



TOWN OF MEDWAY
Planning & Economic Development
 155 Village Street
 Medway, Massachusetts 02053

Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Matthew J. Hayes, P.E.
Karyl Spiller-Walsh
Richard Di Iulio, Associate Member

January 14, 2014

CERTIFICATE OF ACTION
AMENDMENT to APPLGATE FARM DEFINITIVE SUBDIVISION PLAN
(APPROVED with Waivers and Conditions)

I. BACKGROUND - At a duly called and properly posted meeting of the Medway Planning Board held on June 22, 2006, the Board approved a Certificate of Action for the **Applegate Farm Definitive Subdivision Plan**, prepared by GLM Engineering, Inc. dated December 1, 2005, last revised April 25, 2006 subject to the *Specific and General Conditions* as specified in the Certificate of Action and with *Waivers* from the April 26, 2005 *Subdivision Rules and Regulations* as follows: 7.9.2 e); 7.9.5 c); 7.13.3; 7.19.5; 5.7.28; and 7.21.

The above noted plan was revised January 12, 2007 pursuant to the conditions of the Certificate of Action and was endorsed by the Planning Board on January 30, 2007. The endorsed Applegate Farm definitive subdivision plan was recorded at the Norfolk County Registry of Deeds on February 22, 2007 as Pages 53-56 in Plan Book 565 of 2007.

II. SUMMARY OF PREVIOUSLY APPROVED SUBDIVISION – The above noted *Applegate Farm Definitive Subdivision Plan* includes 12 single-family home lots (*Lots 1B – 12B*), one drainage parcel, and approximately 1695 linear feet of roadway between Ellis and Coffee Street known as Applegate Road. The development site is a 16.9-acre parcel located at the NE corner of Coffee and Ellis Streets in the Agricultural-Residential I zoning district. The original land parcel was owned by Cedar Trail Trust/Ralph Costello, Trustee. The plan also included construction of a stormwater drainage system with a detention pond to comply with Massachusetts DEP stormwater management requirements, disturbance of stone walls and tree removal in the Ellis Street (scenic road) right-of-way, and extension of Town water and sewer. In addition to the 12 single-family house lots, the Applegate development also includes ten adjacent Approval Not Required (ANR) lots on Coffee & Ellis Streets authorized in Aug. 2005.

III. APPLICANT: Ralph Costello/Unique Homes, Inc.
 503 Main Street
 Medfield, MA 02054

Telephone: 508-533-3291 Fax: 508-321-4987
 planningboard@townofmedway.org

IV. MODIFICATION DESCRIPTION: The proposed subdivision plan amendment addresses a drainage problem at the intersection of Ellis Street and Virginia Road which impacts the Applegate subdivision property. The proposed AMENDED subdivision plan shows changes to the subdivision's stormwater drainage system including the installation of catch basins, manholes and culverts to convey surface water flowing off of Virginia Road within new drainage and access easements to be located on Lot 7, Lot 12B, Lot 9B, and Lot 8B as shown on the plan that are presently owned by the Cedar Trail Trust. That stormwater will flow to a detention area located on Parcel A as shown on the plan (13 Applegate Road). The size of the culverts within Applegate Road and the stormwater drainage basin are increased to accommodate the additional runoff flow and storage volume. The applicant and the Town of Medway Department of Public Services will share the cost and responsibility for the installation work.

To offset the applicant's cost of the changes to the stormwater system, the applicant seeks waivers from the *Subdivision Rules and Regulations* as follows:

- reduction in the width of the interior sidewalks from 6' to 5.5'
- the use of Cape cod berm edging within the subdivision instead of sloped granite curbing
- relief from the requirement to pay the filing and plan review fees for the subdivision plan modification
- relief from the requirement to install an independent drainage system to collect and discharge subsurface runoff from the house foundation drains
- relief from the requirement that a detention pond be located on a separate parcel.

