

SECTION 3 - PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

3.1 PLAN BELIEVED NOT TO REQUIRE APPROVAL (§81P, ANR)

3.1.1 Submission of Plan

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a Plan of Land, and who believes that his plan does not require approval under the Subdivision Control Law, may submit his plan and four (4) contact prints thereof and two (2) copies of a properly executed application form accompanied by the required fee and evidence to show that the plan does not require approval. Such submittal shall be filed with the Planning Board or its designated agent by hand delivery, registered or certified mail. After such submission, said person shall also file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission to the Board for such determination accompanied by a copy of said application and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery the Town Clerk shall, if requested, give a written receipt therefore and shall notify the Planning Board in writing on the date of such receipt.

Applicants must submit in electronic form all documents required under Section 3.1, and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant or its representatives unless the applicant demonstrates to the satisfaction of the Town Planner that electronic submission is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS "Standard for Digital Plan Submittal to Municipalities," or successor standard. Electronic submission must be contemporaneous with submissions by other means and be in formats acceptable to the Board.

3.1.2 Plan Sheets

Said plan shall be accurately and legibly drawn in accordance with the rules and regulations of the Registry of Deeds, as amended, pertaining to plan size, material, lettering and related requirements, and shall contain all required seals and signatures required by the Registry of Deeds for the recording of said plan. The plan shall be a minimum size of nine and one-half inches by fourteen inches (9 1/2" x 14") and shall not exceed a maximum size of twenty-four by thirty-six (24" x 36"). The scale shall be forty feet (40') to the inch. The plan shall be prepared by a professional engineer or land surveyor registered in Massachusetts.

3.1.3 Contents. The plan shall contain the following:

- 3.1.3.1 Identification of the plan by name of the owner of record and location of the land in question including Deed, Book and Page reference, the Assessors' tax map number and lot number, area, frontage in feet, the scale, north point, and date.

-
- 3.1.3.2 The statement, "Approval Under Subdivision Control Law Not Required" and sufficient space for the date and the signatures of all the members of the Board.
 - 3.1.3.3 A locus map at one thousand feet (1,000') to the inch showing the boundaries of the abutting properties.
 - 3.1.3.4 Zoning classification and location of any zoning district boundaries that lie within the locus of the plan, including any overlay zoning districts, which include but are not limited to, the Flood Plain, Historic Districts, Water Supply Protection Overlay District, Campus Development Overlay District, etc.
 - 3.1.3.5 Site information showing all flood plains and zones, waterways and wetland/resource areas pursuant to the Massachusetts Wetlands Protection Act and the Grafton Wetlands Protection Bylaw (on site and with within 100 feet of the property), locations of wells (on site and within 100 feet of the property), and front/side/rear building setback lines. In the event this information is not accessible by virtue of being denied access to such, the plan shall reflect what information was accessible, and shall describe any limitation encountered.
 - 3.1.3.6 In the case of the creation of a new lot, all the remaining contiguous land area and frontage of the land in the ownership of the applicant shall be shown.
 - 3.1.3.7 Notice of any and all decisions including but not limited to variances, special permits, etc. regarding the land or any buildings thereon, including the deed book and page numbers where such documents are recorded in the Worcester District Registry of Deeds.
 - 3.1.3.8 Names of abutters from the most recent local tax list. If the applicant has knowledge of any changes subsequent to the latest available Assessor's records, this information shall be indicated on the plan.
 - 3.1.3.9 Names and status (e.g., private or public, how developed and maintained, etc.) of streets and ways shown on the plan, and covenants regarding common driveways, if any.
 - 3.1.3.10 The names and addresses of the record owner of the land and Applicant and the name, seal, and address of the engineer or surveyor who made the plan. This information shall appear in the lower right-hand corner of the plan.
 - 3.1.3.11 Bearings and distances of all lines of the lot or lots shown on the plan and the distance bearing to the nearest permanent monument.
 - 3.1.3.12 Location and description of all existing buildings and structures including all septic systems, surface and sub-surface drainage.
 - 3.1.3.13 Location and description of all bounds, fences, walls, easements and/or encumbrances, including location of existing trails and other pertinent information.
 - 3.1.3.14 The following statement: "Compliance with zoning or other regulations is neither expressed nor implied".

-
- 3.1.3.15 The following statement, if the plan shows any parcel or parcels which are not intended as a building lot: “Not a building lot; no further building may occur without further approval by the Planning Board pursuant to the Subdivision Control Law”.

3.1.4 Additional Requirements

Justification/description of basis for claim to ANR endorsement, clearly noted both on the application form and on the plan (ie: required frontage on a Town accepted road, separation of lots with buildings which preexist subdivision control (including evidence) etc).

3.1.5 Enforcement of Approval Not Required Plans

- 3.1.5.1 In determining whether a way in existence when the Subdivision Control Law became effective in the Town is adequate to qualify a plan as not constituting a subdivision, the Board shall take into consideration the following factors, among others:
- a) whether the right-of-way is at least thirty three (33) feet wide and of reasonable horizontal alignment;
 - b) whether the existing horizontal and vertical alignment of the roadway provides safe visibility;
 - c) whether the roadway is at least eighteen (18) feet wide, with at least eight (8) inches of gravel, and with adequate provisions for drainage;
 - d) whether the road could ever service more than six (6) dwelling units. If it is determined that the road could ever serve more than 6 dwelling units then, in order to be entitled to ANR endorsement, it must be suitably paved with bituminous concrete at no cost to the Town.
- 3.1.5.2 When an applicant requests the Town Clerk to certify a way as maintained and used as a public way, the Town Clerk shall submit to the Board written evidence of public maintenance under vote of the Town.

3.1.6 Planning Board Action

3.1.6.1 Endorsement of Plan Not Requiring Approval

- a) If the Board determines that the plan does not require approval under the Subdivision Control Law, it shall, without a public hearing, and within twenty-one (21) days of a complete submission, endorse the plan with the words "Approval Under the Subdivision Control Law Not Required", or words of similar import. Such endorsement shall not be withheld unless such plan shows a subdivision.
- b) The Board may add to such plan a statement of the reason approval is not required or such other information as it deems appropriate, including, but not limited to, notation as to whether the new boundaries meet requirements for a building lot.
- c) In the event the Planning Board denies the request for ANR endorsement, the Board shall notify the Town Clerk in writing of its action and shall return the original plan to the Applicant.

-
- d) Following the endorsement by the Planning Board, the Board shall return the original to the Applicant.

3.1.6.2 **Determination that Plan Requires Approval**

- a) If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within twenty-one (21) days of the submission of the plan, inform both the Applicant and the Town Clerk in writing of the determination and return the plan to the Applicant.
- b) If the Board determines that the plan shows a subdivision, the Applicant may submit a plan for approval as provided by law and by these Rules and Regulations, or may appeal such determination in the manner provided by the provisions of the Subdivision Control Law.

3.1.6.3 **Failure of the Board to Act**

If the Board fails to act upon a plan submitted under this Section or fails to notify the Town Clerk and the persons submitting the plan of its action within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

3.2 PRELIMINARY PLAN

3.2.1 Submission of a Preliminary Plan

Any person who wishes to create a residential subdivision may, and any person who wishes to submit a non-residential subdivision must, submit a Preliminary Plan. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Selectmen, the Town Clerk, the Town Engineer, the Superintendent of Streets, the Inspector of Buildings, the Board of Health, the Conservation Commission, the Recreation Commission, the Police and the Fire Departments, the Sewer Commissioners, other Town Agencies and the owners of property abutting the subdivision to discuss and clarify the details of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. It is also recommended that a pre-submission meeting be held between the Applicant and the Planning Board to discuss the general characteristics of the proposed subdivision and the requirements of these Rules and Regulations.

- 3.2.1.1 The Preliminary Plan and fifteen (15) copies thereof, together with the minimum filing and review fees, and two (2) copies of a properly executed application, and one (1) set of reproducible reductions of the Preliminary Plan, said reductions not to exceed eleven by seventeen inches (11" x 17") in outside dimensions, shall be filed with the Planning Board.

