DECISION
GRAFTON PLANNING BOARD

MAJOR RESIDENTIAL SPECIAL PERMIT (MRSP 2014-10)
& PRELIMINARY PLAN APROVAL

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"Village at Institute Road" SUBDIVISION
Off 100 Westboro Road & Institute Road, North Grafton, MA

D&F Afonso Builders, Inc. (Applicant / Owner)

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of D& F Afonso Builders, Inc., 189 Main Street, Milford, MA 01757 (hereinafter the APPLICANT / OWNER), for a Major Residential Special Permit & Preliminary Plan Approval on property located at 100 Westboro Road, North Grafton, Map 12, Lot 22 (hereinafter the SITE) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 34122, Page 57. Said property is located in an Office / Light Industrial (OLI) and Medium Residential (R-20) zoning districts.

The application for Major Residential Special Permit & Preliminary Plan Approval was filed with the Planning Board November 6, 2014. Notice of the public hearing and the subject matter thereof was published in the Grafton News on December 17 and December 24, 2014, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on January 12, 2015 and continued on February 9 (meeting cancelled due to snowstorm), February 12, March 23, May 18, June 22, July 27 (no testimony received), August 24 (no testimony received), September 14, October 26, November 9 and November 23, 2015. During the public hearings, all those wishing to speak to the petition were heard. Following public input the hearing was closed on November 23, 2015.

The following Board members were present throughout the public hearing: Chairman Sargon Hanna, Vice Chairman Michael Scully, Clerk Robert Hassinger, and members Linda Hassinger, David Robbins. It is noted that Chairman Hanna was absent at the November 9, 2015 but remained eligible to vote on the DECISION upon submitted of a Mullin Certification prior to deliberations on the DECISION (see EXHIBIT #39).

At the hearing, Normand Gamache of Guerriere & Halnon, Inc. represented the Applicant and presented the proposal. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

I. PROJECT HISTORY AND OVERVIEW

Site Overview: The property on which the subdivision site is proposed consists of 47.8 acres of land bounded by Institute Road to the east and Westboro Road / Route 30 to the north. The property owner is also the Applicant. The property is located in two zones: Medium Residential (R20) and Office / Light Industrial (OLI). The proposed residential development (hereinafter known as the SITE) will consist of 33.1 acres located in the portion zoned R-20. The SITE is primarily woodland and 0.83 acres of wetlands and a vernal pool located on the southeastern portion of the property. The Applicant will work with the Grafton Water District and Grafton Sewer Department to provide services to the site. Access to the proposed subdivision is off of Institute Road. To the east of the site is property owned by the Commonwealth of Massachusetts which consists of wooded / wetland vacant land to north and the Massachusetts Department of Youth Services program and residential campus to the south. To the south the property is bounded by vacant land

owned by the Commonwealth of Massachusetts and one residential property with a house that is approximately 500 feet from the SITE's property line. To the west the site is bounded by vacant land owned by the Town of Grafton.

Previous Submission / Status of Institute Road: The Applicant had previously submitted an Application for a Major Residential Special Permit (MRSP 2009-12) and Preliminary Plan Approval. Public hearings were held and materials were reviewed with the Board. During the public hearing for the question regarding the status of Institute Road (public or private) became the controlling factor on the project. Section 4.1.2.2(a) **- Access from Public Ways of the** *Subdivision Rules and Regulations* states:

> *All streets and/or common driveways in a subdivision wholly or partially within the Town of Grafton must be able to be reached directly (without leaving the Town of Grafton) from a public way or ways in the Town of Grafton.*

The Applicant noted that when they purchased the property from the State the property line extended to the center of Institute Road and that no right of way had been established as the road was technically considered private. The proposed subdivision roads would be in violation of the Town's Subdivision Rules and Regulations as work along Institute Road to access the Site would not be feasible due to the private status and lack of official right of way of Institute Road. No evidence exists that proves that Institute Road is a public way or accepted by the Town despite the fact that the road has been in existence for a number of years and that the Town has been plowing and maintaining it for the sake of public safety. Without a definitive answer on the disposition of that roadway it was determined that the Application could not proceed. In January 2011, with no decision having been reached regarding the status of Institute Road, the Applicant requested to withdraw the Application without prejudice which the Board granted.

The proposed subdivision could not receive permitting until the legal status of the roadway was resolved and an acceptable right of way plan was approved by the State and accepted at Town Meeting thereby officially making Institute Road a public way. The only remedy the Applicant had to have the roadway declared public was to seek judgement in a court of law. On November 4, 2013 the Worcester County Superior Court issued a judgment that the Town had acquired Institute Road by prescription, confirming its status as a public road. The next step was to work with the Town and the State legislators to establish an acceptable layout which would delineate the right of way (which the Town would own and maintain) separating the Applicant's property from the property to the east owned by the Commonwealth of Massachusetts. At the time of the current Application the State and the Town had reached an agreement on right of way width. The Applicant's engineer has prepared the necessary documentation to advance the process to the final step which includes approval by the State Legislature and Town Meeting approval.

That last steps towards a final and approved layout had not been completed prior the close of the public hearing or at the time of this DECISION.