The applicant also seeks relief from Condition 7. e. of the June 22, 2006 Applegate subdivision decision. That condition specified that the final subdivision plan include approximately 960 linear feet of sidewalk along the north side of Coffee Street from the eastern edge of the property to Ellis Street. The applicant wishes to NOT construct that portion of the sidewalk from Applegate Road east to the eastern edge of the Applegate property boundary.

V. PROCEDURAL SUMMARY: With respect to proposed modification to the *Applegate Farm Definitive Subdivision Plan*, the Planning and Economic Development Board hereby certifies that:

1. On April 10, 2013, it received an application for approval of the *Amended Definitive Subdivision Plan – Applegate Farm* dated February 20, 2013, prepared by GLM Engineering, Inc. of Holliston, MA. This application was NOT preceded by a preliminary subdivision plan.

NOTE - It was determined that the application was not complete as the required plan review fee had not been provided. Upon receipt of the plan review fee on May 16, 2013, the application package was determined to be complete.

2. On June 25, 2013, it commenced a public hearing on the plan. The public hearing was duly noticed on June 10 and June 18, 2013 in the *Milford Daily News*. It was filed with the Medway Town Clerk on June 3, 2013. A butter notice was sent by certified sent mail on June 4, 2013. The public hearing was continued to August 13, August 27, and September 10, 2013 when it was closed. The public hearing continuation notices were filed with the Town Clerk.

3. On August 8, 2013, the Board approved the Applicant's request to extend the deadline for the Board's action to September 15, 2013.
4. On September 10, 2013, the Board approved the Applicant's request to extend the deadline for the Board's action from September 15 to October 15, 2013.
5. On October 8, 2013, the Board approved the Applicant's request to extend the deadline for the Board's action from October 15, 2013 to October 30, 2013.

VI. PUBLIC HEARING SUMMARY: The public hearing and review of the proposed modification to the Applegate Farm Definitive Subdivision Plan was conducted over the course of four Planning and n Economic Development Board meetings during which substantive information was presented and evaluated. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005.

Specified below is a list of application materials, public comments, consultant and town staff review documents, and supplemental information filed by the Applicant and the Board. All information is on file with the Planning and Economic Development Board and is available for public review. By reference, the *Applegate Farm Definitive Subdivision Plan* endorsed on January 30, 2007 is included as part of the record.

Public Hearing Notice – June 3, 2013

Application Materials

- Application dated February 20, 2013
- Letter from Rob Truax, GLM Engineering dated February 19, 2013 summarizing the applicant's waiver requests
- Certified Abutters list prepared by the Medway Assessor's office
- AMENDED Applegate Farm Definitive Subdivision Plan – GLM Engineering Consultants, Inc. - February 20, 2013
- AMENDED Stormwater Drainage System for Applegate Farm Subdivision and Virginia Road dated November 8, 2011, prepared by GLM Engineering Consultants, Inc.

Waiver Requests - February 20, 2013 Waiver Requests prepared by Rob Truax, GLM Engineering Consultants, Inc.

Town Engineering Consultant – David Pellegrini, P.E. - Tetra Tech.

- June 20, 2013 Plan Review comments
- August 20, 2013 Plan Review comments
- Construction Report from Tetra Tech dated August 20, 2013
- Memorandum dated August 20, 2013 regarding Tetra Tech construction report from 6/26/2013 which pertained to erosion control and maintenance of stormwater improvements
- Memorandum dated September 20, 2013 re: applicant's request to waive requirement to install independent drainage system to collect and discharge subsurface runoff from foundation perimeter drains

Medway Departmental/Board Review Comments

- Testimony of Thomas Holder, Director of the Medway Department of Public Services – June 25, 2013 public hearing
- Email communication with photographs dated September 10, 2013 from Thomas Holder, Director of the Medway Department of Public Services re: proposed sidewalk

Supplemental Information Provided By Applicant

- August 13, 2013 letter from Robert Truax, GLM Engineering responding to 6-20-2013 plan review comments of David Pellegri of Tetra Tech
- Construction cost estimates dated February 21, 2012 provided by Maricor Construction Services – submitted during the 8-13-2013 public hearing
- *AMENDED Applegate Farm Definitive Subdivision Plan* – GLM Engineering Consultants, Inc. further revised August 12, 2013

Citizen/Resident Letters

Email communication dated June 19, 2013, from Susan and Randy Wood, 23 Coffee Street

Citizen/Resident Testimony

Ray McCarthy, 22 Coffee Street 6/25/2013 public hearing
Robert Ruppert, 11 Virginia Road 6/25/2013 public hearing

Professional Review/Testimony

Dave Pellegri, P.E., Tetra Tech.
Robert S. Truax, Project Manager/Design Engineer, GLM Engineering, Inc.

