

**DECISION  
GRAFTON PLANNING BOARD**

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GRAFTON, MA *DM*

**MAJOR RESIDENTIAL SPECIAL PERMIT (MRSP 2014-8) & PRELIMINARY PLAN APPROVAL**

2015 MAY 19 PM 12 48

**“Bull Meadow” SUBDIVISION  
Off 11 Appaloosa Drive, 109R Adams Road,  
and 81 Adams Road, North Grafton**

**Bull Meadow, LLC (Applicant)**

**Bull Meadow, LLC and the  
Massachusetts Department of Transportation (Owners)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Bull Meadow, LLC (hereinafter the APPLICANT), for a Major Residential Special Permit (MRSP 2014-8) / Preliminary Plan Approval for a Conventional Development residential subdivision on property located at 11 Appaloosa Drive ( Grafton Assessor’s Map 31, Lot 123) and 109R Adams Road (Grafton Assessor’s Map 32, Lot 5A) – both owned by the APPLICANT; and 81 Adams Road (Grafton Assessors Map 32, Lot 100) owned by the Massachusetts Department of Transportation - (hereinafter the SITE). Said properties are located in Residential (R-40) zoning district.

**I. BACKGROUND**

The above referenced Application for Special Permit and Preliminary Plan Approval (hereinafter Application) was submitted on August 27, 2014. Notice of the public hearing and the subject matter thereof was published in the Grafton News on September 17, and September 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 October 6, 2014 and continued, at the request of the applicant with concurrence of the Planning Board, to the following meetings: November 10, 2014 (no testimony received), November 24, 2014, January 26, 2015 (meeting cancelled due to snowstorm), February 2, 2015 (meeting cancelled due to snowstorm), February 9, 2015 (meeting cancelled due to snowstorm), February 12, 2015, and March 9, 2015 at which the Board closed the public hearing.

The following Board members were present throughout the public hearing: Chairman David Robbins, Vice Chairman Michael Scully, Clerk Sargon Hanna, Members Robert Hassinger and Linda Hassinger; and Associate Member Andrew Clarke. At the hearings Patrick McCarty of McCarty Engineering, Inc. represented the Applicant and presented the proposal. At the public hearing, all those wishing to speak to the petition were heard. 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.

**II. SUBMITTALS**

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

- EXHIBIT 1. Application materials; Preliminary Subdivision & Special Permit Application, Single Family Residential Development, Appaloosa Drive, Grafton, Massachusetts; prepared by McCarty Engineering, Inc., dated and submitted on August 27, 2014; including the following:

- Cover Letter from McCarty Engineering, Preliminary Subdivision & Special Permit Application, Single Family Residential Development, Appaloosa Drive, Grafton, Massachusetts; dated August 27, 2014; 2 pages.
  - Certificates of Good Standing (3), signed by the Treasurer / Collector’s Office on August 11, 2014; 3 pages.
  - Certified Abutters List, dated August 12, 2014; 1 page.
  - Application for Approval of Preliminary Plan; dated August 21, 2014; 1 page.
  - Application for Special Permit – Major Residential Development; dated August 21, 2014; 1 page.
  - Project Description & Narrative; 2 pages.
  - Preliminary Environmental & Community Impact Analysis; 12 pages.
  - List of Requested Waivers; 1 page.
  - Plan Set: Preliminary Subdivision Plans, Bull Meadow, LLC, Appaloosa Drive, North Grafton, Massachusetts; 11 x 17”, black & white; prepared by McCarty Engineering, Inc.; dated August 27, 2014; includes the following sheets:
    - Cover Sheet
    - Overall Subdivision Plan
    - Conceptual Subdivision Plan Sheet 1
    - Conceptual Subdivision Plan Sheet 2
    - Preliminary Subdivision Profile Sheet 1
    - Preliminary Subdivision Profile Sheet 2
  - Plan Set: Preliminary Flexible Subdivision Plans, Bull Meadow, LLC, Appaloosa Drive, North Grafton, Massachusetts; 11 x 17”, black & white; prepared by McCarty Engineering, Inc.; dated August 27, 2014; includes the following sheets:
    - Cover Sheet
    - Overall Flexible Subdivision Plan
    - Conceptual Flexible Subdivision Plan Sheet 1
    - Conceptual Flexible Subdivision Plan Sheet 2
    - Preliminary Flexible Subdivision Profile Sheet 1
    - Preliminary Flexible Subdivision Profile Sheet 2
- EXHIBIT 2. Return memorandum, departmental project review comments, Grafton Water Department, received September 11, 2014; 1 page.
- EXHIBIT 3. Return memorandum, departmental project review comments, Sewer Department, received September 11, 2014; 1 page.
- EXHIBIT 4. Return memorandum, departmental project review comments, Zoning Board of Appeals, received September 12, 2014; 1 page.
- EXHIBIT 5. Return memorandum, departmental project review comments, Conservation Commission, received September 10, 2014; 2 pages.
- EXHIBIT 6. Correspondence from Graves Engineering, Appaloosa Drive Preliminary Plan and MRSP Review; dated September 23, 2014, received September 29, 2014; 3 pages.

