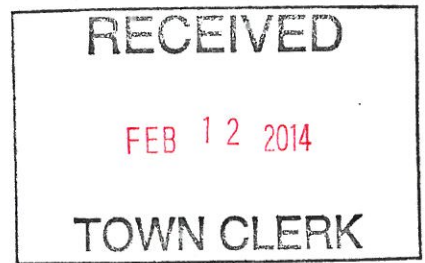




TOWN OF MEDWAY
Planning & Economic Development Board
155 Village ST
Medway, Massachusetts 02053



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

February 11, 2014

CERTIFICATE OF ACTION
HILL VIEW ESTATES – A PERMANENT PRIVATE WAY
DEFINITIVE SUBDIVISION PLAN
APPROVED with Waivers and Conditions

Location: 32R Hill Street
Assessors' Reference: 3-033 (formerly known as Map 8 – Parcel 16)
Parcel Size: 12.7 acres
Name/Address of Applicant: Christine Price
32R Hill Street
Medway, MA 02053
Name/Address of Property Owner: Christine Price
32R Hill Street
Medway, MA 02053
Engineer: Merrikin Engineering
730 Main Street
Millis, MA 02054
Surveyor: Colonial Engineering
11 Awl Street
Medway, MA 02053
Plan Dated: March 12, 2012, last revised October 28, 2013
Zoning District: Agricultural Residential I
Street Name: Nirvana Way

- I. PROJECT DESCRIPTION:** The *Hill View Estates Definitive Subdivision Plan* dated March 12, 2012, last revised October 28, 2013, shows two residential house lots and a road/drainage parcel (Parcel A) on a 12.7 acres of land located at 32R Hill Street, a Medway Scenic Road, in the Agricultural Residential I zoning district. The subject parcel is presently owned by Christine Price of Medway, MA and includes one existing single-family house, Ms. Price's residence, which will be retained on Lot 10B (4 acres +/-) as shown on the plan. The second house lot is shown as Lot 10A (8 acres +/-). The site and existing house is presently accessed from a driveway off of Hill Street. A very small portion (1,369 sq. ft.) of road Parcel A is located within the Town of Holliston where the driveway presently intersects with Hill Street.

The Hill View Estates subdivision creates a 387 linear foot long roadway right of way with a cul-de-sac at its end to provide access and legal frontage for both house lots. The existing 12' wide driveway is located within the roadway right of way. A hammerhead turnaround will be constructed at its end from which two driveways will emanate to serve the individual houses. The private way will be known as Nirvana Way. The project also includes the construction of stormwater management facilities to comply with Massachusetts Department of Environmental Protection (DEP) stormwater management requirements. A small portion of the site is in a Wetlands Resource Area.

The applicant intends for the owner of Lot 10A to also own and be responsible for upkeep and maintenance of the roadway and the stormwater drainage facilities.

II. PROCEDURAL SUMMARY:

1. On January 16, 2013, the Planning and Economic Development Board received an application for approval of the *Hill View Estates Definitive Subdivision Plan*, dated March 12, 2012 prepared by Colonial Engineering of Medway, MA and Merrikin Engineering of Millis, MA. This definitive subdivision plan was preceded by submission of a preliminary subdivision plan which the Planning and Economic Development Board reviewed during the first quarter of 2011.
2. On February 12, 2013, the Board commenced the public hearing. The public hearing notice was posted with the Medway Town Clerk on January 24, 2013 and was sent by *Certified Sent* mail on January 25, 2013 to abutters in Medway and Holliston within 300 feet of the subject property and to parties of interest. The public hearing was duly noticed in the *Milford Daily News* on January 29 and February 5, 2013. The Board continued the public hearing to March 26, April 23, May 28, June 25, July 23, August 27, October 8, November 12, and November 26, 2013 when it was closed.
3. During the course of the public hearing, the *Hill View Estates Definitive Subdivision Plan* was revised and resubmitted. The revised plan date was October 28, 2013.
4. During the course of the public hearing and review, the applicant requested and the Board approved three extensions of the deadline for the Board's action on the definitive subdivision plan application. On March 26, 2013, the action deadline was extended to December 31, 2013. On November 26, 2013, the action deadline was extended to January 31, 2014. On January 28, 2014, the action deadline was extended to February 28, 2014.

5. All members voting on this Certificate of Action were present at all sessions of the public hearing or provided a Mullins Rule certification (Bob Tucker for the 10/9/13 hearing) or participated remotely (Tom Gay on 3/26/13).