Other Testimony

Ralph Costello, applicant

Information Provided by Medway Planning and Economic Development office

- The Board's construction services invoice for the Applegate Farm subdivision from February 2013
- Prior Applegate Farm Definitive Subdivision Plan *Certificate of Action* - June 26, 2006
- Tetra Tech Construction Reports dated 8/9/12, 8/13/12, 8/16/12, and 8/17/12 for Applegate subdivision.
- Mullins Rule Certification for Board Member Matthew Hayes re: August 13, 2013 public hearing
- Scenic Road Work Permit for Applegate Farm Subdivision dated June 8, 2006 with a modification dated March 10, 2010 (*time extension for tree pruning work*) and a further modification dated November 22, 2011 (*pertaining to a curb cut/driveway opening in the fieldstone wall at 69 Ellis Street*).

VII. GENERAL FINDINGS – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 14, 2014, a motion was made by Bob Tucker and seconded by Karyl Spiller-Walsh to approve the General Findings indicated below. The motion was approved by a unanimous vote of 5 in favor and 0 opposed.

- A. During construction of the Applegate Farm subdivision, a corrugated metal culvert was found extending from the west side of Ellis Street onto Lot 7 of the Applegate Farm development. Stormwater flow from this culvert was not accounted for in the original Applegate Farm

Subdivision drainage analysis. The applicant then researched the existing drainage situation in this area and found that the existing culvert captures stormwater flow from a portion of Ellis Street where runoff sheets off the side of the road into a grass swale which is directed to the culvert. Stormwater runoff from portions of Virginia Road is directed to two existing leaching catch basins at the intersection of Ellis and Virginia Road. These leaching catch basins have no outlet pipes so when they overflow, water may also enter the adjacent grass swale which again is directed into the corrugated metal culvert and discharges to Lot 7. Due to the lack of outlet pipes, these leaching structures are susceptible to flooding and therefore can cause safety concerns with icing on Ellis Street.

- B. The proposed amendment to the Applegate Farm Definitive Subdivision Plan provides for substantial enhancements to the stormwater drainage system to accommodate stormwater runoff from Virginia Road onto Ellis Streets (*shown on Sheet 8*) and across to the Applegate subdivision property. The improvements have been reviewed and evaluated by David Pellegrini, P.E. of Tetra Tech, the Town's Consulting Engineer and found to comply with the Town's *Subdivision Rules and Regulations*.
- C. The proposed improvements to the drainage system at the intersection of Ellis and Virginia Road will alleviate a troublesome existing condition which is in the Town's best interest to address. The scope of the improvements is supported by the Medway Department of Public Services.
- D. The applicant/developer and the Town of Medway Department of Public Services have agreed in principle to share the cost of constructing the stormwater drainage improvements shown on the proposed amended Applegate Farm Definitive Subdivision Plan. Condition #6 of this Decision requires the preparation and submittal to the Board (*before plan endorsement*) of a signed memorandum of understanding between the Medway Department of Public Services and the applicant specifying each party's responsibilities to complete the needed stormwater management improvements.
- E. The Board finds that the applicant has not provided verification that the required \$12,300 worth of tree pruning on Coffee and Ellis Street has occurred as specified in the Applegate Farm Scenic Road Work Permit dated June 8, 2006 as mitigation for removing one 27' oak tree on Ellis Street in order to construct Applegate Road.
- F. The owner of the properties located at 67 & 69 Ellis and 11 Coffee Street has constructed a stone wall in the Town's right of way on a portion of the properties. As presently positioned, the stone wall is in the way of the planned sidewalk to be installed by the developer along Coffee Street east of Ellis Street.

