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DEC 11 2015
PLANNING BOARD
GRAFTON, MA

Grafton Planning Board
Town Hall
Grafton MA

December 8, 2015

Re: Grafton Hill – Exceptions Document – Supplemental

EXHIBIT
23

Dear Members of the Planning Board:

On behalf of the Applicant we submit this more detailed analysis of the "exceptions" to the Modified Definitive Subdivision. As you are aware the plan, as submitted is (1) premised on the existence of an Approved (endorsed) subdivision (1953), (2) the modifications being made to the roadway construction standards and ancillary plan submittal requirements are those contained in the present day Rules and Regulations of the Grafton Planning Board (none are known to have existed in 1953), and (3) the exceptions are minor in nature and only technical deviations, thus both can be waived by the Planning Board (MGL. c.41 s81R) and the grant of the waivers is not inconsistent with the Subdivision Control Law. It is important to note we did not list these as "waivers" as the pre-existing plan forms the nexus for the minor differences in what would have been acceptable roadway construction practices of that era. Furthermore an ANR process is alternatively available to the applicant, (and as discussed during the hearings, is a process that would eliminate the opportunity to provide a more "compliant" subdivision).
It is important to note the plan is a modification where only some elements of the design criteria are proffered to make the roadway layout and construction techniques meet the reasonable rules and regulations now in existence. The applicant has chosen to bring the plan to the nearest practicable conformance with the current regulations for roadway construction.

The application/submission package for the Modified Subdivision included the following:

CLEARVIEW LANE
Grafton, MA

REQUESTED DESIGN EXCEPTIONS FROM CURRENT REGULATIONS

SEPTEMBER 2015

Subdivision Rules and Regulations:
§3.3.3.20 - Tree Plan: Request to not require a plan showing all existing trees greater than 12 inches within the right of way and front setbacks.
The grading has been designed to closely match the existing conditions and allow preservation of existing vegetation along the stone wall. The areas along the loop portion had been previously cleared and are generally scrub brush and emergent vegetation.

§3.3.4.1 – Environmental & Community Impact Analysis: Request to not require an impact analysis. due to the fact that this is a modification of a previously endorsed subdivision,

§3.3.4.3 – Staking of the Roadway Centerline: Request to not require centerline staking at the time of application.
The Roadway generally follows the existing gravel path and limit of clearing in the field area.

§3.3.4.7 – Traffic Study: Request to not require a traffic study due to the fact that this is a modification of a previously endorsed subdivision.

§4.1.2.1(b) – To allow proposed grades within the right-of-way to be more than six feet above or existing grade for the construction of the proposed roadways from Station 12+65 to 13+65.

§4.1.3.5 – At the intersection with North street allow the right of way be cut back with a 30 foot radii on the north side only.
The south side of the existing right of way does not allow for property line to be cut back.

§4.1.3.6 – Intersection separation: The existing Clearview Street is less than 600 feet from Old Westborough Road. The location will remain unchanged from the existing conditions.

§4.1.5.6 – To allow the thru road at the loop road intersection be greater than 3%.
The minor leg has been provided with a stop sign and the ~~required~~ leveling area to provide the required safety precautions. In order to minimize grading impacts and land disturbance, the thru road has been designed greater than 3%.

§4.1.6.3 – Dead End Length:
The overall length of Clearview Street will match the endorsed Definitive Subdivision plan. The overall length of Clearview is 2020 linear feet.

§4.1.6.5 – Roadway Easement: To not require an easement from the dead end to adjacent property.

§4.1.6.5 – Street lights: The proposed plan has not included street lighting.

§4.2 – Curbs and Berms: To allow the use of bituminous Cape Cod berm throughout the proposed roadway.

BUT note: we are adding one more exception at section "**4.1.3.7** *Roadway centerlines shall be colinear with the centerline of the roadway right of way. The distance between edge of pavement and edge of right of way shall remain constant.*"

The Plan complies with the present day applicable provisions of the Rules and Regulations except for minor technical deviations. Pursuant to MGL c.41 s.81R, and the applicable/enumerated Sections of the Rules and Regulations, the Applicant hereby requests that the Board 'waive' the requirement of strict compliance.

From MGL c41 s81w. *The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns which it is, or may hereafter be, put in effect by regulating the laying out (*here the plans roadway layout had been proposed and approved in 1953) *and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a planning board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision;*

The design process began with a meeting of all relevant departments of the Town at which time the roadway standards were discussed and input was incorporated into the Definitive Plan currently before the Board. In particular the width and radii of pavement for emergency access and DPW purposes was a prime issue.

Insofar as the 'exceptions' are able to be categorized as to "technical submission information (TI)" and "design elements (DE)" they are indicated below as to which:

1.	Section 3.3.3…Tree Plan	TI
2.	Section 3.3.4.1…Environmental Impact	TI
3.	Section 3.3.4.3…Stake Road	TI
4.	Section 3.3.4.7…Traffic Study	TI
5.	Section 4.1.2.1.b…Fill in excess of 6 feet (Stations 12+65 to 13+65)	DE
6.	Section 4.1.3.5… 30' Curb radii at R.O.W.	DE
7.	Section 4.1.3.6…Intersection within 600 feet (Old Westborough Road)	DE
8.	Section 4.1.5.6…3% intersection slope	DE
9.	Section 4.1.6.3…Dead End Length	DE
10.	Section 4.1.6.5…Roadway easement to Property Line	DE
11.	Section 4.1.6.5...Street Lights	DE
12.	Section 4.2…Curbs and Berms….	DE

As to the technical issues (TI), they have no impact on the layout of the roadway from the 1953 plan. Nor do they impact the roadway construction. The environmental impact and traffic study were dealt with in the previous subdivision proposals, which included a greater number of building lots then what is now being presented.