- EXHIBIT 7. Return memorandum, departmental project review comments, Police Department, received October 3, 2014; 2 pages.
- EXHIBIT 8. Email Correspondence from Michael & Susan Brown, 37 Bridle Ridge Drive; received October 6, 2014; 2 pages.
- EXHIBIT 9. Public Hearing Sign In Sheet for the October 6, 2014 hearing; 1 page.
- EXHIBIT 10. Plans; 11” x 17”, color; prepared by McCarty Engineering; dated October 27, 2014; received at the October 6, 2014 public hearing; 2 sheets as follows:
- Overall Subdivision Plan;
  - Overall Flexible Subdivision Plan
- EXHIBIT 11. Written Request by the Applicant to continue the public hearing to November 10, 2014; received at the October 6, 2014 public hearing; 1 page.
- EXHIBIT 12. Correspondence from McCarty Engineering, Inc.; Appaloosa Drive, Response to Peer Review Comments; dated October 6, 2014, received at the October 6, 2014 public hearing; 5 pages.
- EXHIBIT 13. Correspondence from McCarty Engineering, Inc.; Appaloosa Drive, Response to Town Planner Review; dated October 6, 2014, received at the October 6, 2014 public hearing; 2 pages.
- EXHIBIT 14. Correspondence from Ken Sherman, 89 Adams Road; dated October 7, 2014, received October 8, 2014; 1 page.
- EXHIBIT 15. Memorandum from Grafton Fire Department Re: Special Permit (MRSP 2014-8) Bull Meadow, LLC Residential Subdivision; dated October 8, 2014, received October 9, 2014; 1 page.
- EXHIBIT 16. Email correspondence from Stephen Burke, 1 Appaloosa Drive - Bull Meadow; received October 14, 2014; 1 page.
- EXHIBIT 17. Email correspondence from Patrick McCarty, RE: November 10<sup>th</sup> Continued Hearing; received November 1, 2014; 1 page.
- EXHIBIT 18. Traffic Impact and Access Study, Proposed Bull Meadow Residential Development, Appaloosa Drive, Grafton, Massachusetts; prepared by Green International Affiliates, Inc.; dated November 2014, received November 3, 2014; 120 pages.
- EXHIBIT 19. Plan Set, Preliminary Flexible Subdivision Plans, August 27, 2014 (Revised 11/4/2014); prepared by McCarty Engineering, Inc.; received November 6, 2014; 11” x 17”, black & white; 6 sheets as follows:
- Cover Sheet
  - 1: Overall Flexible Subdivision Plan
  - 2: Preliminary Flexible Subdivision Plan Sheet 1
  - 3: Preliminary Flexible Subdivision Plan Sheet 2
  - 4: Preliminary Flexible Subdivision Profile Sheet 1
  - 5: Preliminary Flexible Subdivision Profile Sheet 2