VIII. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS – As part of this application, the Applicant has requested the following additional waivers from the Board’s *Subdivision Rules and Regulations*, dated April 26, 2005.

SECTION 5.2.1: “Any person who submits a Definitive Subdivision Plan to the Board for approval shall file with the Board all items required in sections 5.5 and 5.7 and the appropriate Definitive Plan Filing Fee and an advance on the Plan Review Fee”

EXPLANATION: The applicant proposes that the Board waive the filing fee and the plan review fee to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.

FINDINGS: Because the Board has found that that the proposed improvements to the drainage system at the intersection of Ellis and Virginia Road are in the Town’s best interest, the Board is willing to waive the application filing fee and have the Town forego those revenues. However, Board also finds that the proposed modification to the stormwater drainage system necessitate the review of the Town’s engineering consultant to ensure the modified system is correctly designed. Accordingly, there must be a payment source to compensate the consultant. Therefore, the Board will not waive the plan review fees associated with this plan modification.

SECTION 7.7.2 p) “Detention and retention basins and underground infiltration systems and any related drainage structures shall be located on separate parcels and shall not be included on individual houses/building lots.”

EXPLANATION: The applicant proposes that the Board waive the requirement that the detention pond be completely located on a parcel separate from a building lot.

FINDINGS: The additional stormwater runoff from Virginia Road that will flow to the Applegate detention pond on Parcel A (13 Applegate Road) necessitates its enlargement from what was previously approved. With the proposed plan amendment, a small portion of the southern end of the enlarged detention pond will extend onto the very northeasterly portion of the adjacent building lot at 13 Coffee Street. However, the enlarged pond is completely contained within the area shown for the drainage easement on Parcel A and 13 Coffee Street. Strict adherence to this particular Regulation would necessitate reducing the area of the 13 Coffee Street lot in order to enlarge Parcel A so that the detention pond would be located completely on Parcel A. That change would result in 13 Coffee Street not complying with the minimum lot area of 44,000 square feet per the Medway Zoning Bylaw. In light of the investment the developer is making to enhance the drainage system to accommodate stormwater runoff from Virginia Road, the Board finds that compliance with this Regulation would be an excessive and unreasonable consequence to the applicant. Therefore, the Board agrees to grant this waiver request.

SECTION 7.7.4. d) “. . . An independent drainage system shall be provided to collect and discharge subsurface runoff from the foundation perimeter drain for the houses along the proposed roadway. . . .”

EXPLANATION: The applicant proposes that the Board waive the requirement to install independent drainage systems to collect and discharge subsurface runoff from the foundation perimeter drain for the houses along Applegate Road. The estimated cost savings is \$20,000. The reason for the applicant’s request is to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.

FINDINGS: The building lots for which the applicant seeks a waiver from this Regulation are: 9R, 12B, 11B, 10B 9B and 8B. David Pellegrini, P.E., of Tetra Tech, the Town’s consulting engineer has reviewed the applicant’s proposal to not install independent drainage systems for the above noted building lots. His 10/10/13 review indicates that the approved definitive plan and the proposed amended Applegate Subdivision Plan include a 2 part NOTE on Sheet 7 as follows:

1. *Perimeter foundation drains (4”) to be outleted to daylight or connected to the 4” main trunkline.*
2. *Final building elevations and locations shall be in compliance with the Town of Medway Building Regulations. Basement floor elevations to be a min. of two feet above max. seasonable high ground water. Ground water elevation to be verified by certified soil evaluator.*

Consultant Pellegrini further notes that the Massachusetts State Building Code requires the “*Owner or Applicant shall perform a subsurface soil investigation in accordance with 780 CMR 1802.0 to determine the possibility of the ground water table rising above the proposed elevation of the floor or floors below grade.*”

Based on the plan notes on Sheet 7 and the requirements of the State Building Code, consultant Pellegrini has indicated that “*there is adequate assurance that the basement floor elevations will be designed and constructed above the seasonal high ground water elevation, therefore eliminating the need for a foundation drain.*” “*In conclusion, we feel that the drain proposed below the sidewalk to accept the future perimeter drains in the original approved plans is not necessary and can be eliminated from the design.*” He suggests that the Board may want to incorporate the Note from Sheet 7 into the decision. Therefore, subject to Condition # 9 specified herein, the Board agrees to grant this waiver request.