- 3.2.1.2 After such submission, the Applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission of a Preliminary Plan to the Board for such approval accompanied by a copy of said application and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, The Town Clerk shall, if requested, give a written receipt therefore.

-
- 3.2.1.3 Applicants must submit in electronic form all documents required under Section 3.2, and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant or its representatives unless the applicant demonstrates to the satisfaction of the Town Planner that electronic submission is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS "Standard for Digital Plan Submittal to Municipalities," or successor standard. Electronic submission must be contemporaneous with submissions by other means and be in formats acceptable to the Board.

3.2.2 Plan Sheets

The Preliminary Plan shall be drawn on tracing paper or other reproducible substance at a scale of forty feet (40') to the inch. If the subdivision plan requires more than two (2) sheets, a plan that is at a scale of one inch (1") equals one hundred feet (100') or as otherwise appropriate to show the subdivision on one sheet, shall also be provided to show the subdivision on one (1) sheet. Sheet sizes shall be twenty-four by thirty-six inches (24" X 36") including a 3/4 inch border. The plan shall be designated as a "Preliminary Plan" and shall be used to form a clear basis for discussion of the details of the subdivision and for preparation of the Definitive Plan.

3.2.3 Contents. The Plan shall contain the following:

- 3.2.3.1 The subdivision name, if any, boundaries, north point, date, scale, legend and title "Preliminary Plan".
- 3.2.3.2 The name of the record owner of the land and the Applicant, and the name, seal, and address of the designer, engineer or surveyor who made the plan. This information shall appear in the lower right-hand corner of the plan.
- 3.2.3.3 The names of all abutters, as determined from the most recent Assessors' records
- 3.2.3.4 The existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision, in a general manner.
- 3.2.3.5 A description of the proposed and any known existing surface drainage in a general manner within and outside of the area shown on the plan.
- 3.2.3.6 The approximate boundary lines of proposed lots, with approximate areas and dimensions.
- 3.2.3.7 The names, approximate location and widths of adjacent streets
- 3.2.3.8 The topography of the land in a general manner

3.2.4 Additional Submittal Requirements

- 3.2.4.1 Additional Plan information, including the following:

-
- a) If more than one page, each page must contain in the lower right-hand corner, the subdivision name, the page number, the date of plan preparation, and, when applicable, provisions for recording any and all revision dates, and space for Planning Board action. In addition, the first page shall contain an index of all pages supplied. Said index shall indicate what information is to be found on each page of the plan.
 - b) The locus of the land shown on the plan, at a scale of 1000 feet (1000') to the inch.
 - c) Major features of the land including existing walls, fences, trails, monuments, buildings, large trees or wooded areas, rock ridges and outcroppings, ditches. Where available, aerial photographs may be required. Indication of all site features to be retained, demolished or moved shall be so noted.
 - d) Site information showing all flood plains and zones, waterways and wetland resources areas pursuant to the Massachusetts Wetlands Protection Act and the Grafton Wetlands Protection Bylaw (on site and within 100 feet of the property), locations of wells (on site and within 100 feet of the property) and front/side/rear building setback lines. In the event this information is not accessible by virtue of being denied access to such, the plan shall reflect what information was accessible, and shall describe any limitation encountered.
 - e) Location and description of all bounds, fences, walls, easements and/or encumbrances, including location of existing trails and other pertinent information.
 - f) A general description of the proposed and any known existing sewage disposal system, water installation and surface drainage in a general manner within and outside of the area shown on the plan as required by the Planning Board, including adjacent existing natural waterways intended to receive drainage discharge. If connection to public sewage or water is proposed, then a general description of the connection from the point of the existing sewage collection or public water system to the property line of the proposed subdivision, including sewer or water lines, pump stations, force mains, etc. shall be provided.
 - g) The names, approximate location and widths of adjacent streets, and of streets within reasonable proximity of the subdivision, shown within 1000 feet on the locus, and as possible on the plan sheets.
 - h) The topography of the land with no more than a five foot (5') contour interval based on the Town Datum (United States Coast and Geodetic Survey). Water bodies and their elevations shall be shown with date of measurement.
 - i) Soil types based on the latest applicable report of the United States Department of Agriculture, Natural Resources Conservation Service.
 - j) Letter designation of the proposed streets in lieu of names.
 - k) The profiles of existing grades and approximate proposed finished grades of the roadway and underground utilities.
 - l) A cross section of any open channel streams.
 - m) Area(s) of contiguous land and water of the Applicant not presently being subdivided, with a sketch plan showing a feasible future street layout for such.
 - n) Easements and rights-of-way applicable to the area shown on the plan, including widths, lengths and purposes of same.

-
- o) Notice of any and all decisions including, but not limited to, variances, special permits, etc., regarding the land or buildings thereon, including the Deed Book and Page numbers where such documents are recorded in the Worcester District Registry of Deeds.
 - p) Zoning classification and location of any zoning district boundaries that lie within the locus of the plan, including any overlay zoning districts, which include but are not limited to, the Flood Plain, Historic Districts, Water Supply Protection Overlay District, Campus Development Overlay District, etc., and any local historic district.
 - q) Areas of land within any historic district, on official Scenic Roads, and the location of historic monuments and buildings or distinctive geographic features worthy of preservation.
 - r) Deed, book and page references, and Assessor's Map and lot numbers.
- 3.2.4.2 A Project Information Summary containing information to provide a basis for general conclusions about the effect of the proposed plan on the environment and on the community.
- 3.2.4.3 Any waivers from the requirements of these Rules and Regulations which are sought by the applicant, including the citation from the Regulations and a description of the requirements, a justification for each requested waiver, and a thorough description of the harm to be suffered by compliance with these Regulations, and of the benefit(s) to be realized by allowing such waiver(s).
- 3.2.4.4 In the event the developer proposes not to connect to the Town's municipal sewer system, information shall be submitted to demonstrate the soil limitations of the entire project, as described by the map titled "Soil Limitations for Septic Tank Sewage Disposal, Town of Grafton, Worcester County, Massachusetts" developed by the US Department of Agriculture, Soil Conservation Service in cooperation with the Worcester Conservation District, 1973, or its successors.
- 3.2.4.5 An Environmental and Community Impact Analysis (ECIA) meeting the requirements of Section 3.3.4.1 of these Regulations.

3.2.5 Acceptance of Application

- 3.2.5.1 Upon the original submittal of an application to the Town Clerk and the Planning Board, the application shall be considered to be conditionally accepted pending review of its contents. Within 14 days of the original submittal of the application, the Planning Board shall determine whether the application is complete. An application which does not contain any of the material described in Section 3.2, shall be considered incomplete, shall not be considered to have been filed and shall not be accepted for processing. If an application is determined to be incomplete, the Planning Board shall notify the Town Clerk and the applicant in writing that the application has been determined to be incomplete setting forth the reasons for that determination and that the application is not considered to have been filed.

-
- 3.2.5.2 If the application is considered to be complete, or if the applicant and the Town Clerk are not notified that the application is incomplete within 14 days, the application shall be considered to be complete as of the date originally submitted.
- 3.2.5.3 If a revised application is submitted, it shall be considered to be a new application and shall be subject to the same procedures and determinations as to completeness as are set forth above.
- 3.2.5.4 The time periods set forth in these Subdivision Rules and Regulations and Chapter 41, M.G.L., during which the Planning Board shall issue a decision will not start until the application is complete.

3.2.6 Planning Board Action

3.2.6.1 Approval of a Preliminary Plan

- a) The Board may give Preliminary Plan approval with or without modification or suggestion, after the Board's review, and at the Board's option, after review with other Town Boards and Departments. Such approval does not constitute approval of the subdivision, but facilitates the preparation of the Definitive Plan by possibly identifying major deficiencies or problems.
- b) The original of the Preliminary Plan, properly endorsed, will be returned to the applicant. Notice of the action taken shall be given the Applicant and Town Clerk in writing within forty-five (45) days of the submission of the plan, as provided in the General Laws, unless an extension has been requested by the Applicant in the same manner as provided for a Definitive Plan. Any Definitive Plan evolved from such preliminary plan shall be governed by the Rules and Regulations relative to subdivision control in effect at the time of the submission of the preliminary plan, provided that the Definitive Plan is duly submitted within seven (7) months from the date on which the preliminary plan was properly submitted.