III. PUBLIC HEARING SUMMARY: The public hearings and Board review of the proposed *Hill View Estates Definitive Subdivision Plan* were conducted on the dates noted above. The plan and its submitted revisions were reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005 which were in effect at the time the applicant submitted a preliminary subdivision plan to the Board in February 2011.

Specified below is a list of plan documents and support materials, public comments, consultant and town departmental board review documents, and supplemental information which have been provided by the Applicant or placed on the record by the Planning and Economic Development Board since the application was received in January 2013. All information is on file in the Medway Planning and Economic Development office and is available for public review (except for confidential communications from Town Counsel).

Hill View Estates Definitive Subdivision Plan – Colonial Engineering and Merrikin Engineering
Dated - March 12, 2012
Revised – October 28, 2013

Hill View Estates – 32R Hill Street Stormwater Report – Merrikin Engineering
Dated – March 12, 2012
Revised – October 28, 2013

Request for Waivers from Subdivision Rules and Regulations - April 20, 2012

Town Engineering Consultant Reviews – David Pellegrini, P.E. Tetra Tech
February 7, 2013
November 6, 2013

Town Planning Consultant Review Letters – Gino Carlucci, AICP, PGC Associates
February 7, 2013
November 5, 2013

Supplemental Information Provided By Applicant and his Consultants

Letter from Daniel Merrikin, P.E. Merrikin Engineering dated October 31, 2013 in response to review letters from PGC Associates and Tetra Tech dated February 7, 2013

Letter from Paul DeSimone, Colonial Engineering, dated October 29, 2013 in response to review letters from PGC Associates and Tetra Tech dated February 7, 2013

Supplemental Information Entered into the Record by the Medway Planning and Economic Development Board

Variance decision dated September 25, 1994 from the Medway Zoning Board of Appeals pertaining to 32R Hill Street.

Citizen/Resident/Abutter Letters – None

Citizen/Resident Testimony – None

Professional Testimony

- Gino Carlucci, AICP, PGC Associates, Inc. – Franklin, MA
- David Pellegrini, P.E., Tetra Tech – Framingham, MA
- Paul DeSimone, Colonial Engineering – Medway, MA
- Dan Merrikin, P.E. Merrikin Engineering – Millis, MA

Medway Departmental/Board Review Comments – None

IV. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS –

The Applicant has requested and the Board has identified needed waivers from the following sections of the *Subdivision Rules and Regulations*, dated April 26, 2005.

SECTION 7.6.2 – UTILITIES INSTALLATION

b) Water Facilities Installation – *Water mains, with hydrants, valves and other fittings, shall be constructed and installed within the subdivision as necessary to provide to all lots therein adequate water supply for domestic and fire protection use.*

FINDINGS – The applicant has asked for a waiver from this particular requirement because there is no public water supply available in this area of Medway and Holliston to which this subdivision could connect. The applicant’s current residence is served by a private well and construction of a house on the newly created house will also include installation of a private well.

SECTION 7.7.2 STORMWATER MANAGEMENT – (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 house/building lots. The limits of detention and retention basins and related structures shall not be closer than thirty feet (30’) from its lot parcel line and any right-of-way.*

FINDINGS - The applicant has proposed installing the stormwater management facilities within the layout of the private roadway (Parcel A) and within an easement on lot 10A as shown on the plan. A stormwater basin will be constructed within the roadway cul-de-sac which is a separate parcel from the house/building lots. The PEDB has allowed detention basins to be located within the roadway layout of other private way subdivisions. The stormwater plan also includes shallow infiltration trenches (less than 1.1’ deep) within the roadway cul-de-sac and within the drainage easement on Lot 10A. Trench #2 on Lot 10A receives runoff only from that lot’s specific development and is independent from the roadway drainage so it is reasonable that Trench #2 be located on the lot which it serves. This approach to stormwater management is a low impact design which is unobtrusive, blends into the landscape and is more aesthetically pleasing.

SECTION 7.9.5 GRADE b) – *The maximum centerline grade for a Permanent Private Way shall be 8%.*

FINDINGS - The applicant proposes a 10.8% roadway grade instead of required 8%. The 10.8% grade is an existing condition and no alteration of the existing roadway is proposed. Requiring compliance with this standard would require significant disruption of the existing topography and require the removal of many mature trees, resulting in a greater impact on the neighborhood.