SECTION 7.10.2 “Curbing shall be provided the full length of all streets along each side of the roadway. For a Local Street, the type of curbing shall be Sloped Granite Edging (Type S-B).

EXPLANATION: The applicant proposes that the Board waive the requirement to install sloped granite curbing along the full length of Applegate Road and to allow the use of Cape Cod Berm instead. The estimated cost savings is \$30,000. The reason for the applicant’s request is to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.

FINDINGS: In light of the investment the developer is making to enhance the drainage system to accommodate stormwater runoff from Virginia Road, the Board finds that the change to Cape Cod Berm for the curbing within the Applegate subdivision is a reasonable alternative to the sloped granite curbing as specified in the Regulations for a subdivision of this size. Therefore, the Board agrees to grant this waiver.

SECTION 7.13.2 “Sidewalks shall extend the full length of the street and around the entire perimeter of the cul-de-sac. For a Local Street, the sidewalk shall be six feet on one side – Hot Mix Asphalt with a minimum six and one-half foot grass strip.

EXPLANATION: The applicant proposes that the Board waive the requirement to install 6 foot wide sidewalk along the full length of Applegate Road and to allow a 5.5 foot sidewalk instead. The estimated cost savings is \$3,500. The reason for the applicant’s request is to offset costs incurred by the developer to install the drainage system for the Ellis and Virginia Road intersection.

FINDINGS: In light of the investment the developer is making to enhance the drainage system to accommodate stormwater runoff from Virginia Road, the Board finds that the change in the width of the sidewalk within the Applegate subdivision to 5.5’ is a reasonable alternative to the 6’ wide sidewalk as specified in the *Regulations*. Therefore, the Board agrees to grant this waiver.

NOTE – The previously approved waiver findings and decisions specified in the June 22, 2006 Applegate Farm Definitive Subdivision Plan Certificate of Action remain in effect.

MITIGATION PLAN - The proposed AMENDED subdivision plan shows changes to the subdivision’s stormwater drainage system including the installation of catch basins, manholes and culverts to convey surface water flowing off of Virginia Road within new drainage and access easements to be located on Lot 7, Lot 12B, Lot 9B, and Lot 8B as shown on the plan that are presently owned by the Cedar Trail Trust. That stormwater will flow to a detention area located on Parcel A as shown on the plan (13 Applegate Road). The size of the culverts within Applegate Road and the stormwater drainage basin are increased to accommodate the additional runoff flow and storage volume.

NOTE – The previously approved Waiver Mitigation Plan items 1-4 specified in the June 22, 2006 Applegate Subdivision Certificate of Action remains in effect.

Action on Waiver Findings - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 14, 2014, a motion was made by Bob Tucker and seconded by Tom Gay to approve the above noted Waiver Findings. The motion was unanimously approved by a vote of 5 in favor and 0 opposed.

Action on Mitigation Plan - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 14, 2014, a motion was made by Matt Hayes and seconded by Bob Tucker to approve the above noted Mitigation Plan. The motion was unanimously approved by a vote of 5 in favor and 0 opposed.

Action on Waiver Request – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 14, 2014, a motion was made by Bob Tucker and seconded by Karyl Spiller-Walsh to approve the above noted Waivers from the *Subdivision Rules and Regulations*. The motion was unanimously approved by a vote of 5 in favor and 0 opposed.

IX. PROJECT EVALUATION CRITERIA – Before taking action on a proposed amendment to a Definitive Subdivision Plan, the Board shall evaluate the proposed subdivision according to the following criteria as specified in Section 5.16 of the *Subdivision Rules and Regulations*. At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 14, 2014, a motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh, to approve the Project Evaluation Findings noted below. The motion was unanimously approved by a vote of 5 in favor and 0 opposed.