- EXHIBIT 20. Plan Set, Preliminary Conventional Subdivision Plans, August 27, 2014 (Revised 11/4/2014); prepared by McCarty Engineering, Inc.; received November 6, 2014; 11” x 17”, black & white; 6 sheets as follows:
- Cover Sheet
  - 1: Overall Conventional Subdivision Plan
  - 2: Preliminary Conventional Subdivision Plan Sheet 1
  - 3: Preliminary Conventional Subdivision Plan Sheet 2
  - 4: Preliminary Conventional Subdivision Profile Sheet 1
  - 5: Preliminary Conventional Subdivision Profile Sheet 2
- EXHIBIT 21. Public Hearing Sign In Sheet for the November 10, 2014 hearing; 1 page.
- EXHIBIT 22. Email Correspondence from Patrick McCarty, November 10<sup>th</sup> continued hearing; 1 page.
- EXHIBIT 23. Return memorandum, departmental project review comments, Board of Assessors, received November 12, 2014; 2 pages.
- EXHIBIT 24. Return memorandum, departmental project review comment – Revised Plan Set Review, Grafton Water District, received November 12, 2014; 2 pages.
- EXHIBIT 25. Return memorandum, departmental project review comments – Revised Plan Set Review, Fire Department, received November 19, 2014; 2 pages.
- EXHIBIT 26. Correspondence from Graves Engineering, Appaloosa Drive Preliminary Plan and MRSP Review; dated November 19, 2014, received November 20, 2014; 5 pages.
- EXHIBIT 27. A Report on the Reasons Why Bull Meadow Special Permit Should Be Denied from the Residents of North Grafton Estates and Adams Road, Version 1; submitted by David Deacon; received November 20, 2014; 8 pages.
- EXHIBIT 28. Public Hearing Sign In Sheet for the November 24, 2014 hearing; 1 page.
- EXHIBIT 29. Slideshow Presentation, Traffic Impact and Access Study, Proposed Bull Meadow Residential Development, Appaloosa Drive, Grafton, Massachusetts; prepared by Green International Affiliates, Inc.; presented and submitted at the November 24, 2014 Planning Board public hearing; 8 ½ x 11”, color; 11 pages.
- EXHIBIT 30. Written Request by the Applicant to continue the public hearing to January 26, 2015; received at the November 24, 2014 public hearing; 1 page.
- EXHIBIT 31. Email Correspondence from Patrick McCarty, Meeting Change (request for continuance of public hearing to February 9, 2015 at 7:30 p.m.); 1 page.
- EXHIBIT 32. Email correspondence from Brian Marchetti, McCarty Companies; Bull Meadow LLC Preliminary Subdivision Meeting – 2/9/15; received January 19, 2015; 1 page.
- EXHIBIT 33. Memorandum from Paul Cournoyer, Grafton Wastewater Treatment Facility, Re: Bull Meadow, LLC; dated December 23, 2014; 1 page.
- EXHIBIT 34. Soil Log Report, prepared by Robert G. Murphy & Associates, Inc.; dated October 20, 2004; received February 12, 2015; 4 pages.
- EXHIBIT 35. Copy of Correspondence from the Massachusetts Department of Transportation to Mountain, Dearborn and Whiting LLP – Portions of Parcels 3, 4, and 5 containing 9.33 ± acres located

off Route I-90 and Adams Road, Grafton, MA; dated June 25, 2014; 1 page, plus following attachment:

- Purchase and Sale Contract between the Massachusetts Department of Transportation and Gordon Lewis, Jr.; June 23, 2014; 19 pages.

- EXHIBIT 36. Copy of correspondence from Division of Fisheries and Wildlife to Gordon Lewis, Project Location: off Appaloosa Drive, Grafton; dated August 13, 2014; 1 page.
- EXHIBIT 37. Email Correspondence with Attachment from David Deacon, Bull Meadow / NGE; received February 12, 2015; 7 pages.
- EXHIBIT 38. Public Hearing Sign In Sheet for the February 12, 2015 public hearing; 1 page.
- EXHIBIT 39. Written Request by the Applicant to continue the public hearing to March 9, 2015; received at the February 12, 2015 public hearing; 1 page.
- EXHIBIT 40. Email correspondence from David Deacon, Meeting Change to March 23; received March 5, 2015; 1 page.
- EXHIBIT 41. Public Hearing Sign In Sheet for the March 9, 2015 public hearing; 1 page.
- EXHIBIT 42. Memorandum from Town Counsel; North Grafton Estates Trail Easements; dated and received March 4, 2015; 1 page.
- EXHIBIT 43. Memorandum from Patrick McCarty, McCarty Engineering, Inc., Agent for Bull Meadow LLC; Intent to Pursue Conventional Plan; submitted at the February 12, 2015 Planning Board meeting; 1 page.

## V. FINDINGS

At their meeting of May 18, 2015 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. Hassinger, seconded by Mr. Hanna ) 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 a Low Density Residential (R-40) as shown on the Plans identified within the EXHIBITS of this Decision. No portion of the site is located within the Water Supply Protection Overlay District.
- F3. That Major Residential Developments are permitted in an R-40 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 no waivers from the Subdivision Rules and Regulations for either the Conventional and Flexible Development Plans.
- F9. That the Conventional Development Plan submitted by the Applicant (EXHIBIT #21) depicts a total of eighteen (18) lots serving 18 single family housing lots. The Board also finds that the Flexible Development Plan submitted (EXHIBIT #20) depicts a total of twenty (20) proposed lots. The total size of the site is 33.4 acres.
- F10. The Applicant proposes to provide public water service for the proposed development. No public sewer will be provided for the proposed development.