3.2.6.2 Disapproval of a Preliminary Plan

In the event of disapproval of a Preliminary Plan, the Board shall state the reasons for its disapproval in accordance MGL Ch 41 §81S.

3.2.6.3 Failure of the Board to Act

If the Board fails to act upon a plan submitted under this Section or fails to notify the Town Clerk and the persons submitting the plan of its action within forty-five (45) days (or such other mutually agreed upon time) after its submission, the plan shall be deemed to have Preliminary Plan approval under the Subdivision Control Law.

3.3 DEFINITIVE PLAN

3.3.1 Submission of a Definitive Plan

Any person who submits a Definitive Plan of a subdivision to the Board for approval shall file with the Board all items required in Section 3.3 of these Regulations and the minimum filing and review fees for a Definitive Plan to be duly submitted in accordance with the

Rules and Regulations and the MGL. Such submission shall be made with the Planning Board by hand delivery, registered or certified mail. Such submission must contain the following:

- 3.3.1.1 a) A reproducible drawing of the Definitive Plan and six (6) full size sets and twenty two (22) sets of 11"x17" contact prints thereof, dark line on white background, for distribution to the Board of Health and Town officials for review, together with one (1) unbound set of reproducible reductions of said plans, the reductions not to exceed eleven by seventeen inches (11" x 17") in outside dimensions. The reproducible drawings will be returned to the applicant after approval or disapproval, which in the case of approval and following endorsement are to be recorded in the Worcester Registry of Deeds.
- b) Properly executed forms including Application for approval of a Definitive Plan; Engineers Certificate, or Land Surveyor's Certificate; Certified List of Abutters; Verification of Proposed Street Names, and Area Within a Subdivision and properly addressed envelopes to each abutter affixed with the required postage for mailing of same.
- 3.3.1.2 After such submission, the Applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission of a Definitive Plan to the Board for such approval accompanied by a copy of said application and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, The Town Clerk shall, if requested, give a written receipt therefore.
- 3.3.1.3 A site plan prepared in accordance with the Zoning By-Law.
- 3.3.1.4 Applicants must submit in electronic form all documents required under Section 3.3, and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant or its representatives unless the applicant demonstrates to the satisfaction of the Town Planner that electronic submission is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS "Standard for Digital Plan Submittal to Municipalities," or successor standard. Electronic submission must be contemporaneous with submissions by other means and in formats acceptable to the Board.

3.3.2 Plan Sheets

- 3.3.2.1 The plan shall be at a scale of one inch (1") equals forty feet (40'). If the plan requires more than two (2) sheets, a plan that is at a scale of one inch (1") equals one hundred feet (100') or as appropriate, shall also be provided to show the subdivision on one (1) sheet. Sheets sizes shall be twenty four by thirty-six inches (24" x 36") including a three-quarter inch (3/4") border.
- 3.3.2.2 The Definitive Plan shall be prepared by a professional engineer or a land surveyor registered in Massachusetts. All pages shall be clearly and legibly drawn in accordance with the Rules and Regulations of the Registry of Deeds, as amended, pertaining to plan size, material, lettering and related requirements and shall be designated as "Definitive Plan".

3.3.2.3 The classification and precision of surveys shall conform to Class A or better of the most recent Land Court Manual of Instruction, Commonwealth of Massachusetts. It is recommended that all other survey and Definitive Plan preparation, where not herein specified, be guided by the Manual of Instructions.

3.3.3 Contents. The Definitive Plan shall contain the following:

3.3.3.1 The boundaries of the subdivision.

3.3.3.2 Deed, book and page references, and Assessor's Map and lot numbers.

3.3.3.3 If more than one page, each page must contain in the lower right-hand corner, the subdivision name, the page number, the date of plan preparation, and, when applicable, provisions for recording any and all revision dates, and space for Planning Board action. In addition, the first page shall contain an index of all pages supplied. Said index shall indicate what information is to be found on each page of the plan and shall be located in the upper left-hand corner of the page.

3.3.3.4 Location and ownership of abutting property as it appears on the Certified List of Abutters unless the applicant shall have more recent knowledge of such abutters, including all abutting land owned by the applicant not presently being subdivided, and all other land within five hundred feet (500') of the boundaries of the land shown in the subdivision.

3.3.3.5 All plans shall be accompanied by a locus map at a scale of one inch (1") equals one thousand feet (1000') showing the relationship of the subdivision to highways and streets in the Town. The map shall show the entire subdivision layout, remaining land of the applicant which is not presently being subdivided, adjacent streets, if any, or streets within 1000 feet, sufficient to identify the location and the access to the land. All pages in the subdivision submission shall be indexed or keyed on this plan.

3.3.3.6 North point, and whether true, magnetic, or grid, or reference to appropriate plan book and plan bearing system, on each sheet.

3.3.3.7 Major features of the land, such as existing waterways, swamps and water bodies, natural drainage courses, all as pursuant to the Wetlands Protection Act and the Grafton Wetlands Bylaw; walls, fences, and trails; buildings, and; large trees or wooded areas, rock, outcroppings, and ditches, which exist on or near the site at the time of survey. Where available, aerial photographs may be required. All features to be retained, demolished or moved shall be so noted.

3.3.3.8 Lines of existing and proposed streets, ways, lots, lot numbers of each lot designated in accordance with the street numbering system, or other designation of proposed streets shall be shown in pencil in lieu of street names, and a list of proposed street names together with a listing with the street letter designation shall be provided to the Planning Board for review and/or tentative approval.

3.3.3.9 Sufficient data to determine the location, direction and length of every street and way line, and boundary line, and to establish these lines on the ground, which shall include the subdivision lot lines including lot frontage on the street, the boundary lines of all streets and

-
- easements and the length, the radii, tangents and central angles of all curves in lot lines and street lines; all angle points or intersections of tangents along the street lines; areas of lots with lot numbers; and the area and frontage on public ways, of adjoining lands of the applicant not included in the subdivision. The mathematical computations shall be submitted for a matter of record. Traverse computations shall be placed on a separate or subsequent sheet.
- 3.3.3.10 Location of all permanent monuments properly identified as to whether existing or proposed.
- 3.3.3.11 Location, names and present widths of streets or private ways bounding, approaching or within 600 feet of the subdivision, showing both pavement widths and right-of-way widths.
- 3.3.3.12 The zoning classification and location of any zoning district boundaries that lie within the locus of the plan, including any overlay zoning districts including but not limited to the Flood Plain, Water Supply Protection Overlay District, Campus Development Overlay, etc., and any local Historic districts
- 3.3.3.13 Notice of any and all decisions including but not limited to variances, special permits, etc. regarding the land or any buildings thereon, including the deed book and page numbers where such documents are recorded in the Worcester District Registry of Deeds.
- 3.3.3.14 If the property that comprises the subdivision or any part or boundary thereof has been examined, approved and confirmed by the Massachusetts Land Court, such information shall be noted on the plan with case numbers and other pertinent references to Land Court Procedure, and the same requirement shall apply to any parcels of land of the applicant.
- 3.3.3.15 Suitable space to record the action of the Board and the signatures of all members of the Board including, where appropriate, the words, "Deeds of Easements to be recorded herewith", at the same location on all pages of the subdivision submission.
- 3.3.3.16 **Plan and Profile, on sheet(s) dedicated to such**
- a) Existing profiles of the exterior lines and profile of existing grades at the proposed roadway centerline, left sideline and right sideline, and profile of the finished center line drawn in fine black solid line of proposed streets at a horizontal scale of one inch (1") equals forty feet (40').
 - b) Profile centerline of existing and proposed grade elevations, shown at every fifty foot (50') station except in vertical curves, which shall be at every twenty-five foot (25') station.
 - c) All existing and proposed intersections and sidewalks, trails, bikeways and walkways shall be shown with all proposed grade elevations calculated.
 - d) A suitable number of benchmarks shall be set on the property. Elevations shall be based on the National Geodetic Vertical Datum of 1929 (ie USGS).
 - e) Gradients, shown by figures expressed in percent.