5.16.1 Completeness and technical accuracy of all submissions.

FINDINGS – The Board finds that the submissions pertaining to the proposed amendment of the Applegate Farm Definitive Subdivision Plan were complete and technically accurate.

5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.

FINDINGS – As there is no change in the proposed street pattern from that previously approved, the Board finds this criterion is met.

5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.

FINDINGS – As there is no change in the development's location from that previously approved, the Board finds this criterion is met.

5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

FINDINGS – The scope of the proposed modification does not necessitate the preparation of an environmental impact analysis. The proposed change to the stormwater system has been reviewed by the Town’s consulting engineer. The development is subject to an Order of Conditions from the Medway Conservation Commission to protect wetland resources. The Board finds that this criterion is met.

- 5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

FINDINGS – As there is no change in the roadway layout from that previously approved, the Board finds that the roads leading to and from the subdivision are adequate to provide emergency, medical, fire and police protection and safe travel for the neighborhood’s projected volume of traffic. Therefore, the Board finds that this criterion is met.

- 5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.

FINDINGS – The proposed change to the stormwater drainage complies with all applicable requirements of the Medway Zoning Bylaw. The Board finds that this criterion is satisfied.

- 5.16.7 Consistency with the purposes of the Subdivision Control Law.

FINDINGS – The proposed change to the stormwater drainage system complies with the applicable Subdivision Rules and Regulations. The Board finds that the project is consistent with the purposes of the Subdivision Control Law.

X. DECISION – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 14, 2014, a motion was made by Bob Tucker and seconded by Karyl Spiller-Walsh to approve the **AMENDED Applegate Farm Definitive Subdivision Plan**, prepared by GLM Engineering, Inc. dated December 2014 subject to the *Specific and General Conditions* as specified herein and with *Waivers* from the following sections of the *Subdivision Rules and Regulations* dated April 26, 2005 as noted above:

- 5.2.1
- 7.7.2 p)
- 7.7.4 d)
- 7.10.2
- 7.13.2

The motion was unanimously approved by a vote of 5 in favor and 0 opposed.

XI. CONDITIONS – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

Conditions

1. It is expressly understood that this AMENDMENT does not change the number of single-family house lots in the Applegate Farm subdivision from the 12 originally approved. As a permanent condition of this plan, no further subdivision will be allowed.
2. The Applicant shall complete construct the roadway and all related infrastructure including the modified stormwater management system, and install all utilities as shown on the AMENDED definitive subdivision plan, to the satisfaction of the Planning and Economic Development Board within 3 years of the date of endorsement of the AMENDED Applegate Farm Definitive Subdivision Plan.
3. The Applicant shall specifically reserve to itself ownership of the fee in Applegate Road and all easements shown on the subdivision plan in any deeds or other conveyances or transfers of any of the lots. The Applicant shall convey the fee in the roadways and all easements to the Town of Medway before the Planning and Economic Development Board approves the final bond release.
4. Prior to the Board's endorsement of the AMENDED plan, the *cover sheet* of the plan set with its last revision date of August 12, 2013 shall be further revised to include the following:
 - a. The final plan revision date
 - b. List of ALL approved waivers
 - c. Updated sheet index
 - d. Reference that all subdivision lots are subject to the updated *Declaration of Protective Covenants & Restrictions Governing the Applegate Farm Subdivision*.
 - e. Reference that the subdivision lots are subject to a new Subdivision Covenant.
5. Prior to the Board's endorsement of the AMENDED plan, the plan with its last revision date of August 12, 2013 shall be further revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such AMENDED plan to the Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town's Consulting Engineer and the Board before the Board will endorse the AMENDED definitive subdivision plan.
6. *Ellis Street/Virginia Road Stormwater Work* - Prior to the Board's endorsement of the AMENDED plan, the applicant shall provide a written Memorandum of Understanding signed by the applicant and the Medway Department of Public Services to fully detail the agreed upon scope of work, construction responsibilities and funding for the supplemental stormwater management infrastructure indicated on the plan
7. *Scenic Road Work Permit* - The previously required tree pruning work shall be completed by March 30, 2015 or the applicant needs to provide evidence to the satisfaction of the Board that the pruning work was already completed. If the work is not completed or the evidence is not provided by the time the first lot release is requested, the value of the tree pruning (\$12,800) shall be included in the bond estimate.