SECTION 7.9.7 g) ROADWAY CONSTRUCTION (width) – *The minimum width of the roadway pavement shall be Eighteen Feet (18') for a Permanent Private Way.*

SECTION 7.9.7 h) ROADWAY CONSTRUCTION (composition) – *Pavement for roadways in subdivisions shall be Hot Mix Asphalt Pavement.*

FINDINGS – The applicant proposes to reuse approximately 325 feet linear feet of existing roadway which is 12' wide with a 3' gravel apron on each side. The combined overall surface width of 18' is consistent with the Town's standards for a Permanent Private Way. The applicant proposes that the hammer head area be constructed of gravel within the cul-de-sac area of the road. The gravel aprons are an important component of the drainage system. The current roadway construction and pavement width will result in more extensive preservation of the highly wooded setting and minimize site and neighborhood impacts that would be necessitated by the additional drainage that a wider paved roadway would require.

SECTION 7.10.1 CURBS AND BERMS – *Vertical Granite Curbing shall be installed at intersection roundings and cul-de-sac entrances.*

FINDINGS – The applicant proposes to not install any form of curbing at the intersection roundings at Hill Street. This would leave the entrance to the subdivision in its existing natural state. No issues with the current construction have been identified and leaving it in its current state would result in fewer impacts on the neighborhood. The roadway intersection at Hill Street is located within the Town of Holliston so the Medway Planning and Economic Development Board has no jurisdiction on this particular component of the roadway design.

SECTION 7.10.2 CURBS and BERMS – *Hot Mix Asphalt Cape Cod Berm shall be provided the full length of Permanent Private Ways along each side of the roadway.*

FINDINGS – The applicant proposes to not install any curbing along the subdivision roadway. The existing crushed stone aprons along both sides of the existing driveway have been in use for years and fit the natural setting along Hill Street. The berms or curb would either need to be installed along the edge of the existing pavement which would render the drainage function of the gravel aprons useless, or the aprons would need to be paved and additional drainage installed. No adverse impacts from the current configuration have been identified, and leaving it in its current state would result in fewer impacts on the neighborhood.

SECTION 7.17.1 FIRE PREVENTION AND PROTECTION MEASURES – A fire alarm system shall be installed in accordance with the specifications of and located as directed by the Medway Fire Department or a sum of money paid to the Town equal to the cost of installing a fire alarm system within the subdivision, for use by the Fire Department for capital purchases.

FINDINGS – The applicant proposes to not install a fire alarm system for this small, private way subdivision. The Fire Department no longer requires the installation of fire alarm boxes because it is converting to a higher technology alarm system. The widespread use of cellular phones makes fire alarm systems obsolete. Further, the Town has determined that it may not collect a sum of funds in lieu of fire alarm installation. Therefore, the Board finds this waiver to be acceptable.

SECTION 7.19.2 – TREES AND SLOPE STABILIZATION - To enhance the aesthetic quality of the streetscape, deciduous street trees of nursery stock conforming to the standards of the American Association of Nurserymen, shall be planted on each side of each street in a subdivision. . . . At least three (3) trees are to be placed on each lot at approximately forty foot (40') intervals

FINDINGS – The applicant does not propose to plant additional street trees along the existing roadway. The site is already heavily wooded and the applicant has provided a landscaping plan for the area where the roadway forms a hammerhead and splits into driveways for the two residences. The Board finds that this is an acceptable substitute.

SECTION 7.21 – STREET LIGHTS – It shall be the responsibility of the developer to install street lighting within the subdivision at the entrance to the subdivision, at all intersections within the subdivision, sharp turns, or other areas where the Traffic Safety Officer deems they are needed for public safety.

FINDINGS – The applicant has requested a waiver from the required installation of street lights as this subdivision is for only two residences. The subdivision “road” functions more like a driveway than a street. Its entrance off of Hill Street does not constitute an intersection where a street light would be merited. The roadway is fairly straight for its length of 387 linear feet. Further, Hill Street is a scenic road and less light intrusion is in keeping with that quality.

MITIGATION PLAN

1. The new road will be private in perpetuity, owned and maintained by the owner of Lot 10A thus relieving the Town of this on-going responsibility and expense.
2. Maintenance and upkeep of the stormwater management facilities will be the responsibility of the owner of Lot 10A thus relieving the Town of this on-going responsibility and expense.
3. The reduced width of road paving will result in reduced disturbance to the topography and less impact on the site’s wetlands, woodlands and other natural resources.

ACTION ON WAIVER FINDINGS - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by Robert Tucker and seconded by Matthew Hayes to approve the above noted Waiver Findings. The motion was approved unanimously by a vote of five in favor and zero opposed.