At their meeting of May 18, 2015 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. Hassinger, seconded by Mr. Hanna ) voted 5-0 in favor to make the following Findings:

- F11. That during the public hearing the Board and the Applicant reviewed and discussed the application submitted on August 27, 2014. Mr. McCarty reviewing the information outlined in the Project Description and the Preliminary Environmental & Community Impact Analysis (see EXHIBIT #1). The site consists of 33.4 acres which will be accessed via a new through road which will connect with the cul de sac at the end of Appaloosa Drive and an easement between 37 and 39 Bridle Ridge Drive. The final plan sets submitted (EXHIBITS #19 and 20) show that the Flexible Development Plan would consist of 20 building lots and approximately 19 acres of open space. The Conventional Development Plan consists of 18 building lots and approximately 11.5 acres of open space.

Concerns were raised about the current ownership of the site which consists of three parcels two of which are owned by the Applicant and one which is owned by the Massachusetts Department of Transportation (MASSDOT). The Board of Assessors submitted comments noting that their records show that one of the site parcels (Map 32, Lot 100) is still owned by the Massachusetts Turnpike Authority. The Board questioned the Applicant’s right to be before the Board as there was no documentation showing the State’s consent to submit the application on their behalf as property owners. Mr. McCarty noted that Mr. Gordon Lewis had negotiated a purchase and sale contract with the State which gave him the rights to pursue the Application before the Board The parcel in

question is approximately 9.3 acres. Mr. Lewis pursued the purchase of the land when it was deemed surplus by the State. Mr. McCarty provided the necessary documentation to satisfy the Board’s concern (see EXHIBIT #43).

F12. That during the public hearing the Board received testimony from the abutters and general public (see EXHIBIT listing) regarding a number of issues and concerns including but not limited to:

- public safety with regards to increased traffic, specifically pedestrian safety during morning and afternoon peak hours;
- pedestrian and child safety concerns about the heavy equipment and trucks travelling through the neighborhood during the construction period phase;
- increase in noise pollution;
- impacts to wildlife due to loss of habitat when lots are cleared;
- elimination of horse trails;
- increased area flooding due to increased development, lot clearing and inadequate soil types in the area to off set impacts;
- decreased quality of life.

The Board finds that some issues were addressed as a result of ongoing public hearing process that and some issues will be addressed during the Definitive Plan stage.

F13. That during the public hearing the Board received testimony, verbal and written, from David Deacon, 33 Bridle Ridge Drive, representing residents of the North Grafton Estates neighborhood. He stated that there were a number of reasons why the Board should deny the Application citing some of the following issues and assumptions outlined in submitted material (see EXHIBITS #27 and #37):

- Proposed development violates some subsections of Section 5.3 of the Grafton Zoning By-law (ZBL) – Major Residential Development
- Potential for increased problems with surrounding septic systems which are already failing for a number of reasons including a high content of clay in the soil;
- Draw down on the aquifer and impacts to existing homes;
- Proximity to a polluted site;
- Further exacerbation of the existing problems relating to the electrical service from National Grid to the existing homes;
- Questions and demands that all utilities for the new development be brought in from another location other than through North Grafton Estates and asking if the Town will be held fiscally responsible if services decline or fail if the project is approved;
- Assertion that Town owned open space cannot be converted to a major access road and in particular, Parcel X on the plan.
- North Grafton Estates was created as a “closed community”. The new development would cause their neighborhood to be reclassified as a main through fare (sic).
- Overburdening of local municipal services and schools.

- Impacts to vernal pools on the site; potential inconsistencies in wetlands mapping and impacts of on site septic to the wetlands;
- Increase in stormwater from the new development and overburdening the system designed to support North Grafton Estates, particularly the retention pond abutting the proposed development; increased flooding concerns for Adams Road;
- Clay soils and septic problems;
- Incorrect information provided in the Traffic Study regarding school bus stops and the number of trips per day.

During the course of the public hearing the Applicant reviewed these issues and provided documentation to clarify their position (see FINDINGS and EXHIBITS).

- F14. That during the public hearing the Board and the Applicant discussed compatibility with surrounding neighborhood with regards to size and scale. Mr. McCarty noted that their intent is to design a development that complements the existing neighborhood in scale and feel (see EXHIBIT #31).
- F15. That during the public hearing the Board and the Applicant discussed on site wetlands and endangered species habitat. The Board received comments from the Conservation Commission noting that the proposed work is within 100 feet of a wetland buffer and would require permitting from the Commission. It was further noted that the site is also within an endangered species habitat. Other concerns were raised about the proposed bridge crossing of the wetlands and the impacts associated with that crossing. Mr. McCarty stated that they had hired a consulting firm to flag the wetlands in the field. He noted that all required permits would be obtained and that all impacts would be addressed during the Definitive Plan stage, which requires a much more intense level of site engineering than during the preliminary plan phase.

