

H. Clifford Rudisill
170 Old Stockbridge Road
Lenox, MA 01240

July 21, 2014

Honorable Board of Selectpersons of Lenox
Town Hall
Lenox, MA 01240

RE: Proposed Development of Elm Court

Dear Sirs/Mesdames:

As a longtime homeowner and resident of Lenox (35 years), a longtime owner of The Village Inn (24 years), an old and former lawyer, and simply a concerned citizen of this special town which I dearly love and deeply care about, I am writing this letter to express my perspectives on the important issues which will be discussed before you regarding the proposed development of Elm Court on Wednesday, when I cannot be present.

1. Resident vis-à-vis Transient

A resident is one who makes his or her home in a particular place. A resident owns property and pays taxes on it. A homeowner maintains property; a condominium owner participates in an association which maintains property. A resident cares about the community, including traffic issues and maintaining the character of a neighborhood. A resident usually has one or two cars per home.

A transient is "passing through," someone who comes for an occasional visit. A transient shares none of the characteristics of a resident, except that occupancy taxes are included in lodging charges. Transients usually have one car per room.

2. Old Stockbridge Road: Residential or Commercial?

There are signs on OSR at Frothingham Crossing and at Bean Hill Road near Route 7 which read: "Heavy Commercial Vehicles Excluded." There used to be the same sign at the top of OSR across from Town Hall.

Every building on OSR is, in one way or another, a residential unit. The Hillcrest Educational Center treats students who reside there; the relatively few cars belong to the staff. Winden Hill has some 27 condominium units on about 87 acres of land, and it is a good example of how one of the Lenox Estates can be preserved while respecting the surrounding rural, residential environment. The original (actually the second) home has been preserved; the old barn has been converted into about five units; the former college Student Activity Building has also been converted into several units; and the new duplexes are in clusters to preserve the landscape.

The modest traffic currently on OSR is in keeping with a residential neighborhood.

3. Old Stockbridge Road in comparison with other streets in Lenox

Because of its various hills, OSR has at least four blind spots between Town Hall and Route 7: These are places where it is impossible to see oncoming cars. Adding to these dangerous places, the Road also has many steep curves. Commercial and vastly increased traffic would significantly exacerbate this problem. Additionally, there are no sidewalks on OSR from the base of "Courthouse Hill" to Route 7. People who want to take a walk must walk in the street. It is only a matter of time before someone is killed because of the absence of a sidewalk.

Kemble Street is in a mixed-use area of residences and commercial buildings, including "Canyon Ranch," a spa smaller than the one proposed for Elm Court. Kemble Street has broad curves but is not hilly like OSR and does not have blind spots. The Cranwell Hotel and Spa is located on a major highway.

4. Sewer and Water Service provided by the town of Lenox

Does Lenox have the capacity to serve the additional demands of a 100+ room hotel? When Ray Wilson and I purchased The Village Inn in 1982, we were told by Dick Judd the horror story of one dry summer when there was such a shortage of water in Lenox that their guests were asked not to bathe, and he and Marie had to take jugs to a spring in order to get drinking water and water to put in the toilets so they could operate.

5. What are the legal responsibilities of the Town of Lenox (and Stockbridge) regarding traffic and public safety on its streets and sidewalks?

Although the case law has surely changed since my old days in law school, I am quite sure that there are some basic tenets that remain the same. Chief among these is the responsibility of the municipal authority to “conserve and promote the public health, safety and general welfare of its residents.” [Mansfield & Sweet v. Town of West Orange.]

The development of a hotel and spa on the Elm Court property affects the entire community of Lenox and not just the residents on OSR. Will this create a precedent for other residential streets to be turned into streets of heavy commercial traffic? As a former restaurant owner, I know the “heavy commercial vehicles” that must serve a commercial kitchen. Sysco has trucks that are “18 wheelers,” and other purveyors have similar heavy trucks. OSR is already a street with unique dangerous blind spots for normal residential traffic. The lack of sidewalks creates an obvious danger that needs to be addressed before there is a terrible accident. A resident on OSR should be able to walk to town without the danger of being run-over while walking in the only place to walk: the street. If there were a hotel on OSR, would not more people want to walk to town?

6. Some Deductions

All the properties along Old Stockbridge Road are residential in nature.

Old Stockbridge Road is a residential road where “heavy commercial vehicles” are prohibited. For both cars and pedestrians, Old Stockbridge Road is inherently dangerous with its many blind spots. It is in the general public good and safety of its residents that sidewalks are badly needed. The dangers of OSR would be substantially exacerbated by heavy commercial traffic and by the increased traffic created by the transients from Elm Court.

The strain on the sewer and water systems of the Town of Lenox is an unknown factor except for the simple truth that the demand for these public services would be significantly increased.

The Towns of Lenox and Stockbridge owe it to their citizens to “promote the public health, safety and general welfare.” The development of a large hotel at Elm Court does not meet these tests.

7. Another possible and better use for the Elm Court property: A condominium association
The example of Winden Hill is proof that this type of development can preserve an historic property that merits preservation, while at the same time creating a viable use without destroying the residential environment. The traffic created by these homeowners would be considerably less than that created by a 100+ room hotel, whose commercial trucks and transient’s cars would create “abnormal traffic hazards inimical to the public welfare.” Condominium owners would increase the property tax rolls. The demand on sewer and water services would be much less for condominiums than for a commercial hotel and restaurant.

We urge you to take these facts into consideration when you make your determination about the Elm Court property.

Respectfully submitted,

Concur:

H. Clifford Rudisill

Ray E. Wilson