ACTION ON MITIGATION PLAN - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by Robert Tucker and seconded by Matthew Hayes to approve the above noted Mitigation Plan. The motion was approved unanimously by a by a vote of five in favor and zero opposed. .

ACTION ON WAIVERS – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on January 28, 2014, a motion was made by Robert Tucker and seconded by Matthew Hayes to approve the above noted waivers from the *Subdivision Rules and Regulations*. The motion was approved unanimously by a vote of five in favor and zero opposed.

V. PROJECT EVALUATION CRITERIA – Before taking action on the *Hill View Estates Definitive Subdivision Plan*, the Board shall evaluate the proposed subdivision modification according to the 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 February 11, 2014, a motion was made by Robert Tucker and seconded by Matthew Hayes to approve the Project Evaluation Findings noted below. The motion was unanimously approved by a vote of five in favor and zero opposed.

5.16.1 Completeness and technical accuracy of all submissions.

FINDINGS – The Planning and Economic Development Board finds that the submissions 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 – The Board finds that, as conditioned, the proposed street pattern within the new subdivision is safe and convenient. The proposed new roadway within the subdivision is comparable to other recently-approved permanent private subdivision roadways that have been found to be safe and convenient.

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 – The Board finds that the location of the development does not entail unwarranted hazard. A drainage plan has been designed to handle anticipated stormwater runoff and the sight distances from the proposed road are adequate. The new house will use a private well and septic system to be approved by the Board of Health, and erosion controls will be in place during construction.

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 site of the subdivision is not within a Priority Habitat area and the wetlands of the site are well away from the developed area. There will be an increase of only one single-family house to be constructed. The Board finds that the subdivision will not cause substantial and irreversible damage to the environment and is much preferred to the fuller development of the land which could occur under present zoning.

- 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 – The Board finds that the proposed roadway with its existing gravel shoulders, the existing turnaround that is located on what will become Lot 10B, and the proposed hammerhead within Road Parcel A is adequate to provide emergency medical, fire and police protection as well as safe travel for the anticipated volume of traffic for two homes. There is an existing turnaround

- 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 Board finds that the lots created by this plan conform to all applicable requirements of the Medway Zoning Bylaw, including minimum area and frontage requirements.

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

FINDINGS – The Board finds that the proposed subdivision is consistent with the purposes of the Subdivision Control Law because the infrastructure proposed is adequate for the new development and the impacts of the subdivision have been mitigated to a reasonable extent. Reasonable waivers have been granted herein with good cause.

VI. OTHER FINDINGS

At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on February 11, 2014, a motion was made by Robert Tucker and seconded by Matthew Hayes to approve the **Other Findings** noted below. The motion was unanimously approved by a vote of five in favor and zero opposed.

- A. In 1994, the Medway Zoning Board of Appeals authorized a variance for the 12.7 acre property at 32R Hill Street from the Zoning Bylaw's frontage requirements in order to allow for the construction of a single family home on the property. The variance was granted to former owner Michael Curatola subject to the condition that only one single family home could be built on that lot. The Board finds that its authority pertains only to subdividing the subject property and in so doing, does not conflict with the above noted variance condition. The status of or changes to the previously issued variance is a matter to be resolved by the applicant and the Inspector of Buildings and may necessitate further action by the Zoning Board of Appeals.

- B. A small portion of the roadway parcel (1,369 sq. ft.) at its intersection with Hill Street is located within the Town of Holliston. The Board will provide this decision and the latest plans to the Holliston Planning Board which may determine its level of review and authority.

VII. DECISION – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on February 11, 2014, a motion was made by Robert Tucker and seconded by Matthew Hayes to approve the **Hill View Estates Definitive Subdivision Plan**, prepared by Colonial Engineering and Merrikin Engineering, dated March 12, 2012, last revised October 28, 2013 and further to impose the Specific and General Conditions as specified herein and with Waivers from the following sections of the *Subdivision Rules and Regulations* dated April 25, 2005.

- 7.6.2 Water Facilities Installation
- 7.7.2 p) Stormwater Management
- 7.9.5 b) Grade
- 7.9.7 g) & h) Roadway Construction
- 7.10.1 & 2 Curbs and Berms
- 7.17.1 Fire Protection
- 7.19.2 Trees and Slopes
- 7.21 Streetlights

The motion was unanimously approved by a vote of five in favor and zero opposed.