8. *Sidewalk Construction*

- A. *Coffee Street between Ellis and Holliston Street* – As specified in the original decision dated June 22, 2006, in lieu of constructing approximately 1,280 linear feet of curbed sidewalk along the east side of Ellis Street, the applicant will construct 6 foot (6') wide HMA sidewalk with Type 3 bituminous concrete curbs and all associated handicap access requirements in the Town's right of way on the north side of Coffee Street between Ellis and Holliston Streets, approximately eight hundred feet (800'). Construction shall be coordinated with, to the satisfaction of, and inspected by the Medway Department of Public Services pursuant to its Sidewalk Construction /Reconstruction Specifications dated November 9, 2004. Sidewalk construction shall be completed before the 10th building permit is issued or 4 years from the date of endorsement of the plan modification, whichever is later.
- B. *Coffee Street between Ellis Street and the eastern boundary of the Applegate development parcel.* The Board partially approves the applicant's request to be relieved of the previously required condition included in the June 22, 2006 Certificate of Action to install sidewalk on the north side of Coffee Street between Ellis Street and the easterly boundary of the Applegate development site. The Board requires that the sidewalk be constructed from Ellis Street east to Applegate Road. The Board relieves the applicant from the prior condition to construct a sidewalk on the north side of Coffee Street from Applegate Road east to the eastern edge of Applegate property.
- C. Prior to plan endorsement, all applicable plan sheets shall be revised to show the revised scope of sidewalk construction as noted above.
- D. The sidewalk construction shall be completed before the 10th building permit is issued or 4 years from the date of endorsement of the plan modification whichever is later.

9. *Perimeter Drains*

- A. Perimeter foundations drains (4") are to be outleted to daylight or connected to the 4" main trunkline
- B. Final building elevations and locations shall be in compliance with the Town of Medway Building Regulations. Basement floor elevations are to be a minimum of two feet above maximum seasonable high ground water. Ground water elevations are to be verified by a certified soil evaluator.

10. *Document/Plan Recording* - Within thirty (30) days of recording the AMENDED endorsed definitive subdivision plan, the Certificate of Action and the updated *Subdivision Covenant* with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred

11. *Performance Security*

- A. *Subdivision Covenant* - Prior to endorsement of the AMENDED plan, the Applicant shall sign a REVISED *Subdivision Covenant*, on a form provided by the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services as specified in the approved subdivision plan. Reference to the new *Subdivision Covenant* shall be noted on the cover sheet of the AMENDED Definitive Subdivision Plan. The *Covenant* shall specify that the roadway and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within 3 years after the AMENDED plan is endorsed. The REVISED *Subdivision Covenant* shall apply to Lots 1B – 12B.
- B. *Modification of Performance Security* - At such time as the Applicant wishes to secure a building permit for any lot within the subdivision, the security provided by the REVISED *Subdivision Covenant* shall be replaced by one of the types of performance guarantees set forth in M.G.L. Ch. 41, Section 81U, which method or combination of methods may be selected and from time to time varied by the applicant, in sufficient amount, source and form acceptable to the Planning and Economic Development Board, the Medway Treasurer/Collector and Town Counsel.

The performance guarantee shall be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:

- 1) the date by which the developer shall complete construction;
- 2) a statement that the agreement does not expire until released in full by the Planning and Economic Development Board; and
- 3) procedures for collection upon default.

The security amount shall be approved by the Planning and Economic Development Board and shall be based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The amount of the performance guarantee shall be equal to 100% of the Town of Medway's cost to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities, all site amenities and infrastructure maintenance that remain unfinished at the time the performance guarantee estimate is prepared. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the roadways and infrastructure in the event the developer fails to adequately perform such and the cost for the development of as-built plans. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a twenty-five percent (25%) contingency.

