reports of the IWWC on 5/4/21.

## **Issue 2 – Sewer access, Nature Trail boardwalk, and Nature Trail through “Preserved Meadow”**

First concerning the sewer line: It should be noted that according to print G-2 the width of this disturbance is now at 20', additionally this occurs well within the 100' vernal pool envelop (15' from the nearest pool edge at WF11) and will destroy some small vernal pools. In addition, clearing of the phragmites by killing the rhizomes prior to the digging does not address the seeds. The topsoil and current seed stock per IWWC will be saved and filled over the area. The phragmites seed stock will quickly overtake any wet mix planted. This further incursion of phragmites will allow seeds to more easily flow downstream into the Mill River water shed area. And finally, regarding the sewer during the 4/20 meeting Dr. Dimmick questioned as to whether a boring was done in this area to determine where the bedrock is. Since the sewer line will be approximately 8 feet down, it could possibly hit rock. It is unclear in any public documentation that a boring was done. Additionally in order to accommodate connection to the Charles Drive area this depth may increase significantly.

Second concerning the proposed Boardwalk. There are no details as to construction. Width, installation, type of trex – i.e. is it anti-skid, how will it be leveled or does it follow natural contours etc. Another consideration is seasonality – in the winter this boardwalk may be covered in snow or ice. Allowing use of any deicing products will have serious ramifications for wetlands and may impact the upper part of the Mill River water shed as well.

Finally, the “Preserved Meadow.” There are three issues:

First there is no indication of what this trail will look like, or as mentioned in one of the IWWC meetings this may just be mowed twice a year (4/20 meeting pg. 25, paragraph starting at line 29.).

Second this trail crosses an intermittent stream which as defined by the Connecticut Inland Wetland and Watercourses Act (IWWA) is “...*Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (A) Evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation*” - (Section 22a-38 definitions #16.). Contrary to Mr. Sanford's statement during the 4/20 meeting (pg. 23 line 15) the flow from the proposed sewer crossing goes from east to west. The vernal pool is just 15 feet away from the proposed sewer line and the topography can be easily seen. This flow goes through the vernal pool and out WF6 where it then flows down the northern edge of the smaller meadow along the “hedgerow” which is actually a stone wall – probably from the original clearing of the fields. It then flows north down Talmadge in a well-defined channel, with signs of scouring, and a persistent flow over 24 hours after the recent storm events across the larger field and then into the culvert that crosses Talmadge. It has the same approximate flow as the wetlands indicated on the larger field. This is a watercourse as defined by the IWWA, and the property should be marked accordingly. this also needs to go under IWWC review.

Third there still is no existing and proposed pedestrian circulation system including its interrelationships with the vehicular circulation system, open space system, and other areas of common use, as specified in the *Cheshire Zoning Regulations Section 43.4.3-C*.

### Issue 3 – Stormwater Management System

I covered this in my original documentation received by the town 7/6/21. After reviewing the IWWC meetings and Wetlands Assessment materials found that stormwater management was never considered regarding their effect on the wetlands. I referenced Calhoun and Klemens (2002) in my initial review, as did Mr. Sanford in his Wetlands Assessment prepared for the 5/4/21 IWWC meeting. In brief stormwater management systems regarding vernal pools should be a net zero. The current plan reduces water flowing into this wetland by a minimum of 25%. I am not including the effect in water reduction by the infiltration galleries. The storm water basin should be as far away from the vernal pool as possible, preferably outside the limit of the Critical Terrestrial Habitat (750'). Alternately if this is not possible it's suggested that migration studies of amphibians be done. No studies done on this property, to the best of my knowledge, or if they were done this information has not been provided. The current plan puts the storm water basin close to, if not in the vernal pool envelop (within 100' of the pool.). The basin per various literature can act as a kill basin for both obligated, and facultative species, and to place it so close to the wetlands is a critical mistake.

### Non-Wetland Related Issues:

#### Issue 1 – Sanitary Sewer connection to Sir Charles Drive neighborhood

During the 5/4/21 IWWC meeting, and the 6/14/21 TPZC Mr Quirk stated the sewer connection was to be able to service the Charles Drive and points east having septic issues. Under the current sewer plan as proposed it would be impossible to connect a gravity feed system as indicated. Houses along Charles Drive are at around 310' to 312', the depth of the sewer at the sewer easement is 305' – it is virtually impossible to maintain the required pitch, and minimum depth to connect these sewers without a pumping station- or by going considerably deeper through the wetlands. The Cheshire Plan of Conservation and Development specifically states on pg. iii “....to supply sanitary sewer to growth areas identified by the Conservation and Development Policies Plan, and also limit extension of sanitary sewers in lower density zoned Residential 40 (R40) and Residential 80 (R80).”