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

A. Specific Conditions

1. This subdivision of the subject property is authorized for no more than two residential house lots and one roadway/drainage parcel. As a permanent condition of the approval of this plan, no further subdivision of the property is allowed.
2. The Applicant shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the definitive subdivision plan, to the satisfaction of the Planning and Economic Development Board, within five years of the date of endorsement of the plan.
3. Prior to plan endorsement, the revised plan dated October 28, 2013, shall be further revised to include the following references:
 - A note shall be added to all plan sheets indicating that the plan is subject to this *Certificate of Action* which shall be recorded with the Definitive Subdivision Plan at the Norfolk County Registry of Deeds.
 - A note shall be added to all plan sheets to indicate that present and future owners are subject to a Subdivision Covenant to be recorded with the Definitive Subdivision Plan at the Norfolk County Registry of Deeds.

- A note shall be added to the plan that the house address numbers shall be marked on a post at the end of each house lot driveway to facilitate easy identification from the private roadway for emergency and safety vehicles.
 - Show an easement across Roadway Parcel A for use by the owner of Lot 10B.
4. *Ownership of Nirvana Way* - The roadway depicted on this subdivision plan shall remain privately owned in perpetuity. There is no intention or expectation that the Town of Medway will ever accept the roadway as constructed pursuant to this plan. The owner of Lot 10A shall own and maintain the private roadway parcel including but not limited to snowplowing and sanding, and maintain and operate the stormwater detention/infiltration system and related infrastructure located within the roadway right of way and on Lot 10A.
 5. The Applicant shall convey the fee in the roadway and the drainage easement to the owner of Lot 10A.
 6. Prior to endorsement, the plan shall be revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action requiring changes to the definitive subdivision plan must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Board will endorse the definitive subdivision plan.
 7. *Declaration of Protective Covenants & Restrictions and Private Roadway Maintenance Agreement Governing the Hill View Estates subdivision* – The future owners of Lots 10A and 10B are subject to the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Hill View Estates subdivision* to be executed and recorded with the definitive subdivision plan. Prior to endorsement, the Applicant shall provide a proposed *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Hill View Estates Subdivision* to be reviewed and approved by Town Counsel and the Planning and Economic Development Board. At a minimum, the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Hill View Estates Subdivision* shall include language regarding the responsibility of the owner of Lot 10A for the upkeep, repair, and on-going maintenance of the roadway including snowplowing and sanding, and the operation and maintenance of the stormwater management system.
 8. *Lot Deeds* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with copies of the proposed deed to convey or transfer each subdivision lot for review, comment, amendment and approval by Town Counsel. Each deed shall specifically refer to any and all easements shown on the plan for that particular lot. The deed text shall include descriptive language specifying all easements, boundary delineations, specific usages and purpose. Each deed shall clearly state that Nirvana Way is a private way, not ever to be owned by the Town of Medway. Each deed shall refer to the Hill View Estates definitive subdivision plan. The deed shall refer to the *Declaration of Protective Covenants & Restrictions and the Private Roadway Maintenance Agreement Governing the Hill View Estates Subdivision*.

9. *Road Deed & Easements* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed deed to convey Nirvana Way and all drainage easements shown on the plan to the owner of Lot 10A for review, comment, amendment and approval by Town Counsel.
10. *Road Easement* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed easement document
11. *Document/Plan Recording* – Within thirty days of recording the endorsed MODIFIED definitive subdivision plan, the *Subdivision Covenant, the Declaration of Protective Covenants and Restrictions and Private Roadway agreement Governing the Hill View Estates subdivision* with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development 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.
12. *Maintenance Responsibility During Construction* – The owner of Lot 10A shall provide for snow plowing, sanding and full maintenance of Nirvana Way and all related stormwater management facilities throughout the entire construction process until the roadway is determined to be complete by the Board.

B. General Conditions

1. *Expiration of Appeal Period* – Prior to endorsement of the modified plan, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty day appeal period from the Town Clerk's office.
2. *Payment of Balance of Fees/Taxes* – Prior to endorsement of the modified plan, the Applicant shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations, fees or taxes due the Town of Medway. Proof is required from the Medway Town Treasurer/ Collector that all real estate taxes are current for all property owned in Medway by the applicant.
3. *Subdivision Covenant* – Prior to endorsement of the modified plan, the Applicant shall sign a *Subdivision Covenant*, on a form acceptable to 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 modified subdivision plan. Reference to the *Subdivision Covenant* shall be noted on the cover sheet of the Definitive Subdivision Plan. The *Subdivision Covenant* shall specify that the roadway and all relevant 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 five years of the date of plan endorsement. The *Subdivision Covenant* shall apply to Lots 10A and 10B as shown on the plan.
4. *Replacement of Subdivision Surety* – At such time as the Applicant wishes to secure a building permit for any lot within the subdivision or convey either lot, the security provided by the *Subdivision Covenant* shall be replaced by a subdivision surety in compliance with General