3.3.3.17 **Contour Plan, on sheet(s) dedicated to such**

- a) Existing and proposed topography at two feet (2') contour intervals and by symbols the highest known high water mark of the last one hundred (100) years. All benchmarks will be noted, as well as all existing and proposed monuments.
- b) Where zone boundaries shown on the most recent approved Federal Emergency Management Agency Flood Insurance Rate Maps lie within the locus of the plan, they shall be indicated, as well.

3.3.3.18 **Utility Plan and Profile, on sheet(s) dedicated to such**

Whenever possible, for the purpose of clarity, the utility plan and profile should be on separate pages, and shall show:

- a) Size and location of existing and proposed water supply mains and their appurtenances, hydrants, sewer pipes and their appurtenances and/or sewage disposal systems, storm drains and their appurtenances and easements pertinent thereto, the 100 year high surface water mark, curbs and curb dimensions, data on borings and soil test pits or percolation tests made, and method of carrying water to the nearest watercourse or easements for drainage as needed, whether or not within the subdivision.
- b) A clear indication of what course the discharge will take accompanied by evidence from the Superintendent of Streets and the owners of adjacent property that if surface water drains will discharge onto adjacent existing streets or onto adjacent properties not owned by the applicant such discharge is satisfactory and permitted by public or private ownership of adjacent street or property.
- c) All other utilities. (See Section 4)

3.3.3.19 **Stormwater Management**

- a) A stormwater management hydrological study, including all calculations, shall be submitted by the applicant which satisfies the Design requirements of Section 4 of these Regulations, as well as the Regulations of the Grafton Conservation Commission.
- b) The analysis and design of stormwater management systems shall be based, at a minimum, on the methods contained in the United States Soil Conservation Service URBAN HYDROLOGY for SMALL WATERSHEDS, Technical Release Number 55. The design shall describe the impacts of the 2 year, 10 year, and 100 year 24-hour rainfalls. The maximum length which is to be used for sheet flow shall be 75 feet, unless otherwise justified.
- c) Drainage calculations and design shall be prepared by a registered professional engineer.
- d) All stormwater management designs shall be in conformance with the Town's Stormwater By-Law, as amended.

3.3.3.20 **Tree Plan**

Location and species of all proposed street trees, and location of all existing trees with trunks over twelve inches (12") in diameter measured four feet (4') above the finished ground level within the minimum front setback distance. A list of recommended street trees and shrubs suitable for this area and available at local nurseries, is available from the

Board. This list may be used as a guide but is not determinative. The Tree Plan shall be prepared by a certified arborist and shall include, at a minimum, the following components for all proposed planting(s): placement, surrounding grades and conditions, soil conditions, details and methods as appropriate, and a maintenance plan. The arborist shall also submit a plan to preserve the integrity of existing vegetation.

3.3.3.21 Cross Sections and Details, on sheet(s) dedicated to such

- a) Typical roadway cross-sections of each street. (See Schedules showing standard cross sections in these Regulations.)
- b) All details necessary to facilitate construction including, but not limited to, manholes, catch basins, headwalls, pipe trench, rip rap, retaining walls, hydrants, drainage swales, curbing, etc.

3.3.3.22 Open Space

The location and proposed design of all open spaces as required by Section 4 of these Regulations and by the Grafton Zoning Bylaw, as appropriate.

3.3.3.23 All easements in draft form.

3.3.4 Additional Submittal Requirements

3.3.4.1 Environmental and Community Impact Analysis (ECIA)

- a) Any subdivision submission shall be accompanied by nine (9) copies of an Environmental and Community Impact Analysis. The ECIA shall clearly and methodically assess the relationship of the proposed development to the natural and man-made environment of Grafton. This report shall be prepared by an interdisciplinary team of professionals qualified, experienced, and, where applicable, licensed, in their fields. Such team shall typically consist of Registered Professional Engineers, Traffic Engineers, Architects, Landscape Architects, Land-Use Planners, Hydrogeologists, Hydrologists, Biologists and other environmental professionals.
- b) It is intended that the report be a guide to the Planning Board in its deliberations and will build into the board's decision-making process an appropriate and careful consideration of the environmental and community impacts of the proposed development.
- c) For each of the components of the ECIA listed under paragraph 3.3.4.1d below, each of the following concerns must be separately addressed:
 - (1) The Environmental and Community Impacts of the Proposed Development - All primary and secondary environmental and community impacts, both beneficial and adverse, which can be anticipated as a result of the proposed development. This section shall include all impacts resulting from the construction phase as well as those resulting from the project's completion.
 - (2) Adverse Impacts which cannot be avoided should the proposed development be implemented - The report shall describe the kinds and magnitudes of adverse

impacts which cannot be reduced in severity or which can be reduced in severity, but which cannot be eliminated.

- (3) Alternatives to the proposed development - The report shall objectively develop, describe, and weigh alternatives to the proposed development and shall address their consistency with the Zoning By-Law.
 - (4) Measures to be used to minimize adverse environmental and community impacts - Corrective and protective measures which will be taken to minimize adverse impacts shall be described in detail. Such measures may include design issues, management practices, alternative approaches, etc.
- d) If a Preliminary Plan is filed with an accompanying ECIA, the applicant may submit an updated version of said ECIA with the Definitive Plan Application. The ECIA shall evaluate all of the following topics or explain why such topics are inapplicable to the application:
- (1) Natural Environment
 - i. Air and Noise Pollution - The impact on local air quality (including traffic generated from the development) and noise from the proposed development (including traffic generated from the development), both during and after construction, shall be evaluated. For developments over 100 dwelling units, the Planning Board may require detailed technical reports of such impacts.
 - ii. Storm Water - The impact of storm water run-off on adjacent and downgradient/downstream land, surface water bodies and sub-surface ground water;. Dangers of flooding as a result of increased downstream runoff; especially peak runoff. The impact of the proposed project on water table levels.
 - iii. Land - Compatibility of the proposed development with existing soils; the impact of any soils or other materials to be removed from the site; The potential dangers and impacts of erosion and sedimentation caused by the proposed development.
 - iv. Plants & Wildlife - The impact that the proposed project may have on wildlife habitat and on any rare or endangered plant or animal species known to exist in the area.
 - v. Water Supply - The average and peak daily demand and the impact of such demand on ground water aquifers and the public water distribution system.
 - vi. Sewage Disposal - The average and peak daily disposal and the impact of such disposal on ground water aquifers, surface water and the municipal sewage system.
 - (2) Man-Made Environment
 - i. Existing Neighborhood Land Use - Compatibility with adjacent or nearby existing land uses, or approved private development plans, if known, for adjacent or nearby land use changes to occur during the anticipated construction period, to completion, of the proposed development. If not compatible, reasons therefore shall be detailed. Consultation with the Planning Board is strongly recommended.