Mr. McCarty submitted a letter from the Massachusetts Division of Fisheries and Wildlife stating that they had reviewed the plans and other materials submitted to the Natural Heritage Endangered Species Program. It was found that the project as currently proposed would not result in a prohibitive “take” of state-listed rare species (see EXHIBIT #36). Any changes to the project would require further review and determination.

- F16. That during the public hearing the Board and the Applicant discussed the differences between the Conventional and Flexible proposed plans. It was noted that the total new linear feet of roadway for the main access road and the cul de sac were almost the same. Sidewalks are proposed for both plans and they will be designed to connect to and mirror the sidewalk network in North Grafton Estates. Open space is proposed under both plans (11.4 acres in the Conventional Plan and 19.15 acres in the Flexible Plan). This acreage would also serve as a buffer to the Mass Pike. Mr. McCarty noted that the Applicant prefers the Conventional Plan as it is more compatible in scale to the abutting North Grafton Estates.
- F17. That during the public hearing the Board and the Applicant discussed the traffic study (see EXHIBIT #18). Jason Sobel of Green International Affiliates, Inc. presented an overview of the traffic study that they prepared (see EXHIBIT #29). He reviewed: existing conditions, future no build conditions, future build conditions, existing roadways and traffic volumes, site generated traffic, intersection capacity analysis, and sight distance analysis. Based on the data he concluded that the development

would have negligible impacts to traffic operations, that minimum sight distances for safety are exceeded, and that the existing roadway network can accommodate the proposed project.

Objections were raised by a resident of North Grafton Estates about the line of sight at the intersection of Old Westboro Road and Morgan Drive. Brush and trees obscure the sight lines at the intersection which makes it difficult to exit onto Old Westboro Road which has a much higher rate of vehicular speed than the traffic study reported. Snow banks in the winter also present a hazard as sight lines are obscured further. Vehicles trying to exit onto Old Westboro Road will queue during the morning peak hour. In the afternoon people are parked near the intersection waiting for the bus, which makes for difficult and hazardous maneuverability when trying to exit onto Old Westboro Road. Additional traffic generated by the proposed development would only serve exacerbate that situation. The Board noted that speeding along Old Westboro Road was a problem and needed to be addressed by the Police Department. Sight lines obscured by foliage or snow within the Town’s right of way were a matter for the Department of Public Works and not relevant to the traffic study. New and ongoing development increases traffic impacts on local road networks all over town.

Abutters also raised safety and nuisance concerns relating to construction period trucks and heavy equipment traveling through North Grafton Estates to the site. The Board noted that the traffic study did not address that issue – just existing conditions and projected conditions after construction was complete and all housing unit were occupied.

Mr. David Deacon of 33 Bridle Ridge Drive submitted documentation stating that the traffic study’s data on bus trips was incorrect given the time of day and year that the counts were taken. Mr. McCarty reviewed the methodology and results demonstrating that the data was correct based on standard traffic study protocol.

Comments received from the Police Department stated that they did not have any objections to the proposed project. If the plan advances to the Definitive stage then the Applicant will be required to install all necessary and/or required traffic control devices (see EXHIBIT #7).

- F18. That during the public hearing the Board and the Applicant discussed the proposed roadway over an easement between 37 and 39 Bridle Ridge Road referred to as Parcel X. This easement was deeded to the Town when the North Grafton Estates subdivision was accepted at Town Meeting. The Board, the Applicant and Mr. Deacon discussed the nature of the use of that easement. Mr. Deacon stated it was his understanding that the easement for was use only for non-motorized vehicles and horses and that a roadway would violate the non-motorized vehicle clause. Mr. McCarty disagreed noting that the easement was always intended to allow access to their proposed site for future development. At the request of the Planning Board, Town Counsel Ginny Senkel Kremer submitted an opinion on the matter noting that she had reviewed all the documentation pertaining to this parcel including the Trail Easement Plan dated October 20, 2004, Conveyance of Trail Easements recorded November 17, 2010, and Conveyance of Road Rights of Way recorded on November 17, 2010. Based on those documents, it is her opinion that Parcel X is no longer burdened by an easement. The Board finds that the legal issue between a private citizen and the Applicant regarding the legal disposition of the easement was a matter for the courts and did not impede their ability to move forward in making a decision on this Application based on the requirements of the Town’s Zoning By-Law.

F19. That during the public hearing the Board and the Applicant discussed electrical service connection to the proposed subdivision. Service is provided by National Grid. Mr. McCarty stated they would be working with National Grid during the Definitive Plan stage to design the system to their requirements and that they would be working off the network already in place in North Grafton Estates. The residents of North Grafton Estates noted that there have been ongoing problems with insufficient electrical power available to them and that a new subdivision would only serve to exacerbate the problem. The residents have tried for years to resolve the problems but to no avail. It is their opinion that the system is under designed for the build out capacity of their neighborhood which was originally supposed to have smaller homes and fewer residents. The system was already in place when Toll Brothers purchased the development rights and then they built bigger houses resulting in a larger demand on a system not designed to accommodate the increase. The Board noted that the design of the electrical service would be addressed in the Definitive Plan stage and that the Applicant should be prepared to address any issues that may result in lack of electrical supply to the new lots.