Conventional vs. Flexible Development Plans: The Applicant presented two plan concepts for the Board to review per the requirements of Section 5.3.4 of the Grafton Zoning By-Law. An overview of each concept is as follows:

	Conventional	**Flexible**
Number of Lots	46 lots - 45 lots internal to the subdivision, 1 ANR lot along Institute Road	51 lots -47 lots internal to the subdivision, 3 ANR lots along Institute Road

	Conventional	Flexible
Minimum Lot Area	20,000 square feet	10,000 square feet
Total Length of Proposed Roadways (Roads A, B & C combined)	3,252 feet	3.127 feet
Open Space	3.23 acres to protect the vernal pool & 100 foot wetland / vernal pool buffer	12.7 acres with walking trails; protection of vernal pool / wetlands

Prior to the close of the public hearing and in accordance with the Zoning By-Law the Applicant has the option to choose which plan to pursue at the Definitive Plan stage. The Board and the Applicant discussed both the Board's and the Applicant's preference (see FINDING #F20). Pursuant to Section 5.3.9 of the Grafton Zoning By-Law (ZBL) the Board voted to recommend the Flexible Development Plan by a unanimous vote of 4-0 (Scully – AYE; R. Hassinger – AYE; Robbins – AYE; L. Hassinger – AYE; Chairman Hanna was absent) on November 9, 2015. In correspondence dated November 12, 2015 and received on November 13, 2015 the Applicant declared their intention to pursue the Conventional Development Plan pursuant to the same aforementioned section of the ZBL. The public hearing was closed on November 23, 2015.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

EXHIBIT 1. Unbound application packet submitted by Guerriere & Halnon, Inc., November 6, 2014; including the following materials:

- Application for Special Permit; dated November 4, 2014; 1 page.
- Application for Approval of a Preliminary Plan; dated November 4, 2014; 1 page.
- Correspondence from Guerriere & Halnon, Inc.; The Village at Institute Road Special Permit Application, Preliminary Plan Application; dated November 6, 2014; 2 pages.
- Certificate of Good Standing signed by the Treasurer / Collector's office on November 5, 2014; 1 page.
- Certified Abutters List signed by the Assessor's Office on October 29, 2014 – includes support documentation; received November 6, 2014; 3 pages.
- Project Summary – "The Village at Institute Road"; prepared by Guerriere & Halnon, Inc.; no date; 4 pages.
- Correspondence from Guerriere & Halnon, Inc.; The Village at Institute Road Special Permit Application, Response to 2009 Final Review Comments; dated November 6, 2014; 9 pages.
- Traffic Impact and Access Study, Proposed Residential Development, Institute Road – Grafton Massachusetts; prepared by Greenman-Pederson, Inc.; dated November 5, 2014; 32 pages.

- Plan Set; "The Village at Institute Road", A Preliminary Flexible Subdivision in Grafton Massachusetts; prepared by Guerriere & Halnon, Inc.; 11" x 17" and 24" x 36", black & white; dated October 15, 2014; includes the following:
  - Sheet 1: ..... Cover Sheet
  - Sheet 2: ..... Definitive Index Plan
  - Sheets 3-8: ..... Lot Layout Plan
  - Sheet 9: ..... Grading Index Plan
  - Sheets 10-13: .. Grading Plan
  - Sheets 14-20: .. Plan and Profile
- Plan Set; "The Village at Institute Road", A Preliminary Conventional Subdivision in Grafton Massachusetts; prepared by Guerriere & Halnon, Inc.; 11" x 17" and 24" x 36", black & white; dated October 15, 2014; includes the following:
  - Sheet 1: ..... Cover Sheet
  - Sheet 2: ..... Definitive Index Plan
  - Sheets 3-8: ..... Lot Layout Plan
  - Sheet 9: ..... Grading Index Plan
  - Sheets 10-13: .. Grading Plan
  - Sheets 14-20: .. Plan and Profile

EXHIBIT 2. Project Review Memorandum, Conservation Commission; received January 28, 2015; 1 page.

EXHIBIT 3. Project Review Memorandum, Board of Assessors; received December 16, 2014; 1 page.

EXHIBIT 4. Project Review Memorandum, Zoning Board of Appeals; received December 16, 2014; 1 page.

EXHIBIT 5. Project Review Memorandum, Treasurer / Collector's Office; received December 2, 2014; 1 page.

EXHIBIT 6. Email Correspondence from Laura St. John-Dupuis forwarding comments from Craig Dauphinais re: Request for Comments Major Residential Special Permit; dated and received December 4, 2014; 1 page.

EXHIBIT 7. Project Review Memorandum, Grafton Water District; received December 11, 2014; 2 pages.

EXHIBIT 8. Project Review Memorandum, Historical Commission; received December 11, 2014; 1 page.

EXHIBIT 9. Correspondence from Graves Engineering, The Village at Institute Road Preliminary Plan Review; dated December 18, 2014; received December 22, 2014; 7 pages.

EXHIBIT 10. Project Review Memorandum, Sewer Department; received December 29, 2014; 1 page.

EXHIBIT 11. Correspondence from Grafton Police Department, MRSP 2014-10 "Village at Institute Road"; dated January 8 2015, received January 12, 2015; 1 page.

EXHIBIT 12. Correspondence from the Grafton Fire Department, Ref: Special Permit (MRSP 2014-10) – D&F Afonso Builders, Inc.; dated and received January 2, 2015; 1 page.

EXHIBIT 13. Public Hearing Sign In Sheet for the January 12, 2015 meeting; 1 page.

EXHIBIT 14. Request for Public Hearing Continuance to February 9, 2015; signed by the Applicant, dated and received at the January 12, 2015 public hearing, 1 page.

EXHIBIT 15. Project Review Memorandum, Conservation Commission; received January 28, 2015; 4 pages.

EXHIBIT 16. Email correspondence from Guerriere & Halnon, Village at Institute Road; Request for Public Hearing Continuance to March 23, 2015; received February 10, 2015; 1 page.