-
- ii. Zoning - Compatibility of the proposed development with the purposes of the Zoning By-Law and the Zoning district and with surrounding properties.
 - iii. Architecture - The anticipated style of architecture of the buildings; its relation to prevailing types of architecture for similar buildings; and its compatibility with the function of the building and to the architecture of adjacent buildings. Sketches, photos, elevations and renderings are encouraged to illustrate architectural appropriateness as well as innovation.
- (3) Public Services
- i. Schools - The expected impact on the school system both elementary and secondary levels; the expected number of students; projected school bus routing changes; projections of future school building needs resulting from the proposed project.
 - ii. Police - The expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.
 - iii. Fire - Expected fire protection needs; on-site fire fighting capabilities; on-site alarm or other warning devices; fire-flow water needs, source and delivery system and other needs. Fire department service improvements necessitated as a result of the proposed project shall also be discussed.
 - iv. Recreation - On-site recreation provisions shall be detailed and off-site recreation demands shall be estimated. Provision for public open space, either dedicated to the Town or available to its residents, shall be described. Open space available primarily or exclusively for residents or employees shall also be described.
 - v. Solid Waste Disposal - Analysis of the projected volume and type of solid waste to be generated by the proposed development; methods of removal.
 - vi. Traffic - Analysis as required by Section 3.3.4.6 (Traffic Study Required) of these Subdivision Rules and Regulations.
 - vii. Highway - Projected need, responsibility and costs to the Town of roadway maintenance and stormwater management facility maintenance. Impacts of construction equipment on area roadways. Service improvements necessary as a result of the proposed project.
- (4) Aesthetics
- i. Lighting - The type, design, location, function and intensity of all street lighting facilities. Attention given to safety, privacy, security, glare, and daytime and nighttime appearance shall be detailed.
 - ii. Landscaping - Provisions for landscaping including type, location and function of all plantings and materials.
 - iii. Visual - attention given to views into the site and from the site. Included shall be long-distance views as well as views to and from adjacent properties.

(5) Planning

Analyze the compatibility of the proposed development and its alternatives with the goals and objectives of the most recent Grafton Comprehensive/Master Plan and the most recent Open Space Plan and any components of either Plan.

(6) Cost/Benefit Analysis

Municipal benefit/cost analysis, following standard and usual procedures for measuring both the benefits to be derived and costs to be incurred by the Town of Grafton as a result of the proposed development. This element should also estimate and discuss net benefits and costs of non-quantifiable environmental impacts.

e) The applicant shall submit a completed Project Information Summary.

3.3.4.2 Any waivers from the requirements of these Rules and Regulations which are sought by the applicant, including the citation from the Regulations and a description of the requirements, a justification for each requested waiver, and a thorough description of the harm to be suffered by compliance with these Regulations, and of the benefit(s) to be realized by allowing such waiver(s).

3.3.4.3 **Staking**

At the time of filing of the Definitive Plan the Applicant shall stake the center line of all proposed streets at a minimum of every one hundred feet (100') with the center line stations and the cut or fill dimensions to finish grade marked on the stakes, and also the lot corners, with lot numbers. Such staking shall be maintained by the applicant throughout the Definitive Plan review process.

3.3.4.4 **Soil Survey and Percolation Tests**

a) General. Soil surveys and/or test pits and/or borings shall be submitted, at the expense of the Applicant, to establish the suitability of the land for the proposed sewage system, drainage system and proposed street construction. All tests shall be witnessed by the designated agent of the Planning Board. All information concerning the test pits, borings or soundings (location, depth, soil stratas, depth of water table) shall be submitted to the Board in a written report made, evaluated and stamped by a registered professional engineer, at the time of the Definitive Plan application is filed. The Applicant shall file with the Conservation Commission as appropriate for any testing within areas protected under the Wetlands Protection Act and the Grafton Wetland Protection By-Law prior to such testing.

b) Roads

(1) Test pits, borings or soundings shall be taken along the center line of each street shown on the plan at intervals of at least every two hundred feet (200') and at locations such as cut sections and areas of questionable foundation material, where the subsurface conditions may, in the opinion of the Board, be factors affecting the quality, integrity and service life of the street.

(2) Test pits shall not be back-filled until the Applicant has been notified by the Planning Board that all necessary inspection and sampling has been completed. Where borings are used, samples shall be taken at five foot (5') intervals and at

each change in strata. Soundings shall be taken in areas of unsuitable material for purpose of determining the unsuitable material and for the purpose of determining the hard bottom contours. Test pits and borings shall extend to a minimum depth of ten feet (10') below the street profile grade, five feet (5') below the invert of the proposed sewer and/or drain, whichever is greatest, or to bedrock if encountered.

- (3) The Applicant shall indicate on the plan a proposed layout of the subsurface exploration program including location, spacing, and type of exploration proposed.
- (4) Failure to inspect within fourteen (14) days of the Applicant's written request for inspection shall be deemed approval.

c) Lots

Soil surveys shall include a test excavation not less than seven feet (7') below finished grade at a frequency of one (1) per every four (4) lots, the locations of which shall be shown on the contour plan, and a report thereon. Percolation tests shall be in accordance with Title 5 of the Commonwealth of Massachusetts State Environmental Code.

3.3.4.5 In the event the developer proposes not to connect to the Town's municipal sewer system, the Definitive Plan shall indicate the soil limitations of the entire project, as described by the map titled "Soil Limitations for Septic Tank Sewage Disposal, Town of Grafton, Worcester County, Massachusetts" developed by the US Department of Agriculture, Soil Conservation Service in cooperation with the Worcester Conservation District, 1973, or its successors.

3.3.4.6 Written consent of the Grafton Police Department with regard to each proposed street name, to ensure there is no conflict or confusion with existing approved names, particularly in terms of the Town's Enhanced emergency 911 System.

3.3.4.7 **Traffic Study Required**

- a) A traffic study shall be submitted with each application for a subdivision of greater than 20 dwelling units, or where required by the Planning Board.
- b) The traffic study shall be conducted by a traffic engineer who will certify that he/she is a member of the Institute of Traffic Engineers.
- c) For the purposes of this analysis, the terms below shall have the meaning indicated. The morning and evening "peak period" shall usually be the two hours between 7 A.M. and 9 A.M. and between 4 P.M. and 6 P.M. respectively. The morning and evening peak hour shall be that consecutive 60 minute segment within the "peak period" in which the highest traffic count occurs as determined by traffic counts of the peak period divided into 15-minute segments. For uses which have an exceptional hourly, daily, or seasonal peak period, the Planning Board may require that the analysis be conducted for that extraordinary peak period.

A street or intersection "likely to be affected by the development" is one which has an Average Daily Traffic (ADT) of 1,500 vehicles or more as well as one which either:
1) carries 10 percent or more of the estimated trips generated by the development or

2) in the case of an intersection, traffic from the proposed development will add 5 percent or more to the approach volumes, and others as the Board deems appropriate.

d) The traffic study shall include:

- (1) An estimate of trip generation for the proposed development showing the projected inbound and outbound vehicle trips for the morning and evening peak periods and a typical one hour not in the peak period. Where there is existing development of the same type of use on the site, actual counts of trip generation shall be substituted. Trip generation rates may be based on: 1) the "Trip Generation Manual, Third Edition" (or more recent editions as they become available) prepared by the Institute of Transportation Engineers, and, if applicable, 2) data about similar developments in Massachusetts or 3) data from professional planning or transportation publications, provided the methodology and relevance of the data from 2) and 3) is documented.
- (2) An estimate of the directional distribution of new trips by approach streets and an explanation of the basis of that estimate. Where there is existing development of the same type of use on the site, actual counts of trip directional distribution shall be submitted.
- (3) An assignment of the new trips to be generated by the proposed development to the segments of the Town street network, which shall include state highways in Grafton, which are likely to be affected by the proposed development.
- (4) Average Daily Traffic (ADT) on the streets likely to be affected by the development, counted for a 24 hour period.
- (5) Intersection turning movement counts of the morning and evening peak periods at the intersections likely to be affected by the proposed development. In special circumstances where the peak traffic impacts are likely to occur at times other than the usual morning and evening peak periods, the Planning Board may require counts for those other peak periods.
- (6) An inventory of the roadway characteristics of the principal approach streets adjacent to the development site and of the streets in the intersections at which turning movement counts are taken showing the width of the right of way and of the traveled way, traffic control devices, obstructions to adequate sight distance, the location of driveways or access drives within 1000 feet of the entrance to the site for uses that are substantial trip generators, and the presence or absence of sidewalks and their condition.
- (7) In the case of a development in an abutting city or town, which will have a traffic impact on a street or intersection in Grafton which is likely to be affected by the proposed development for which the traffic study is being prepared, the traffic impact of the development in the abutting city or town shall be included in the traffic study provided: 1) that traffic impact is equal to or greater than that set forth in the test above; 2) the development has been approved by official action of that abutting city or town but is not operating at full capacity prior to the date that the traffic counts required by this section were taken, and 3) data on the traffic impact of that development, comparable to that required by this section, is available.
- (8) An analysis of the effect on the capacity of those intersections in Grafton street system likely to be affected by the development during peak periods of: 1) the

additional traffic generated by the development, and 2) additional traffic from other developments previously approved by the Town of Grafton for which a traffic study was required, or by an abutting city or town as provided above, is not operating at full capacity prior to the date that the traffic counts required by this section were taken. Analysis of the capacity of intersections shall be based on traffic "levels of service" as described in the "Highway Capacity Manual, 1985 Edition" published by the Transportation Research Board. This analysis may include an intersection of an access drive serving a development and a segment of the Grafton street system.