F20. That during the public hearing the Board and the Applicant discussed sewage disposal. The proposed development calls for on-site septic systems for each of the lots. The Applicant was asked to explore the possibility of extending the sewer system to the site noting that Section 4.7.2.1 of the Grafton Subdivision Rules and Regulations require all new lots shall be connected to the system by the developer if the a project is within a 2,000 of linear feet of the system. The Applicant provided documentation from the Sewer Department stating that public sewer is considered unavailable for the proposed subdivision. The nearest public sewer is at a distance of more than 4,000 linear feet.

Concerns were raised about the soil capacity to accommodate new systems. Neighbors noted that there was a high clay content in the soil making drainage difficult. They further noted that several systems in their neighborhood had failed which was indicative of problems that could be exacerbated by the addition of new septic systems in the proposed subdivision. Mr. McCarty provided soil logs from test pits conducted by his consultant that demonstrate that the soils can accommodate (see EXHIBIT #34). The test pits were witnessed by the Board of Health as required. Mr. Deacon stated that the assumption was flawed as only limited results were available from the Board of Health. Mr. McCarty noted that the Board of Health only witnessed one of several tests as this project was only in the preliminary phase. He further reviewed a list of septic problems submitted by Mr. Deacon and found that all but one problem was system related – the other problems appear to related to improper installation or equipment failure. Full testing and coordination with the Board of Health will be required when each lot’s septic system is designed. The Board noted that the approval of a Preliminary Plan does not guarantee the “buildability” of each lot. All septic systems must be designed and pass inspection by the Board of Health.

F21. That during the public hearing the Board and the Applicant discussed storm water facilities. The Applicant stated that the site soils are well suited for the construction of storm water controls and have the ability to infiltrate the run-off from the proposed impervious surfaces. The project will be designed to fully comply with State and local by-laws and regulations (see EXHIBIT #1). Some of the lots will abut the storm water basin designed for North Grafton Estates. When questioned, Mr. McCarty noted that the proposed subdivision has its own separate storm water systems and would not be tying into that retention basin.

- F22. That during the public hearing the Board noted correspondence received from the Grafton Water District who reported that the proposed project is 2,484 feet from the nearest water line located at the intersection of Old Westboro Road and Bridle Ridge Road. The Applicant stated that they would be working with the Grafton Water District to extend that line to the proposed subdivision in order to provide municipal water to the new lots.
- F23. That during the public hearing the Board and the Applicant discussed the width of the proposed roadway. The Applicant originally proposed a width of 22 feet based on their determination that the proposed roadways would be classified as “Minor Street C” under Section 4 of the Grafton Subdivision Rules and Regulations. The Board noted that the roadway width may not adequate from an emergency services perspective and that there had been problems in the past. The Board received correspondence from the Fire Department stating that the roadway should be at least 24 feet in width but preferably 28 feet in width to accommodate emergency vehicles. Correspondence from Graves Engineering recommended that the Board consider requiring a “Minor Street B” width of 26 feet for the new through road to provide better maneuverability. Mr. McCarty noted that the roadway width in North Grafton Estates is 30 feet which he felt was too wide for the design aesthetic of the proposed subdivision. He agreed to work with the Town to address their needs and concerns at the Definitive Plan stage.
- F24. That during the public hearing the Board and the Applicant discussed design options for the extension of the cul de sac at the end of Appaloosa Drive. The new roadway for the proposed subdivision will connect with North Grafton Estates through the cul de sac at the end of Appaloosa Drive. Mr. McCarty noted that there were two options: they could eliminate the cul de sac, relocate the impacted driveways and impacted front yards or; keep the cul de sac in place and install an island to provide a traffic calming effect. The Board discussed the merits of both options but felt it would be important to receive input from the Police Department, Fire Department and Department of Public Works. Mr. McCarty stated that there was no strong opinion one way or another as this stage and that the Applicant would work with the Town to meet their needs and address their concerns at the Definitive Plan stage. The Board notes that correspondence received from Graves Engineering supports this approach to resolving the question (see EXHIBIT #25).
- F25. That during the public hearing the Board and the Applicant discussed noise. Concerns were raised by the residents of North Grafton Estates about the increase in noise from the Mass Pike when the land was cleared to accommodate building lots. Mr. McCarty pointed out that the proposed open space would provide a buffer and that no trees will be cut in that area. He further noted that the proposed subdivision is at a lower topographical elevation than the surrounding neighborhood which would reduce noise impacts. The Board noted that noise impacts can be further discussed during the Definitive Plan stage when the Board considers the clearing of lots and proposed tree plan. Concern about construction period noise was also raised. The Board noted that noise impacts related to construction are temporary in nature and are not a long term impact which can be evaluated as part of the decision making process.
- F26. That the Board received project review comments from Graves Engineering, the Town’s peer review engineering contractor. The final review was submitted on November 19, 215 (EXHIBIT 26). Several items were called out for the Board’s attention relevant to this Application:
- The disposition of the cul de sac at the end of Appaloosa Drive (see FINDING #F24).