EXHIBIT 17. Public Hearing Sign In Sheet for the March 23, 2015 meeting; 1 page.

EXHIBIT 18. Request for Public Hearing Continuance to May 18, 2015; signed by the Applicant, dated and received at the March 23, 2015 public hearing, 1 page.

EXHIBIT 19. Site map; no title, no date; 11" X 17", black & white; received April 9, 2015; 1 page

EXHIBIT 20. Public Hearing Sign In Sheet for the May 18, 2015 meeting; 1 page.

EXHIBIT 21. Request for Public Hearing Continuance to June 22, 2015; signed by the Applicant, dated and received at the May 18, 2015 public hearing, 1 page.

EXHIBIT 22. Request for Public Hearing Continuance to July 27, 2015; signed by the Applicant, dated and received at the June 22, 2015 public hearing, 1 page.

EXHIBIT 23. Public Hearing Sign In Sheet for the June 22, 2015 meeting; 1 page.

EXHIBIT 24. Email correspondence from Guerriere & Halnon, Village at Institute Road; Request for Public Hearing Continuance to August 24, 2015; received July 23, 2015; 1 page.

EXHIBIT 25. Email correspondence from Guerriere & Halnon, Village at Institute Road; Request for Public Hearing Continuance to first Planning Board meeting in September 2015; received August 19, 2015; 1 page.

EXHIBIT 26. Public Hearing Sign In Sheet for the August 24, 2015 meeting; 1 page.

EXHIBIT 27. Public Hearing Sign In Sheet for the September 14, 2015 meeting; 1 page.

EXHIBIT 28. Plans; Revised Proposed Right of Way & Easement Plan of Institute Road; prepared by Guerrier & Halnon, Inc.; dated September 8, 2015; received September 14, 2015; color; 8 ½" X 11"; 2 pages.

EXHIBIT 29. Request for Public Hearing Continuance to October 26, 2015; signed by the Applicant, dated and received at the June 22, 2015 public hearing, 1 page.

EXHIBIT 30. Memorandum from the Conservation Commission; re: Village at Institute Road, 100 Westboro Road; dated October 22, 2015; received October 23, 2015; 1 page.

EXHIBIT 31. Public Hearing Sign In Sheet for the October 26, 2015 meeting; 1 page.

EXHIBIT 32. Request for Public Hearing Continuance to November 9, 2015; signed by the Applicant, dated and received at the October 26, 2015 public hearing, 1 page.

EXHIBIT 33. Revised Plan Sets submitted by Guerriere & Halnon on November 6, 2015; includes the following:

- Plan Set - Proposed Right of Way & Easement Plan of Institute Road; prepared by Guerriere & Halnon, Inc.; 11" X 17"; black and white; dated May 19, 2015; 2 sheets.

- Plan Set; Preliminary Flexible Subdivision; prepared by Guerriere & Halnon, Inc.; black and white; 11" X 17"; revised dated November 3, 2015; 20 sheets as follows:
    1. Sheet 1: ..... Cover Sheet
    2. Sheet 2: ..... Definitive Index Plan
    3. Sheets 3-8: ..... Lot Layout Plan
    4. Sheet 9: ..... Grading Index Plan
    5. Sheets 10-13: .. Grading Plan
    6. Sheets 14-16: .. Plan and Profile: Road A
    7. Sheet 17 ..... Plan and Profile: Road B & Road C
    8. Sheet 18: ..... Plan and Profile: Cross Country Sewer
    9. Sheet 19: ..... Plan and Profile: Force Main
    10. Sheet 20: ..... Plan and Profile: Institute Road
- Plan Set; Preliminary Conventional Subdivision; prepared by Guerriere & Halnon, Inc.; black and white; 11" X 17"; revised date November 3, 2015; 20 sheets as follows:
    1. Sheet 1: ..... Cover Sheet
    2. Sheet 2: ..... Definitive Index Plan
    3. Sheets 3-8: ..... Lot Layout Plan
    4. Sheet 9: ..... Grading Index Plan
    5. Sheets 10-13: .. Grading Plan
    6. Sheet 14: ..... Plan and Profile: Road A
    7. Sheets 15-16 ... Plan and Profile: Road B
    8. Sheet 17: ..... Plan and Profile: Road C
    9. Sheet 18: ..... Plan and Profile: Cross Country Sewer
    10. Sheet 19: ..... Plan and Profile: Force Main
    11. Sheet 20: ..... Plan and Profile: Institute Road

EXHIBIT 34. Land Use Plan for Open Space, "The Village at Institute Road", Page 1 of 1; no date; received on November 6, 2015; 1 page.

EXHIBIT 35. Public Hearing Sign In Sheet for the November 9, 2015 meeting; 1 page.

EXHIBIT 36. Request for Public Hearing Continuance to November 23, 2015; signed by the Applicant, dated and received at the November 9, 2015 public hearing, 1 page.

EXHIBIT 37. Correspondence; Re: The Village at Institute Road, Special Permit Application; prepared by Normand T. Gamache Jr. P.L.S., Guerriere & Halnon, Inc.; dated November 12, 2015; received November 13, 2015; 1 page.

EXHIBIT 38. Public Hearing Sign In Sheet for the November 23, 2015 meeting; 1 page.

EXHIBIT 39. Mullin Rule Certification for the April 14, 2014 public hearing, signed by Edward Prisby on April 28, 2014; 1 page.