- (9) Where mitigating measures or trip reduction programs are proposed, they shall be included in the traffic study at the time of filing of the application. Where the proposed mitigating measure is the construction of a traffic engineering improvement, evidence, such as letters of support, or commitment, or approval, or the award of a contract, may be submitted to show that construction of the traffic improvement is likely to occur.
 - (10) An estimate of the time and amount of peak accumulation of off-street parking.
 - (11) Estimates of the "level of service" of affected intersections in five years from the date of application without the development built and with it built.
- e) The counts referred to above shall have been taken within the 12 months prior to the filing of the complete Definitive Plan application. The traffic engineer shall furnish an explanation of the methodology of the traffic study and additional data, upon request by the Board.

3.3.4.8 A plan for the disposal of all stumps, limbs, brush and other deleterious material. If the plan includes disposal (or burning) of such within the boundaries of the property affected by the Definitive Plan, such locations(s) shall be noted on the Definitive Plan filed at application and appropriate covenants shall be recorded on the deed(s) of the affected lot/lots/property prior to release for building or sale. In no case, however, shall any deleterious material be buried within any easements or right of ways.

3.3.5 Acceptance of Application

3.3.5.1 Determination of Completeness

- a) Upon the original submittal of an application to the Town Clerk and the Planning Board, the application shall be considered to be conditionally accepted pending review of its contents. Within 14 days of the original submittal of the application, the Planning Board shall determine whether the application is complete. An application which does not contain all of the material described in Section 3.3 shall not be considered to have been filed and shall not be accepted for processing. If an application is determined to be incomplete, the Planning Board shall notify the Town Clerk and the applicant in writing that the application has been determined to be incomplete setting forth the reasons for that determination and that the application is not considered to have been filed.
- b) If the application is considered to be complete, or if the applicant and the Town Clerk are not notified that the application is incomplete within 14 days, the application shall be considered to be complete as of the date originally submitted.

-
- c) If a revised application is submitted, it shall be considered to be a new application and shall be subject to the same procedures and determinations as to completeness as are set forth above.
- 3.3.5.2 The time periods set forth in these Subdivision Rules and Regulations and Chapter 41, M.G.L., during which the Planning Board shall notify parties in interest, hold a public hearing, and issue a decision, will not start until all material required by these Regulations has been submitted.
- 3.3.5.3 **Review by Town Officials**
- a) Review by Board of Health as to Suitability of Land
- (1) At the time of filing of the Definitive Plan, the Applicant shall also file with the Board of Health two (2) contact prints of the Definitive Plan, dark line on white background, together with such information on percolation tests and deep test holes as the Board of Health may require. The Board of Health shall, within forty-five (45) days after filing of the plan, report to the Planning Board in writing its approval or disapproval of said plan. Failure of the Board of Health to report within forty-five (45) days shall be deemed approval.
 - (2) If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefore in such report, and where possible, shall make recommendations for the adjustment thereof. The Board of Health shall send a copy of such report, if any, to the person who submitted said plan.
 - (3) Every lot shall be provided with connection to municipal sewer system or an on-site sewage disposal system satisfactory to the Board of Health and/or the Commonwealth of Massachusetts Sanitary Code minimum standards as the Board of Health shall determine.
- b) The Planning Board will transmit copies of the Definitive Plan to Town Officials (and others) other than the Board of Health requesting their written statements regarding the following aspects of the proposed improvements at a minimum, as well as any pertinent information they may provide.
- (1) The Board of Selectmen as to the design of the street system, the provisions for the safety of the future inhabitants and the public, the number and placement of street lights, and compliance with the Earth Removal By-Law.
 - (2) Conservation Commission as to potential involvement with MGL Chapter 131, Section 40, and the Grafton Wetland Protection Bylaw, the effects of the subdivision on rivers, streams, wildlife and similar considerations within the scope of the Conservation Commission, and the proposals for demolishing, retaining or moving site features.
 - (3) The Superintendent of Streets as to the design of the street system, location of easements, monuments, drainage system, water system, and if applicable, a sewage system, and their appurtenances, and relationship to existing water and drainage systems.
 - (4) The Fire Department as to location of hydrants, installation of the alarm system, if any, and emergency access, and the naming of the streets.

-
- (5) Police Department as to street safety, both vehicular and pedestrian, access for emergency vehicles and naming of streets.
 - (6) The appropriate water utility as to the arrangements for water supply, the design of the water system and its appurtenances and relationship to existing water systems.
 - (7) Inspector of Buildings for compliance with the Grafton Zoning By-Law.
 - (8) Board of Assessors for information on any possible lot line conflicts, and for proper recording of known easements and/or encumbrances on the land.
 - (9) The Tree Warden as to the location of shade trees within the subdivision and as to the proper protection of such shade trees as in his judgment should be retained.
 - (10) The Town Counsel as to the form of all agreements, easements, covenants and performance guarantees.
 - (11) The Historic District Commission as to the effect of the proposed development on the District.
 - (12) The Sewer Commissioners as to the design of the sewage system.
 - (13) The Police and Fire Departments provisions for the safety of the future inhabitants, and the public.
 - (14) The Planning Board Engineer, for compliance with these Regulations, review of technical components, review and comment on plan, data and requested waivers.
- c) Except as otherwise noted, the Planning Board may assume that the respective officials have no comment if no report is received within thirty (30) days.
 - d) Before approval of the Plan, the Board shall submit the Plan to such professional service(s) as it deems appropriate for review at the Applicant's expenses. After this review, the Board shall establish whether the purposes of the Subdivision Control Law are met.

3.3.6 Planning Board Action

Before taking any action to approve, modify and approve or disapprove a Definitive Plan, the Board shall hold a hearing at which parties in interest shall have an opportunity to be heard in person or by agent or attorney. Notice of the time and place of such hearing and of the subject matter sufficient for identification shall be published in a newspaper of general circulation in the Town of Grafton once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days, the second publication to be not less than seven (7) days, before the date of the hearing, and by mailing a copy of such advertisement to the Applicant and all owners of land abutting upon the land included in such plan, as shown on the most recent tax list, at the expense of the Applicant. If for any reason such a newspaper is not being published, notice shall be by posting in a conspicuous place in the Town Hall and by mailing as described above.

If site plan or other Planning Board approval is required under the Zoning By-Law, the Board may consolidate the required hearings with and the Definitive Plan.