If the required sidewalk work on the north side of Coffee Street from Holliston Street to Applegate Road and the installation of a fieldstone wall along approximately fifty feet (50') of the property now or formerly owned by Jeffrey and Cassandra Grenon of 16 Coffee Street are not completed by the time the first lot release is requested, the value of that construction work shall be included in calculating the bond amount.

- C. *Adjustment of Performance Guarantee Amount* – At the developer’s written request, the amount of the performance guarantee may be adjusted from time to time over the course of the construction project by vote of the Planning and Economic Development Board upon the partial completion of the roadways and infrastructure improvements. In order to establish the amount to adjust the performance guarantee, the Town’s Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the Definitive Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the MassHighway Department. The estimate shall also include the cost to maintain the roadways, stormwater management system and other infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town’s Consulting Engineer of the cost to complete the work; plus a twenty-five percent (25%) contingency.
- D. *Final Release of Performance Security* - Final release of performance security is contingent on project completion and street acceptance.
12. *Lot Deeds* – Prior to endorsement of the AMENDED plan, the Applicant shall provide the Board with amended deeds for Lot 7, Lot 12B, Lot 9B, and Lot 8B indicating that these lots are subject to the new utility and access easement. The document shall be reviewed and approved by Town Counsel.
13. *Easements* – Prior to endorsement of the AMENDED plan, the Applicant shall provide the Board with a copy of a proposed REVISED document to convey the easements shown on the AMENDED plan to the Town of Medway. The document shall be reviewed and approved by Town Counsel prior to plan endorsement.
14. Within thirty (30) days of endorsement of the AMENDED plan, the Applicant shall provide the Town with a set of the endorsed approved AMENDED plan in 24” x 36” and 11” x 17” paper format. The Applicant shall also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp).
15. *Expiration of Appeal Period* - Prior to endorsement of the AMENDED plan, the Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk’s office.
16. *Payment of Balance of Fees* - Prior to endorsement of the AMENDED plan, the Applicant shall pay the balance of any outstanding plan review services by any outside consultants retained by the Board.
17. *Proof of Taxes Paid* - Prior to the Board’s endorsement of the AMENDED plan and prior to its approval of a full or partial *Release of Covenant* for the building lots, the Applicant shall be

current with the existing forbearance agreement with the Medway Treasurer/Collector for real estate taxes and other fees for all property owned by the applicant or associated entities in Medway.

18. *Applicability of Conditions of Prior Certificate of Action* - Conditions #3, 5, 9, 10, 17, 24, 27, and 28 as specified in the original Certificate of Action dated June 22, 2006 shall continue to be in effect and shall apply to the amended Applegate Farm Definitive Subdivision Plan.

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**AMENDED APPLGATE FARM DEFINITIVE SUBDIVISION PLAN
CERTIFICATE OF ACTION**

Date of Action: January 14, 2014

AYE:

NAY:

[Handwritten signatures in blue ink over horizontal lines]

Date Signed: January 14, 2014

Attest: Susan E. Affleck-Childs
Susan E. Affleck-Childs
Planning and Economic Development Coordinator

January 14, 2014
Date

Date Filed with the Town Clerk: _____

- Copies To:** Stephanie Bacon, Health Agent
Patty Barry, Conservation Agent
David D'Amico, DPS Deputy Director
John Emidy, Building Commissioner
Donna Greenwood, Assessor
Thomas Holder, DPS Director
Jeff Lynch, Fire Chief
Melanie Phillips, Treasurer/Collector
Suzanne Kennedy, Town Administrator
Barbara Saint Andre, Town Counsel
Jeffrey Watson, Police Safety Officer
Gino Carlucci, PGC Associates
Dave Pellegri, Tetra Tech
Ralph Costello, Unique Homes
Rob Truax, GLM Engineering

RECEIVED
JAN 23 2014
TOWN CLERK