III. WAIVERS

The Board notes that it is only addressing the Waiver Request for the Conventional Plan which was selected as the preferred plan by the Applicant (See SECTION I: PROJECT HISTORY AND OVERVIEW).

Analysis of the waiver request was provided by the Board's consulting engineer who confirmed that only one waiver was required for the Conventional Plan (see EXHIBIT #9)/

W1. At their meeting of February 9, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger voted 5-0 in favor to **DEFER** on the Applicant's request for a waiver from the following Section of the *Rules and Regulations* (as specified below) for the reason(s) indicated below:

Section 4.2.1.2. **Curbs and Berms -** to allow the use of sloped granite curb where roadway grades exceed 2% and along curves with a radius of less than 250 feet.

Applicant's Rationale: A significant amount of the project roads will exceed the 2% slope criteria and a majority of the curves have a radius of less than 250 feet.

The Board noted comments received from the Conservation Commission which stated their preference for Cape Cod berm instead of vertical granite curbing to allow for improved wildlife migration access on this sensitive site (see FINDING #15). The Board recognizes the impediment that vertical curbing presents to wildlife. However, in other recent and similar subdivision proposals the preference of the Department of Public Works (DPW) has been to require granite as a material for curbing and to require it to be sloped to reduce the potential for equipment damage when roads need to be plowed. The DPW notes that the Cape Cod berm is easily damaged which results in increased maintenance and repair in comparison to granite. The Board further recognizes that this particular project site contains a vernal pool which is not typical of other recent projects.

The Board reviewed the waiver request and discussed the comments received from the Conservation Commission along with recent past practice regarding curbing on new subdivision roads. The Board recognized that there was a need to balance the long term maintenance issues with the environmental issues. It was further noted that the Conservation Commission request was for Cape Cod (bituminous) berm which was different from the Applicant's request for sloped granite. The Board stated that they would need additional information to make an informed decision on this waiver request which could be provided during the Definitive Plan Approval permitting process. The Board acknowledged the waiver request and opted to take no action.

IV. FINDINGS

At their meeting of February 9, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 in favor to make the following Findings:

F1.) That this Application is for a Major Residential Development and Preliminary Plan Approval, as defined in Section 2.1 of the Grafton Zoning By-law (hereinafter ZBL).

F2.) That the subject Site is located in an Office / Light Industrial (OLI) and Medium Density Residential (R-20) zoning districts, as shown on the Plans identified within the EXHIBITS of this Decision. The

site is split by the two zoning districts with OLI zone along the Westboro Road frontage. The proposed subdivision is located entirely within the R-20 zone. A small of area of the northwest portion of site is located within the Water Supply Protection Overlay District.

F3.) That Major Residential Developments are permitted in an R-20 zoning district only upon the issuance of a Special Permit from the Planning Board in accordance with Sections 5.3 and 1.5 of the ZBL.

F4.) That determinations regarding the following Findings are based upon the plans identified in this Decision, which are preliminary in nature, as well as the materials and information submitted and presented in association with the Application.

F5.) That determinations regarding the following Findings are predicated upon the submission and approval of plans developed substantially as shown on the relevant Plans identified within the EXHIBITS of this Decision, and conform to this Decision and the *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts* (revised through 4-27-09, hereinafter *Rules and Regulations*), except where modified by this Decision, and also conform to all applicable Federal, State and other Local regulations.

F6.) That determinations regarding the following Findings are also predicated upon satisfying all of the conditions stated within this Decision, and any subsequent definitive plan conditions of approval.

F7.) That determinations regarding the following Findings are also predicated upon the satisfactory completion of all road and other improvements in accordance with the *Rules and Regulations*, except where modified by this Decision or any subsequent definitive plan conditions of approval, and also in accordance with all applicable Federal, State and other Local permits and regulations.

F8.) That the Applicant requested one waiver from the following Section of the *Rules and Regulations* for both the Conventional Development Plan:

- **Section 4.2.1.2 Curbs and Berms** - to allow the use of sloped granite curb where roadway grades exceed 2% and along curves with a radius of less than 250 feet. (See SECTION III: WAIVERS)

At their meeting of February 9, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 in favor to make the following Findings:

F9.) That during the public hearing the Board and the Applicant reviewed and discussed the Application submitted on November 6, 2014 which included a Flexible Development Plan consisting of fifty one (51) lots and 3,127 feet of roadway and a Conventional Development Plan consisting of 46 lots and 3,252 feet of roadway. Roadway layout on both plans were based on two points of access off of Institute Road (see also: SECTION I: PROJECT HISTORY AND OVERVIEW) Review of the original plan took place over a number of hearing dates and public input was received. Of significant concern was the layout and alignment of Institute Road and the traffic impacts at the intersection of Institute Road and Westboro Road (Route 30) (see FINDINGS #F12 and #F13). The condition, width, traffic patterns and volumes, and sight distances of Institute Road were discussed at length. Another significant concern discussed was the lot configuration in the Conventional Plan with regards to slope and proposed cuts, which would require a waiver from the Subdivision Rules and

Regulations and many of the cuts would exceed the allowable 6%. It is noted that over the course of the peer review process that cuts exceeding 6% were eliminated from the Conventional Plan.

The following findings of fact are based on the public hearing review of the final plan set submitted on November 6, 2015 (see EXHIBIT #33) and specifically the Conventional Development Plan which was declared the preference of the Applicant / Owner pursuant to the Grafton Zoning By-Law.