-
- 3.3.6.1 The procedure that the Board will follow with regard to approval, disapproval, or modification of the Definitive Plan submitted by the Applicant will be that as set forth in MGL Chapter 41, Section 81-U, as amended. In summary, the Board, after receiving the Plan and all required supporting documents, will review the same to determine whether they are in compliance with its adopted Rules and Regulations.
- 3.3.6.2 Before approval of the plan, the Applicant shall establish that the lots on the Definitive Plan are in conformity with the Grafton Zoning By-Laws and failure of the lots to so comply will be adequate grounds for disapproval of the Definitive Plan.
- 3.3.6.3 The time periods for action on a Definitive Plan may be extended upon written request of the persons submitting the plan and approval of the request by the Board. In such case, the statutory time period within which action by the Board is required shall be similarly extended.
- a) The Board shall approve or disapprove a Definitive Plan based upon a properly submitted Preliminary Plan upon which the Board has acted or forty-five (45) days have elapsed without action by the Board upon said Preliminary Plan, within (90) days of the submission of said Definitive Plan to a regularly scheduled meeting of the Board or a mutually agreed upon time.
 - b) The Board shall approve or disapprove a Definitive Plan for which no Preliminary Plan has been filed and acted upon, or if filed, forty-five (45) days have not elapsed between the submission of the Preliminary Plan and the submission of the Definitive Plan, within one hundred and thirty-five (135) days of its submission to a regularly scheduled meeting of the Board, or a mutually agreed upon time.
 - c) The action of the Board in respect to such plan shall be by vote, copies of which shall be filed with the Town Clerk and sent to the Applicant return receipt requested, by delivery or registered mail. If the Board modifies or disapproves such a plan, it shall state in its vote the reasons for its action and shall revoke such disapproval when the plan has been amended to conform to the Rules and Regulations of the Board, and to the recommendations of the Board of Health.
[there is no 3.3.6.4]
- 3.3.6.5 In the event of disapproval of a Definitive Plan, the Board shall state the reasons for its disapproval.
- 3.3.6.6 If the Board fails to act upon a Definitive Plan of a subdivision submitted under this section within the time constraints as provided by statute, or the Board fails to notify the Town Clerk and the applicant of its action on the Definitive Plan, it shall be deemed to have approval under the Subdivision Control Law, and the Planning Board shall forthwith make such endorsement on said plan, and on its failure to do so, the Town Clerk shall issue a certificate to the same effect.

3.3.7 Plan Endorsement

After the expiration of twenty (20) days without notice of appeal of a Certificate of Approval to the Superior Court, or if appeal has been taken after the entry of a final decree of the Court sustaining approval of the Plan, the Board shall give its final approval by endorsing the plan.

-
- 3.3.7.1 a) Before endorsement of the Plan the applicant shall comply with all reasonable regulations and rules of the Town Officials and agencies referred to in Section 3.3.5.3 above not otherwise covered by these Rules and Regulations.
- b) All anticipated/proposed stormwater management systems shall be approved by the Conservation Commission prior to endorsement of the plan.
- 3.3.7.2 Before endorsement, all necessary permits from the Massachusetts Department of Public Works under MGL Ch. 85, S 2 shall be obtained. Final approval may be conditioned on approval under MGL Ch. 131 S 40.
- 3.3.7.3 Before endorsement, the applicant shall submit acceptable construction and maintenance schedule documents. In the case where the developer desires phasing, he shall submit detailed phasing plans and schedule, which at no time results in a dead end street more than five hundred feet (500') in length except as otherwise approved by the Board, for the Board's consideration. The Board may require modifications to any and all of said proposals. Endorsement may be withheld at the Board's discretion until such proposals are deemed by the Board to be acceptable.
- 3.3.7.4 **[RESERVED]**
- 3.3.7.5 Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Planning Board but not until the statutory twenty (20) days appeal period has elapsed following the filing of the Board's Certificate of Approval, as the case may be, with the Town Clerk and said Clerk has notified the Board that no appeal has been filed.
- a) After the Definitive Plan has been approved and endorsed, and the appeal period has elapsed, with no appeal being made, the Planning Board shall return the original to the Applicant.
- b) Said endorsement shall be subject to the construction specifications contained herein, and to the Rules and Regulations of the Board of Health, and all other appropriate Town Boards.
- c) Approval of all plans shall be upon the condition that all ways shown thereon, and public utilities required by the Board, shall be completed and installed within the time so specified in Section 3.3.8.
- d) The Applicant shall submit the approved plan for endorsement no later than six months following the Board's Certificate of Approval if no appeal has been filed. If an appeal has been filed the plan shall be submitted within six months from the resolution of the appeal.

3.3.8 Performance Guarantee

Before endorsement of the Board's approval or conditional approval of any Definitive Subdivision Plan, the applicant shall agree both to meet the conditions and to complete the required improvements specified in Section 5 for all lots in the subdivision. Construction and installation within the site property shall be secured by one, or in part by one and part by another, of the following methods which may from time to time be varied by the Applicant. Said security shall be posted and approved by the Planning Board prior to any

construction, installation or sale of lots. Construction and installation within existing street right-of-ways shall be secured by surety as required under the Street Opening and/or other Permit(s).

3.3.8.1 Approval with Bonds or Surety

- a) The Applicant shall file a duly executed surety company performance bond in an amount determined by the Board to be sufficient to cover the cost of all the improvements specified in Section 5 not covered by a covenant under 3.3.8.3 hereof.
- b) Surety company performance bond shall also be approved as to form and manner of execution, by the Town Counsel.
- c) Such bond or security, if filed or deposited, shall be accompanied by an appropriate and properly executed agreement, and shall be contingent on the completion of such improvements before the date so specified.

3.3.8.2 Approval with Covenant

The Applicant shall file a duly executed Covenant, which provides that no lot may be built upon or sold until the ways and municipal services necessary to serve adequately such lot have been constructed and installed. Such covenant shall be approved as to form and manner of execution by Town Counsel and shall be recorded in the Registry of Deeds by the owner of record and shall run with the land, whereby such ways and services as specified in Section 5 not covered by bond or deposit hereof, or a tripartite agreement, shall be provided to any lot before such lot may be built upon or conveyed. (MGL Ch. 41, S 81-U)

3.3.8.3 Approval with Tri-Partite Agreement

- a) A tri-partite agreement satisfactory to the Planning Board shall be filed in the case of a surety, which shall be held by a bank chartered by the Commonwealth of Massachusetts. Portions of this surety may be released by the Board upon satisfactory completion if portions of the work as specified in the Agreement and in accordance with these Regulations.
- b) Said agreement shall provide a schedule of disbursements which may be made to the Applicant upon completion of various stages of the work, and shall further provide that in the event the work is not completed within the time set forth by the Applicant, any funds remaining undisbursed shall be available to the Town for completion.

3.3.8.4 Approval with Negotiable Securities

- a) In the case of performance secured by negotiable securities, such security shall be of an amount determined by the Board to be sufficient to cover the cost of all the improvements specified in Section 5 not covered by other surety.
- b) Such negotiable securities shall also be approved by the Town Treasurer.

3.3.9 Recording

- 3.3.9.1 Within ten (10) days of the recording of all pages of the approved Definitive Plan and Covenant, if any, at the Registry of Deeds, the Applicant shall notify the Board in writing, presenting evidence of the recording of the plan and the covenant.

3.3.9.2 Before any building permits in the subdivision may be issued, the Applicant shall deliver to the Board twelve (12) copies of the approved and recorded Definitive Plans, one (1) set of reproducible reductions of the plans not to exceed eleven by seventeen inches (11" x 17") in outside dimensions and a copy of a Certificate of Title duly searched and executed by an attorney or Title Company stating that the premises shown on said plan and appurtenances thereto are in the name of the Applicant and are free of any encumbrances or with encumbrances as set forth. Upon receipt of such notification, the Planning Board shall file one (1) copy of the approved and recorded Definitive Plan each with the Board of Selectmen, Board of Health, Conservation Commission, Town Engineer, Superintendent of Streets, Building Inspector, Assessor's Office, Fire Department, Police Department, Recreation Commission and Sewer Commissioners.

3.3.10 Conveyance of Utilities and Easements to the Town

Prior to the reduction or release by the Board of a surety bond or deposit, or, in the case of a covenant, prior to the release of any lots, the developer shall execute an instrument on a Form approved by the Board transferring to the Town, without cost, valid unencumbered title to the electric power system and to all sewerage, storm drains and water mains, and appurtenances thereto, constructed and installed in the subdivision or portion thereto to be approved, and conveying to the Town without cost and free of all liens and encumbrances perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain the aforesaid above ground and underground utilities, with any poles, manholes, pipes, conduits and other appurtenances, and to do all acts incidental thereto, in, through and under the whole of all streets in the subdivision or portion thereof to be approved and if any such utilities have been constructed and installed in land not within such streets, then in, through, and under an easement as shown on the Definitive Plan.

3.3.11 Completion

3.3.11.1 Time for Completion/General

If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed to by the Applicant, or so required by the Board, any such surety may be enforced and applied by the Planning Board for the benefit of the Town.