- Classification of the proposed through road as a “Minor Street B” which requires a pavement width of 26 feet (see FINDING #F23).
- Plan revision to adequately show the “high point” elevation at station 14+76.50.
- Additional work items could or should be addressed at the Definitive Plan stage.

At their meeting of May 18, 2015 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. Hassinger, seconded by Mr. Hanna ) voted 5-0 in favor to make the following Findings with regard to Section 5.3.4 of the ZBL:

- F27. 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. See EXHIBITS #1 and #20.
- F28. 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. See EXHIBITS #1 and #19.
- F29. 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, #19, #20).
- F30. 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. See EXHIBITS #1, #19, #20 and FINDING #F11.
- F31. 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. The Applicant did not request any waivers. See EXHIBIT #1.
- F32. 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 May 18, 2015 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. Hassinger, seconded by Mr. Hanna ) voted 5-0 in favor to make the following Findings:

- F33. 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 eighteen (18).

- F34. That on February 12, 2015, prior to the close of the public hearing, the Board voted unanimously 5-0 to recommend the Conventional Development Plan as most beneficial to the Town pursuant to Section 5.3.9 of the Grafton Zoning By-Law. The Board further finds that the Applicant submitted a written statement electing to pursue the Conventional Development Plan to the Board at the February 12, 2015 public hearing (EXHIBIT #4) as required by Section 5.3.9 of the ZBL. 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 May 18, 2015 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. Hassinger, 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:

- F35. 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 as it relates to the submission of a preliminary plan. See EXHIBITS #1, #19, #20, #25 and FINDINGS #F23, #F24.
- F36. 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, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory as it relates to the submission of a preliminary plan. See EXHIBITS #1, #20, #21. The Board finds that detailed information regarding this requirement would be addressed as part of a definitive plan submission.
- F37. 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 as it relates to the submission of a preliminary plan. (See EXHIBITS #1, #19, #20; FINDING #F25). The Board finds that detailed information regarding this requirement would be addressed as part of a definitive plan submission.

At their meeting of May 18, 2015 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. Hassinger, seconded by Mr. Hanna ) 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:

- F38. 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 not applicable to the submission of a preliminary plan. (See EXHIBITS #1, #19, #20). The Board, through the Definitive Plan stage, will have the opportunity to review existing vegetation for retention and have additional opportunities to review and discuss specific screening and buffering options.
- F39. 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 as it relates to the submission of a preliminary plan. (See

EXHIBITS #1, #7, #19, #20). The Board finds that detailed information regarding this requirement would be addressed as part of a definitive plan submission.

- F40. 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. See EXHIBITS #1, #19, #20.)
- F41. With regard to Section 1.5.5(g), requiring that the Board determine if 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. (See EXHIBITS #1, #19, #20.)
- F42. 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. (See EXHIBITS #1 and #33; FINDINGS #F20 and #F22.)
- F43. With regard to Section 1.5.5(i), the Board finds that this is not applicable as the site is not located within the Water Supply Protection Overlay District. See EXHIBIT #1.
- F44. 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 as it relates to the submission of a preliminary plan. See EXHIBITS #1, #20, #21. The Board finds that detailed information regarding this requirement would be addressed as part of a definitive plan submission.

## VI. DECISION and CONDITIONS

At their meeting of May 18, 2015 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. Hassinger, seconded by Mr. Hanna) voted 5-0 in favor to **APPROVE** the **Major Residential Special Permit and Preliminary Plan Approval** with the following conditions:

- C1. This Major Residential Development Special Permit is for a Conventional Development Plan.
- C2. Prior to the submission of a Definitive Plan Approval application the Applicant will submit a final plan set for the Preliminary Plan Approval of the Conventional Development Plan to reflect the following:
- All references to individual wells shall be replaced to reflect the Applicant’s agreement to provide public water to the development in conjunction with the Grafton Water District. (See FINDING #F22).
  - Per the final peer review letter submitted by Graves Engineering on behalf of the Town, the plan set will be revised to address comment #17 which reads: “On Sheet 4 of the Conventional Subdivision Plan, the “high point” elevation at station 14+76.50 cannot be clearly read; it appears to be elevation 449.73 feet. If the plans are to be revised and resubmitted for any other reason, the plans should also be revised to clearly show the elevation. 9See FINDING #F26 and EXHIBIT #26).