F10.) That during the public hearing the Board and the Applicant discussed the submission requirements. Upon further review it was determined that the Applicant was required to submit a Land Use Plan for Open Space for the Flexible Development Plan as required by the Zoning By-Law. The Applicant complied (see EXHIBIT #34).

F11.) That during the public hearing the Board received testimony from Elizabeth Holt of 4 Apple Ridge Lane. She expressed concerns about the impacts of blasting to the foundations of surrounding homes. Water quality and impacts to local wells was raised and she wanted to know if there would be any pre-testing of wells in the area before construction. The Applicant noted that the new houses in the subdivision would be connected to the Grafton Water District system which would not impact local groundwater levels. Additional questions included: permitting and construction time line and increased traffic on Institute Road.

F12.) That during the public hearing the Board and the Applicant discussed several issues relating to the right of way and alignment of Institute Road. At the time of Decision a layout and agreement with the State had been reached for a sixty foot right of way (see also: SECTION I. PROJECT HISTORY & OVERVIEW). The new grading and alignment plan takes into account the proximity of the vernal pool on site and other wetlands impacts that may occur on the eastern side of the road which is owned by the State. The wetlands issues will continue to be reviewed by the Conservation Commission. The sixty foot right of way would allow for additional room on either side of the pavement to accommodate future grading and utilities management. The Applicant noted that the proposed roadway layout is designed to accommodate a 35mph design criteria.

The Board notes that the Police Chief and the Highway Superintendent were consulted on the matter. Concerns were raised relating to the speed of traffic coming up and over the crest of Institute Road in the vicinity of the proposed entrance to the proposed subdivision Road A. The Board discussed the need for a 100 foot slope transition to improve the level of safety by way of extending the line of sight. Increasing right of way lay out on Institute Road to a 60' feet would likely provide for any future traffic needs. It was further noted that the State is planning to construct a fire access roadway on their property in the vicinity of and to provide fire safety access to the Department of Youth Services campus. This access road may be in close proximity to the southern roadway access proposed for the subdivision at the southern entrance of the site.

F13.) That during the public hearing the Board and the Applicant discussed traffic impacts and mitigation measures to offset those impacts. The Applicant submitted a traffic study prepared by Greenman-Pederson (see EXHIBIT #1) which was presented by the traffic engineers of that study. The results of that study were discussed and in particular the following items:

- Traffic counts for various scenarios related to existing conditions and increased traffic as a result of the full build out of the subdivision were reviewed. The Applicant noted that they were planning to design Institute Road to a Minor Road C classification. The Board noted that the additional volume from the proposed subdivision would require that Institute Road be designed as a Major Road and under the current rules which requires a 60 foot right of way. It

was noted that any widening of the roadway and re-grading to eliminate the current crest would result in high rates of travel speed. The Board noted that Institute Road must be designed to anticipate future volumes and use pattern particularly since this is the primary access to the proposed subdivision site.

- Currently Institute Road has one lane for turning right (east) at the intersection of Westboro Road. The intersection is currently failing primarily during the peak commuting hours. With a ten year projection, which would take in to account the proposed development along with the other potential factors for increasing traffic in the area, particularly the train station nearby, that intersection would operate at a Level of Service F (LOS F). Research by Greenman-Peterson suggests the need for a stacking right lane on Institute Road for cars turning right (east) onto Westboro Road. This could be achieved by designing a right turn lane with a 100 foot stacking lane down Institute Road. By separating the right turning vehicles from the left turning vehicles, this transition lane would improve the level of traffic service from an F to an E, creating a 38 second delay for vehicles traveling north on Institute Road. The Board suggested that the intersection would require rounding of lanes. The Applicant noted it could be designed without roundings.

- Currently the traffic making a left turn on to Institute Road from Westboro Road is functioning at an Level of Service A (LOS A), with a 10 year projection of a LOS B rating of about a 10 second delay.

F14.) That during the public hearing the Board and the Applicant discussed sidewalks to accommodate pedestrian traffic along Institute Road. Presently there are no sidewalks along Institute Road however it was noted that the residential development is in close proximity to the MBTA station. It was noted that a sidewalk between the two proposed road entrances / exits was preferred but the proximity of the vernal pool to the area where a sidewalk could be located may be problematic.

F15.) That during the public hearing the Board received comments received from the Conservation Commission (see EXHIBITS #2, #15, and #30). The Applicant had met with Commission several times to discuss the project and make recommendations to reduce the impacts to the natural environment. The Commission noted that stream and wetland resource areas are within the project limits including Natural Heritage and Endangered Species Program certified vernal pool. Preference for the Flexible Development Plan was noted and a number of design elements be included or addressed as follows:

- The Conservation Commission greatly prefers the flexible development site plan over the conventional. The smaller disturbance footprint greatly reduces the impact on the environment and has the benefit of protecting open space for wildlife, water quality protection, and recreation.

- The Commission requests that Cape Cod berm be substituted for vertical granite curbing to allow for improved wildlife migration access on this sensitive site. Vertical granite curbing is impassable for small amphibians and reptiles, leading to many inadvertent wildlife fatalities. (They get into the street but can't get out and perish.) This is especially important to salamander migration to and from the vernal pool.

- The Commission requests that the walking trail that connects the sidewalk along Institute Road to the cul-de-sac near the vernal pool be constructed of pervious material such as gravel, wood chips or dirt.

- The Commission requests that the trail heads to the open space be well marked with signs and provide some type of parking, whether on street or off-street. This area could be delineated with signs, fencing, striping, etc., the intent being that a resident who is not familiar with the subdivision could locate the trail head and the trail parking without wondering if they are trespassing in someone's yard.
- The Commission would be pleased to accept the ownership of the open space created as part of the flexible development site plan.