3.3.11.2 Upon completion of improvements required under Section 5, the Developer or owner at his expense shall, within fourteen (14) days of submitting a Request for Determination of Completeness, cause to be published in a newspaper of general circulation in the Town of Grafton announcement that such Determination of Completeness has been requested. In the event that the newspaper is not being published, the Developer or owner shall request the Town Clerk to post such a notice in a conspicuous place in the Town Hall. Such Request for Determination of Completeness shall be sent by registered mail to the Town Clerk and the Planning Board and shall include a written statement and documentation that the said construction or installation in connection with which such surety or covenant has been secured, has been completed in accordance with the requirements contained under Section 5. Such material shall include, at a minimum:

- a) Name and address of Applicant.
- b) A compliance certificate signed under oath by the Developer and his Engineer that the development has been completed according to the Rules and Regulations of the Planning Board and the Town of Grafton's Zoning By-Laws.

-
- c) Copies of or reference to the requisite Inspection Forms and Reports.
 - d) Written evidence of compliance with the Definitive Plan from the following:
 - (1) Planning Board and Superintendent of Streets as to construction of all ways and sidewalks, and installation of street signs, traffic signs, street lighting and appurtenances, pavement, gutters and curbs, monuments, required grading and drainage, lot drainage, planting and seeding.
 - (2) The appropriate water utility as to all water mains, hydrants and appurtenances.
 - (3) The Board of Health as to the installation of sewage disposal facilities, if applicable, or the Board of Sewer Commissioners, if applicable.
 - (4) The Fire Department as to the installation of the fire alarm system, if any.
 - e) As-built plan of completed street or streets, drawn on tracing cloth or other material suitable to the Planning Board, and showing all plans and profiles corrected and certified by the developer's engineer to be actual as-built locations and profiles of all streets, ways and utilities, including those installed by others, such as gas, electric, telephone, cable TV, and other companies, the location of all lines and the assigned house number for each dwelling, together with one (1) set of reproducible drawings of said as-built plan.
 - f) Written request for final inspections by the Planning Board; and
 - g) Written request for a Determination of Completeness.

3.3.11.3 **Determination of Completeness**

The Planning Board shall review the request, including all material submitted, inspection reports, etc. If the Board determines the subdivision to be complete, and the request properly made, the Board shall send notice of such Determination of Completeness to the developer by certified mail, and to the Town Clerk within forth-five (45) days of receipt of all items required.

3.3.11.4 **Determination of Incompleteness**

- a) If the Board determines that said construction, installation, or filing of "as-built" plans has not been completed in accordance with the requirements of these regulations, it shall specify to the Town Clerk and to the Developer, in writing by registered mail, the details wherein said construction and installation shall have failed to comply with requirements contained under Section 5. Upon failure of the Board to act on such application within forty-five (45) days after receipt of the application by the Town Clerk and the Board, all obligations under the bond shall cease and terminate by operation of law, and any such covenant shall become void.
- b) In the event that said forty-five (45) day period expires without such Determination, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

3.3.12 Reduction or Release of Performance Guarantee

3.3.12.1 Release of Covenant, Release of Lots

-
- a) Individual lots under covenant may, from time to time, be released by the Board. Notwithstanding any releases or other action authorized by the Planning Board, the applicant is not thereby released from their own responsibility to ensure buildability of the lot(s); other permits or approvals may be required, including but not limited to those required through the Conservation Commission.
 - b). Notwithstanding any other issues regarding surety for completion or maintenance of the site, no lot shall be released unless and until an amount equal to not less than 20% of the anticipated cost to construct the project, for maintenance of streets and municipal services, is deposited with the Board. The Board may, if it believes it necessary, and for specified purposes, require a greater amount.

3.3.12.2 **Reduction of Surety**

- a) The sum of any such surety or the amount of any deposit held under Section 3.3.8 may from time to time be reduced by the Board in whole or in part. If release is by reasons of covenant, a new plan of the portion to be subject to the covenant may be required by the Board.
- b) If the Planning Board determines that said construction has been completed, the Planning Board shall notify the Town Treasurer within forty-five (45) days that the Planning Board releases the interest of the Town in such bond or deposit and that it shall be returned to the person or persons who furnished same, or in the case of covenant, the Planning Board shall issue a written release of the covenant.
- c) Notwithstanding the above, however, a minimum of twenty percent (20%) of the cost to construct the entire project shall be held by the Town, for the maintenance of streets and municipal services until the streets are accepted by the Town, after which date the Town shall return the remainder of the amount to the person or persons who furnished same. The Board may, if it believes it necessary and for specified purposes, require a greater amount.
- d) Notwithstanding any reduction in surety, however, the Planning Board reserves the right to require corrective work at any time, until the roadways and municipal services have been accepted or similarly approved by the Town.

3.3.12.3 **Final Release of Performance Guarantee/Acceptance**

- a) The Board may withhold final release of the surety or covenant until satisfied as to the integrity and suitability of all aspects of the subdivision for a period of at least 18 months following the Board's Determination of Completeness of the subdivision. Items to be evaluated include, but are not limited to, the following:
 - (1) Pavement integrity, including sidewalks, curbing/berm, etc.
 - (2) Permanent type grass on all seeded areas.
 - (3) Establishment of vegetation on sloped areas.
 - (4) Shoulders and embankments.
 - (5) Functional integrity of all parts of the drainage system.
 - (6) Installation of utilities.
 - (7) Satisfactory completion of any other items, including conditions of covenants, which are the responsibility of the Developer.

-
- (8) The quality of workmanship and materials in the construction of sewer pipes, manholes, force mains, pump stations, and all other appurtenances after functioning for a minimum of two (2) years.
- b) At the written request of the developer, approximately sixty (60) days before the expiration of the minimum of eighteen (18) months after the Board's Determination that the project is complete, or other such time period as specified by the Planning Board, the Planning Board shall request the Superintendent of Streets and Town Engineer to make an inspection of said street or way or portion thereof and all other improvements to determine whether or not defects have developed therein, determine whether or not they are functioning adequately and appropriately, and determine whether or not it should recommend to the Board of Selectmen the laying out of said street or way or portion thereof as a public way. The Planning Board shall at the same time cause to be published in a newspaper of general circulation in the Town of Grafton an announcement that such inspection will be made and that the release of the Town's interest in the surety is contemplated. If the recommendation is in the affirmative, the Board shall so advise the Board of Selectmen forthwith.
- c) Prior to considering any request for final release, The Developer shall file with the Planning Board a final Acceptance plan on tracing cloth of completed street or streets, utilities and easements together with proper legal descriptions for initiating an article in the Town Warrant pursuant to the acceptance of the ways by the Town Meeting and shall grant a deed to the Town of the streets, utilities and easements, as contained in the plan. Such plan and easements and deeds shall be suitable for recording by the Town upon acceptance of the streets by Town Meeting vote. If the recommendation made in paragraph b) above is in the affirmative, the Board shall so advise the Board of Selectmen forthwith and the developer shall properly prepare and submit a petition or petitions sufficient to effect Town Meeting acceptance of the road and utilities. Such determination and recommendation shall be issued by the Board within forty-five (45) days of a properly made request.
- d) Upon acceptance of the road and utilities by Town Meeting vote, any monies held by the Board for the maintenance of said way(s) shall be returned forthwith to the developer.

3.3.13..... Expiration of Endorsement and Extensions

The endorsement of the plan approval by the Board shall be valid for the time period specified by these Regulations or by the Board. Prior to the expiration of the approval period, the developer and/or owner may request in writing to the Board an extension of time, if necessary. Expiration of the approval period without an Extension or Modified approval being approved by the Board and recorded at the Registry of Deeds and which extends such time period, shall result in automatic rescission of all Planning Board approvals; no additional lot releases or building permits will be authorized. The request for an extension shall state the reasons for the requested extension and also the length of time requested. The extension shall not exceed one (1) year.

Additional extensions after the first shall be applied for between 60 and 120 days before the expiration of the extension in effect.