**Issue 2-Proposal is not in accordance with the Cheshire Plan of Conservation and Development (POCD), and the application is lacking key information for the TPZC and the public to properly discuss issues.**

Mr. Fazzone was kind enough to read Section 43.4 into the public record, and later in his presentation selected excerpts from the POCD, specifically from pages 21-23. What Mr. Fazzone failed to do is two things. First his application requires per section 43.4.3 “Such application shall include a clear statement explaining how the proposed zone change and ARPRD meet the purposes set forth in Section 43.4.” I requested this information from Mr. Voelker and was informed that it is the responsibility of the applicant to supply such information. Shortly after the request in the mail I

received a letter from Lovely development which stated erroneous unsupported "facts." I emailed Mr. Lovley wondering what the basis of his figures were, and what other pros he saw in the development. In his reply, figures aside, stated *"We are planning on developing this whether it be our planned development or the conventional development with the need that there is for the housing i am porposing i feel this will be a lot faster construction than 16/20 Mega-mansion's we would build there if we went conventional."* There was no response that specifically addressed Section 43.4 and the special needs of the elderly. The market survey had flawed data, and a lack of verifiable references. The population figures did not exclude those already living in age-appropriate housing, the desire to move into such a facility was based on a 1999 survey on what baby boomers would do in 20 years, the AARP report where satisfaction rating of the 55+ communities was a "9 out of 10" was based on attributes such as living near the water, walking distance to a park, golf courses or other amenities of which Whispering Oaks has none. The only factor I found that applied was the desire to live with other people of the same age – which was the lowest of all scales. I can't think of a single thing that this proposal provides for a senior. They are not ADA compliant, there aren't alternative energy sources, the floor plan shows a gas fireplace insert, but I'm pretty sure the HOA will prohibit external propane tanks, in an area with poor cell service, they'll need a land line for emergencies, there is no power back up or generators supplied for an area notorious for losing power. Mr. Bowman stated in the meeting that the grandchildren could visit – where are they going to play? The tick infested meadow? The wetlands? Or maybe they can take their bikes, or new electric toy Jeep for a spin on Wallingford Road? There are no places in Cheshire that exclude grandchildren from visiting – but a 55+ community would make you move if a grandparent needed to take care of the grandchildren for an extended period due to tragedy, or even a long-term military deployment for a single parent going to a hostile area. Fortunately, people over the age of 55 can choose to live in any type of housing, and there are housing developments currently in the works that are very attractive to the 55+ community that offer amenities, and assurances that family members wouldn't be required to move out..

Regarding Mr. Fazzones reading of the POCD pages 21-23 this applies to low- and middle-income housing, and care givers for the elderly etc. The Whispering Oaks proposal is not low income or affordable housing, the target market as stated is people moving out of their big houses and purchasing with the equity in their homes. They may not even carry a mortgage. There are no price guarantees, grants, or anything that would allow a low-income person to move into this property.

The POCD and the zoning regulations also require that developments blend into the surrounding zones. Specifically, under Section 43.4.4 – G which states *"The development and design of the ARPRD will not have an adverse effect on surrounding properties, will be in harmony with the neighborhood, and will not have an adverse effect on property values in the area. The proposed development will not create an undue concentration of PRD's, particularly ARPRD's."*

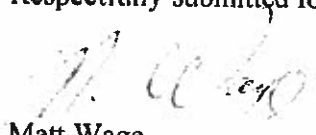
First there are already a couple ARPRDs in the area 1 ½ miles down the road (Cheshire Crossing), and another about 2 miles away on Weiss Rd (Richmond Glen.). Both cannot be seen off the road, or the surrounding neighborhoods. They are well set back and surrounded by open space/woodland. Whispering Oaks is 100' off the road, with now dual entries and a gate right on the road for emergency access. It is surrounded by a 3' strip of grass which is the transition to the R40 neighborhood, on one side there is a vinyl fence which protects the preserved stone wall – left for rural character. We don't know what this will look like from the street because Lovley Development has not complied with Section 43.4.3-G which states: *"Examples of proposed product types for the dwelling units, typical lot*

*and/or building layouts and elevations of all buildings (front, back and both sides) showing proposed textures, materials and colors. Identical buildings will not require multiple elevations."* It will most likely look like a wall of multicolored vinyl as seen from Wallingford Road. 85% of the houses will be 2 bedroom – however no plan has been submitted for those and renaming an obvious bedroom to a den is not an appropriate solution and does not comply with the legal requirement. Currently CHAFA is projecting demand increases with lower bedroom counts, but larger bedroom sizes – this refers to opportunity zones and low-income housing which this project is the exact opposite of.

Cheshire has done a tremendous job in integrating high density housing and developments into the community. These developments are hard to see from the road, and once you enter them are well laid out, pleasant, and true communities. Cheshire is currently looking to improve opportunity zones as defined in POCD, with growth and public services available to all income levels. Additionally, the current Stone Bridge Crossing project affords many more housing opportunities taking advantage of existing infrastructure and providing amenities and services within that proposed community for all income levels and ages. Whispering Oaks is nothing more than a pile of high-priced houses.

I request that any member voting yes on this zone change, put in writing on the public record, how this project meets the provisions of Section 43.4, and conformity to the POCD, considering the degradation of a vital wetland environment, retention of "preserved meadows" with invasive species and little wildlife value, and no defined restoration or open space plan, reduction of neighboring property values, failure to provide sewer to Charles drive homeowners as indicated in the overall plan, and a description of how it blends into the neighboring R40 and R80 zones. Keep in mind that Cheshire has the highest per capita number of this type of housing specifically, and the highest per capita of Age Restricted Housing which includes all types, as defined by the Fair Housing Act, then all the surrounding communities.

Respectfully submitted for your consideration,



Matt Wage

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