The Board raised concerns about protecting the vernal pool and associated wetlands given its proximity to Institute Road. It was noted that the wetland resource area bounds are on both sides of Institute Road in the vicinity of the vernal pool. That area of the roadway will be redesigned and regraded to eliminate a blind spot for vehicles coming up over the existing hill. The Board expressed concerns about the environmental sensitivity of the area noting that long established wildlife habitat is present on site as it has remained undisturbed for many years. The Applicant noted that the internal sidewalks within the proposed subdivision are well outside the area restricted by the Conservation Commission and will not be changed. The roadway is currently positioned as well as it can be in relation to the wetlands in order to have as little impact on the vernal pool as possible. The Board noted that the Flexible Development Plan would allow for conservation of more space and less disturbance of wildlife habitat and migratory patterns.

F16.) That during the public hearing the Board received comments received from the Sewer Department (see EXHIBIT #10). It was noted that requirements for the Sewer Department include a checklist for sewer construction, pump station standards and fee, along with sewer testing requirements. The checklist had been send to the Applicant / Owner. The Applicant is proposing to connect to the existing sewer line which is approximately 600 feet from the site. They plan to construct a pump station as well.

F17.) That during the public hearing the Board received comments received from the Grafton Water District (see EXHIBIT #7). It was noted that the Applicant / Owner will be required to make application for approval of the plans and subdivision prior to connecting to water.

F18.) That during the public hearing the Board received comments received from the Fire Department (see EXHIBIT #11). The comments note that they would like to see hydrant locations on the plan and that the locations do not exceed a maximum of 500 feet apart and a maximum of 10 feet off the curb.

F19.) That during the public hearing the Board received comments received from the Police Department (see EXHIBIT #12). The comments note that the final approval of the development should be subject to the proper installation of all necessary and/or required traffic control signs and devices. It is also recommended that cautionary signs be placed on Institute Road on approach to the proposed development's entrances warning motorists to be aware of increased traffic.

F20.) That during the public hearing the Board and the Applicant discussed plan preference. The Board noted that the Applicant has the right to proceed with their preferred development plan. This plan preference must be submitted to the Board in accordance with the Zoning By-law. The Board finds that the Applicant submitted a letter stating that they would be proceeding with the Conventional Development plan (46 lots) in accordance with the Zoning By-Law (see EXHIBIT #37). In their letter, the Applicant through his design engineer noted their reason as:

> *"...(The Applicant / Owner) has reservations concerning the size of the Flexible Development lots. Based on the size of the houses he normally builds, it is his opinion that the Flexible Development lots would not provide sufficient spacing between the houses for both grading and aesthetics. In addition it is his belief that the conventional lots offer more of an opportunity to grade the lots and preserve vegetated buffers between the proposed houses.*

The Board noted that the Flexible Development plan would provide additional area for a more environmentally responsive lot layout which would be sensitive to wildlife in the area and in particular those species associated with the presence of a Natural Heritage and Endangered Species Program certified vernal pool on the SITE. In addition the Flexible Development plan would allow for more opportunities to connect to abutting open space for the purpose of expanded open space and recreation opportunities not only for the general Town population but to specifically benefit the future residents of the proposed subdivision.

F21.) That during the public hearing the Board and the Applicant discussed the proposed ANR lot (Lot 46) along Institute Road as part of the Conventional Development Plan. It was noted that this lot would have frontage and access off Institute Road. Access from Institute Road may be problematic due to the topography of the lot and grades along Institute Road at the location. It was further noted that access from these lots directly onto Institute Road present safety issues given volume of traffic that uses the road as a commuter route to access the nearby MBTA station and Westboro Road / Route 30.

F22.) That during the public hearing the Board and the Applicant discussed public trails and access to adjacent open space. The Board noted that the Town owns the abutting property which would allow for trail and open space connectivity. It was suggested that the plan for the MRSP include two access points to areas adjacent to the site. A potential foot path accessing the Office / Light Industrial (OLI) area adjacent to the proposed development to the north (also owned by the Applicant) could be beneficial to future residents if that area is developed into commercial space sometime in the future. An additional foot path to the Town owned land to the west of the site would provide access to open space and recreation opportunities. The Board agreed that leaving two corridors for potential foot paths to adjacent properties is preferable. It was noted that the Town owned property to the west abuts the site of the North Grafton Elementary School. The Board discussed the potential for a foot path which could be used as a possible evacuation route for the school during an emergency situation. Students and staff could evacuate along the path to the proposed subdivision where buses could be waiting. This idea would require bus access in the development as well as a formalized and maintained foot path.

F23.) The Board notes that it received written comments from Selectman Craig Dauphinais of 5 Bruce Street (see EXHIBIT #6). He stated that "My input would be that the Conventional Plan looks like a better plan."

F24.) The Board notes that they had received comments from their consulting engineer, Graves Engineering who submitted a series of project review memorandums, the last of which was dated December 18, 2015 (see EXHIBIT #9). In the last review several items were deferred back to the Planning Board for consideration during the Definitive Plan review process.

At their meeting of February 9, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins,

seconded by Mrs. Hassinger) voted 5-0 in favor to make the following Findings with regard to Section 5.3.4 of the ZBL:

F25.) With regard to Section 5.3.4(b)1, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a Conventional Development Plan.

F26.) With regard to Section 5.3.4(b)2, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a Flexible Development Plan.

F27.) With regard to Section 5.3.4(b)3, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a Land Use Plan. See EXHIBITS #1 and #34.