The Applicant will submit to the Planning Office two (2) full size sets – 24” x 26” – and two reduced size sets - 11” x 17” - as well an electronic copy of the plan set in PDF format.

- C3. Prior to the submission of a Definitive Plan Approval application the Applicant will meet with Town staff, in particular the Department of Public Works, Planning Department, and Fire Department, to address the following:
- Emergency access, aesthetic, and public works concerns relating to the design and disposition of the cul-de-sac at the end of Appaloosa Drive where it will interface with the new proposed subdivision road. (See FINDINGS #F23 and #F24.)
  - Roadway width of the new proposed subdivision road. (See FINDINGS #F23)
- C4. The total number of dwelling unit lots that could be developed under this Major Residential Special Permit Decision for the Conventional Development Plan shall not exceed eighteen (18) single family lots. 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.
- C5. 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, wildlife habitat sensitivity and noise mitigation (see FINDING #F25, #F38).
- C6. Any definitive plan filed pursuant to this Decision shall demonstrate that they have satisfied the requirements of the Article 33: Shade Tree, Section 5(f), of the Town of Grafton General By-laws (see FINDING #F38).
- C7. Any definitive plan filed pursuant to this Decision shall depict screening and buffering measures such as, but not limited to, vegetation and/or fencing. The type, dimensions, amount, character, and location of such measures shall sufficiently screen/buffer, in the opinion of the Board, the proposed development from surrounding properties and dwellings (see FINDING #F38).
- C8. Any definitive plan filed pursuant to this Decision shall demonstrate that they have satisfied the public safety requirements of the Town including but not limited to the requirements of the Fire Department, Police Department and the Department of Public Works.
- C9. Any definitive plan filed pursuant to this Decision shall depict resolution of outstanding issues identified by Graves Engineering in their review report dated November 19, 2014 (see EXHIBIT #26) and reviewed during the public hearing (see FINDING #F26).
- C10. 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 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 #20 and modified pursuant to CONDITION #C2 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.

- C11. 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.
- C12. Pursuant to Section 5.3.10.4 of the ZBL, subsequent to the granting of this Conventional Development Special Permit 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 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 Special Permit, or any information submitted, including requests for any waiver(s) or other relief that is not part of this 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 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 Special Permit decision.
- C13. If during the review of any Plans derived from this Special Permit, the Planning Board determines that a conflict exists between information from which this Special Permit decision is based and the information associated with such Plans, the Planning Board may, upon its determination, require a new Special Permit if it finds that the proposed changes are substantial in nature and of public concern.
- C14. The lots shown on the Plans shall be serviced by public water as agreed upon by the Applicant (see FINDING #F22). This Approval shall not be construed as final approval of any off-site improvements or work 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 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.
- C15. Any Order of Conditions and/or permits from the Conservation Commission that require substantial modification(s) to any of the plans approved by the Planning Board or conditions of this Special Permit, shall follow the procedure specified within the Condition #C12 of this Decision.
- C16. In accordance with Section 1.5.8 of the ZBL, this 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 Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
- C17. This 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

plan(s) is(are) prepared pursuant to said Decision(s)/Approval(s) and shall include WDRD recording information, including Book and Page numbers.

- C18. A copy of such recorded Special Permit Decision, including WDRD Book and Page numbers, shall be submitted to the Planning Board Office within thirty (30) days of recording.
- C19. By recording this 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.
- C20. Any inability or failure or refusal by the Applicant to comply with the requirements of this Special Permit, when notified of failure of compliance, shall be grounds for the revocation of this Special Permit.

**VII. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant’s application for a **Major Residential Special Permit and Preliminary Plan Approval** based on the information received at the public hearing and the aforementioned findings.

<u>David Robbins, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Michael Scully, Vice Chairman</u>	<u>AYE</u>	<u>Robert Hassinger, Member</u>	<u>AYE</u>
<u>Sargon Hanna, Clerk</u>	<u>AYE</u>		

**DATE OF FILING OF DECISION: BY ORDER OF THE BOARD**

  
\_\_\_\_\_  
Joseph Laydon, Town Planner

5-19-2015  
\_\_\_\_\_  
Date

- cc: Applicant
- Owner
  - Graves Engineering
  - Building Inspector
  - 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