Laws chapter 41 §81U and the Board's Regulations. Prior to the Planning and Economic Development Board's approval of the *Release of Covenant* for any house lot, the Applicant shall provide suitable performance security to the Town of Medway in an amount equal to 100% of the amount that would be required for the Town of Medway to complete construction improvements and infrastructure maintenance if the Applicant failed to do so. The surety amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer. The applicant shall also enter into a surety agreement with the Planning and Economic Development Board as provided in the Regulations. Any company providing the surety shall be acceptable to the Medway Treasurer/Collector.

5. *Order of Conditions* – If applicable and prior to endorsement of the plan, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all “*Order of Conditions*” as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the definitive subdivision plan that may be required under the “*Order of Conditions*” shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a further modification to the definitive subdivision plan. The Planning and Economic Development Board reserves the right to negotiate with the issuing authority any mutually acceptable modifications to the “*Order of Conditions*” that may be deemed appropriate by the Planning and Economic Development Board and the Town's Consulting Engineer and acceptable to the applicant. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty day appeal period must be received from the Town Clerk's office before the Planning and Economic Development Board endorses the plan modification.

Additionally, upon issuance of any “*Order of Conditions*” requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

6. *Construction Observation* – Inspection of roadway and infrastructure construction by the Town's Consulting Engineer is required. Prior to plan endorsement, the Applicant shall establish a construction observation account with the Medway Planning and Economic Development Board. The Applicant shall pay a construction observation fee to the Town of Medway for such inspections as determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer. As needed, the Applicant shall provide supplemental payments to the Town of Medway for reasonable construction inspection services upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed and the as-built plan has been reviewed and determined to be satisfactory for filing with the Town.
7. Within thirty days of endorsement of the plan, the Applicant shall provide the Town with a set of the approved plans in 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).

8. *Pre-Construction Meeting* – At least seven days prior to the start of any construction on the site, a pre-construction meeting shall take place with the Town’s Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Services, the Medway Conservation Agent, the developer and the primary contractor. The construction schedule shall be reviewed and the procedures for inspections discussed. A copy of the final Stormwater Pollution Prevention Plan (SWPP) as filed with the Massachusetts Department of Environmental Protection (DEP) shall be provided to the Town.
9. *Proof of Taxes Paid* – Prior to the Planning and Economic Development Board’s approval of the *Release of Covenant* for Lots 10A and 10B, proof is required from the Medway Town Treasurer/Collector that all real estate taxes and other municipal fees and charges are current for the property included in this subdivision and any other property owned by the applicant in Medway.
10. *As-Built Plans* - The Applicant agrees to prepare and provide as-built construction plans prepared in accordance with the approved subdivision plan and with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted, to the satisfaction of the Planning and Economic Development Board. The Applicant shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Applicant shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor’s maps relative to this subdivision.
11. *Compliance* - All construction shall be as specified in the approved definitive subdivision plan and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection’s Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

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**HILL VIEW ESTATES DEFINITIVE SUBDIVISION PLAN
CERTIFICATE OF ACTION
MEDWAY PLANNING AND ECONOMIC DEVELOPMENT BOARD**

Date of Action by the Medway Planning and Economic Development Board:

February 11, 2014

AYE:

[Handwritten signature]
[Handwritten signature]
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[Handwritten signature]
[Handwritten signature]

NAY:

Date Signed: 2-11-2014

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

2-12-14
Date

Date Filed with the Town Clerk: _____

- Copies To:** Stephanie Bacon, Health Agent
David D'Amico, Public Services
John Emidy, Building Commissioner
Donna Greenwood, Assessor
Thomas Holder, Public Services
Suzanne Kennedy, Town Administrator
Jeff Lynch, Fire Chief
Melanie Phillips, Treasurer/Collector
Barbara Saint Andre, Town Counsel
Bridget Graziano, Interim Conservation Agent
Sergeant Jeffrey Watson, Police Safety Officer
Gino Carlucci, PGC Associates
Dave Pellegri, Tetra Tech
Christine Price
Tony Biocchi
Colonial Engineering