F28.) With regard to Section 5.3.4(b)4, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a comparison of the impacts of a Flexible Development Plan to those that would result from the Conventional Development Plan.

F29.) With regard to Section 5.3.4(b)5, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a list of requested waivers from the *Rules and Regulations*. (See EXHIBIT #1)

F30.) With regard to Section 5.3.4(b)6, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding the number of copies of required plans and/or reports.

At their meeting of February 9, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 in favor to make the following Findings:

F31.) The maximum number of dwelling units authorized by this Major Residential Special Permit that could reasonably be expected to be developed on the property under a Conventional Development Plan in full conformance with zoning, Subdivision Rules, health codes, wetland bylaws, and other applicable requirements is not to exceed forty six (46).

F32.) That prior to the close of the public hearing on November 23, 2015, and in accordance with Section 5.3.9 of the Zoning By-Law, the Board voted 4-0 (Scully – AYE; R. Hassinger – AYE; Robbins – AYE; L. Hassinger – AYE; Chairman Hanna was absent) on November 9, 2015 to recommend to the Applicant that they consider the Flexible Development Plan presented to be the most beneficial to the Town for reasons stated in FINDING #F20.

F33.) That the Applicant informed the Board in writing (EXHIBIT 37 of this Decision), and as required by Section 5.3.9 of the Zoning By-Law, that they wished to pursue a Conventional Development Plan. The Board further finds that said EXHIBIT satisfies the requirements of Section 5.3.9 regarding communicating the Applicant's development preference to the Board.

At their meeting of February 9, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 in favor to make the following Findings with regard to the specific issues listed in Section 1.5.5 of the ZBL:

F34.) With regard to Section 1.5.5(a), and based upon the Findings stated within this Decision, that ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate.

F35.) With regard to Section 1.5.5(b), and based upon the Findings stated within this Decision, that off-street parking and loading areas where required with particular attention to the items in Finding # F34 above, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory.

F36.) With regard to Section 1.5.5(c), and based upon the Findings stated within this Decision, that refuse collection or disposal and service areas are satisfactory.

F37.) With regard to Section 1.5.5(d), and based upon the Findings stated within this Decision, that screening and buffering with reference to type, dimensions and character are adequate.

F38.) With regard to Section 1.5.5(e), and based upon the Findings stated within this Decision, that signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district.

F39.) With regard to Section 1.5.5(f), and based upon the Findings stated within this Decision, that the required yards and other open space requirements are adequate.

F40.) With regard to Section 1.5.5(g), that the proposed number of dwelling units conforms to zoning and is similar to abutting properties, and the project is generally compatible with adjacent properties and other property in the district.

F41.) With regard to Section 1.5.5(h), and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, the applicable Water District, and all other applicable agencies, and based upon the plans and materials referenced in this Decision, there will not be any significant adverse impact on any public or private water supply.

F42.) With regard to Section 1.5.5(i), and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, the applicable Water District, and all other applicable agencies, and based upon the plans and materials referenced in this Decision, there will not be any significant adverse impact upon municipal water supplies.

F43.) With regard to Section 1.5.5(j), that protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory.

V. DECISION and CONDITIONS

At their meeting of February 9, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 in favor to **GRANT** the **Major Residential Special Permit** with the following conditions:

C1. This Major Residential Development Special Permit is for a <u>Conventional Development Plan.</u>

C2. Based upon Finding #F9 of this Decision, the total number of dwelling unit lots that could be developed under this Major Residential Special Permit Decision shall not exceed forty six (46) new single family units. This Condition shall not be construed as approving the buildability of any lots shown on the Plans. All applicable Federal, State or other Local permits/approvals must be obtained for each lot prior to construction on each said lot.

C3. Any Definitive Plan filed pursuant to this Decision shall depict lot coverage with regards to amount of wooded areas to be left undisturbed. In particular coverage on the lots with existing wooded slopes shall be developed to minimize disturbance to and are responsible to the natural systems that provide stormwater management safeguards and wildlife habitat sensitivity.

C4. Any Definitive Plan filed pursuant to this Decision shall demonstrate that they have satisfied the public safety requirements of Town including but not limited to the requirements of the Fire Department, Police Department and the Department of Public Works.

C5. Any Definitive Plan filed pursuant to this Decision shall include Hydrant locations on the Plan set per the requirements of the Grafton Fire Department. The Hydrant locations shall not exceed a maximum of 500 feet apart and maximum of 10 feet off the curb. (See FINDING #F18).

C6. Any Application for a Definitive Plan filed pursuant to this Decision shall demonstrate resolution of outstanding issues identified by Graves Engineering in their report dated December 18, 2015 (see EXHIBIT #9) as follows:

a. Sidewalk Layout along the west side of Institute Road
b. Off Site Traffic Mitigation Plan with specific attention to the intersection of Institute Road and Westboro Road / Route 30
c. Satisfy the requirements of Section 4.10 and 5.6 of the Grafton Subdivision Rules and Regulations regarding trails, bikeways and walkways.
d. Proposed Enhancements to Institute Road
e. Incorporation public safety signage on the plans as required by the Town with particular attention to:
    i. intersection warning signs in conformance with manual on Uniform Traffic Control Devices to warn northbound drivers on Institute Road of the North Site Roadway;
    ii. A "STOP AHEAD "sign to be posted at the Institute Road northbound approach to the intersection of Westboro Road.

C7. Pursuant to Section 5.3.10.1 of the ZBL, all subsequent submissions, requirements and approvals for the creation of the lots authorized by this Major Residential Special Permit shall be as specified in the Rules and Regulations, as applicable. Any subsequent Plan(s), which shall be developed substantially as depicted on the Plans identified as EXHIBIT #33 of this Decision, shall be submitted to and reviewed by the Planning Board pursuant to Subdivision Control Law and the Rules and Regulations, and be developed in accordance with, and conform to, the Rules and Regulations, unless modified by this Decision. This Condition shall not be construed as approving any Definitive Subdivision Plans or other Plan(s) for the development specified in this Decision.

C8. Pursuant to Section 5.3.10.3 of the ZBL, the Planning Board reserves the right to require changes to the Conventional Development Plan and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of the Bylaw.

C9. Pursuant to Section 5.3.10.4 of the ZBL, subsequent to the granting of this Conventional Development Plan and the approval of any Plan(s) submitted pursuant to Subdivision Control Law and the Rules and Regulations, the Planning Board may permit the relocation of lot lines within the development without initiating a new Major Residential Special Permit proceeding. Also pursuant to Section 5.3.10.4, changes in the layout of streets, in the use, ownership, and any other conditions stated in this Major Residential Special Permit, or any information submitted, including requests for any waiver(s) or other relief that is not part of this Major Residential Special Permit Application, shall require written approval of the Planning Board in accordance with any applicable regulations. The Planning Board may, upon its determination, require a new Major Residential Special Permit, in accordance with Section 1.5 of the ZBL, if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Major Residential Special Permit decision.

C10. If during the review of any Plans derived from this Major Residential Special Permit the Planning Board determines that a conflict exists between information from which this Major Residential Special Permit Decision is based and the information associated with such Plans, the Planning Board may, upon its determination, require a new Major Residential Special Permit if it finds that the proposed changes are substantial in nature and of public concern.

C11. The lots shown on the Plans shall be serviced by public water and sewer. This Approval shall not be construed as final approval of any off-site improvements or work (such as intersection improvements, roadway reconstruction, and water, sewer, or drainage installation) associated with this project and shown on the Plans. All applicable Federal, State and Local approvals/permits shall be obtained by the Applicant prior to the construction of any portion of the development or off-site improvements that warrant such approvals/permits. All applicable requirements of the Grafton Water District, Grafton Board of Sewer Commissioners/Sewer Department, Grafton Department of Public Works, and all other applicable utilities, are hereby incorporated by reference as a requirement of this Decision. All proposed work associated with the creation of the lots authorized by this Decision and subject to the departments/entities noted herein shall be shown on any subsequent Plans submitted pursuant to this Decision.

C12. If any Order of Conditions and/or permits from the Conservation Commission require substantial modification(s) to any of the plans approved by the Planning Board or conditions of this Major Residential Special Permit, the procedure specified within the Conditions of this Decision shall govern such change(s).

C13. In accordance with Section 1.5.8 of the ZBL, this Major Residential Special Permit shall lapse within two (2) years from the date of the expiration of the appeal period if a Plan for the creation of the lots authorized by this Decision has not been filed with the Planning Board in accordance with all applicable regulations. Any request for an extension of said period of validity shall be considered a Modification of this Major Residential Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.

C14. This Major Residential Special Permit shall be recorded in the Worcester District Registry of Deeds (WDRD) prior to submitting any plan(s) for the creation of the lots authorized by this Decision. At the time of filing any such plan(s), the Applicant shall submit evidence to the Planning Board that this Decision has been recorded at the WDRD, including a copy of such recording bearing the WDRD Book and Page Number and/or Instrument Number. Any such Plan(s) submitted to the Planning Board for approval shall contain reference to this Decision, as well as other related

approvals, indicating that such plans are prepared pursuant to said Decision(s)/Approval(s) and shall include WDRD recording information, including Book and Page numbers.

C15. A copy of such recorded Major Residential Special Permit Decision, including WDRD Book and Page numbers, shall be submitted to the Planning Board Office within thirty (30) days of recording.

C16. By recording this Major Residential Special Permit Decision in the Worcester Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision, and which acceptance shall bind the Applicant and its successors and assigns.

C17. Any inability or failure or refusal by the Applicant to comply with the requirements of this Major Residential Special Permit, when notified of failure of compliance, shall be grounds for the revocation of this Major Residential Special Permit.

VI. RECORD OF VOTE

i. Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant's Application for a Major Residential Special Permit based on the information received at the public hearing and the aforementioned findings, and subject to the aforementioned conditions.

Sargon Hanna, Chairman	AYE	Linda Hassinger, Member	AYE
Michael Scully, Vice Chairman	AYE	David Robbins, Member	AYE
Robert Hassinger, Clerk	AYE		

ii. Constituting a majority of the Planning Board, the following members voted to **DENY** the Applicant's Application for a Preliminary Plan Approval for Conventional Development based on the information received at the public hearing and the aforementioned FINDINGS (see FINDING #F20 and above.

Sargon Hanna, Chairman	AYE	Linda Hassinger, Member	AYE
Michael Scully, Vice Chairman	AYE	David Robbins, Member	AYE
Robert Hassinger, Clerk	AYE		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD

Joseph Laydon, Town Planner

2-10-2016
Date

cc: Applicant / Owner
- Guerriere & Halnon, Inc.
- Graves Engineering
- Town Engineer
- Building Inspector
- Conservation Commission
- Board of Assessors
- Sewer Department
- Grafton Water District

To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

_____
Donna Girouard, Town Clerk

_____
Date