Section **3.3.3** Reasoning: It is an unnecessary component where the design layout is predetermined by a previously approved Subdivision in 1953.

Section **3.3.4.1** Reasoning: It was previously submitted for this land and this 1953 previously approved subdivision already exists.

Section **3.3.4.3** Reasoning: The roadway location, which follows the existing access road, is evident on the ground, and there are flags and test pits on the 'loop' section.

Section **3.3.4.7** Reasoning: This is a previously approved subdivision.

Design element (DE) issues in this instance are a result of the modern roadway construction standards (Rules and Regulations) that differ from the 1953 era roadway construction practices where there were no particular enumerated standards. Further discussion on these are offered:

Section **4.1.2.1(b)** Fill in excess of 6 feet.

Reasoning: The existing layout of the 1953 approved plan places the roadway in an area where the topography has a sharp drop. In order to meet the current day forward sight distances there needs to be fill above 6 feet for a distance of 100 feet (station 12+65-13+65).

Section **4.1.3.5** 30' Curb radii at R.O.W.

Reasoning: As previously approved the south side of the existing right of way does not allow for the property line to be cut back at a 30 foot radius. The actual "curb," that portion of the road pavement, does provide for a 30 foot curb radii. The 30 foot radii provides proper turning radii for emergency and other larger wheel base vehicles.

Section **4.1.3.6**...Intersection within 600 feet (Old Westborough Road)

Reasoning: Imposing the present regulation would require the Applicant to abandon the previously approved plan. This is the exact result that the Applicant wishes to avoid, and would "force" the Applicant to build the road based on the existing approval and then submit ANR plans.
Clearview Road is an existing way that is less than 600 feet away from the Old Westborough Road's intersection complex, an out-of-the-ordinary layout. That intersection, of North Street and Old Westborough Road exists on the

opposite side of the road, as a uniquely shaped intersection containing a large 'landscape island' provides access to Old Westborough Road in a safe manner, not otherwise able to be markedly improved upon, and the location of Clearview Road, the access to the property being subdivided, is pre-determined. This intersection does not violate the separation regulation as it is not an "adjacent" street, being on the opposite side of North Street than Clearview Road.

> *"**4.1.3.6** Streets shall be laid out so as to intersect with adjacent streets or adjacent unsubdivided land at intervals of from six hundred feet (600') to twelve hundred feet (1200'). In special instances the Planning Board may approve a right-of-way for a future street to remain in fee ownership of the applicant, in lieu of actual construction of a cross street."*

Section **4.1.5.6**...3% intersection slope

Reasoning: This requirement is mitigated by the installation of a STOP sign/line. The minor leg has been designed with a stop sign and a leveling area has been designed to provide the required safety for an intersection. Traffic approaching the 'thru' street does not indiscriminately merge without stopping. Previously on this site the same situation was presented and found by the consultants for the town to not present any safety issue.

Section **4.1.6.3**...Dead End Length

Reasoning: The overall length of Clearview Street will match the endorsed Definitive Subdivision Plan.

Section **4.1.6.5**...Roadway easement to Property Line

Reasoning: Since there was no easement prior and the developer's inquiries into possible connections was roundly rejected by abutting landowners there is no need for a connection. At the RailRoad there has been shown to be a decided desire to not provide a roadway crossing potential.

Section **4.1.6.5**...Street Lights

Reasoning: It is understood the Town does not pay for the operation of street lighting and thus the installation of street lights is superfluous and onerous and does not contribute to the purposes of the Subdivision Control Law.

Section **4.2**...Curbs and Berms

Reasoning: Discussions relative to using the 'cape-cod' berm with the departments is to provide a 'mountable' curb for event parking (graduation parties etc) so as to maintain the width of the 'travel lane' during such infrequent times. Augmenting this is the wider pavement width on the long section of Clearview Road.

4.1.3.7 "*Roadway centerlines shall be colinear with the centerline of the roadway right of way. The distance between edge of pavement and edge of right of way shall remain constant.*" This additional matter was brought up in the first two hearing relative to the 'squared' off corners of the ROW.

To the extent the interior of the roadway (now lot 23) has been modified it has been to provide the requested emergency vehicle turning radii and the 30 foot curb return radii (this could also be done in an easement and maintain the interior square corners, but to what end?).

As to the outside corners of concern to the Board there can be a 'funky' layout to meet this colinear requirement by filling in those fillets with pavement structure to be colinear. This does not serve the purposes of the Subdivision Control law and the Grafton Rules and Regulations however.

Rounding the corners eliminate a lot due to the "width" requirement. Lots must have a width equal to the frontage at the setback line.

Notwithstanding the above, the roadway construction standards proposed in the plan meet the MassDOT regulations, DEP Stormwater Standards, and the structural aspects of Grafton Planning Board Rules and Regulations relative to roadways, and Grafton's Municipal Department standards. Furthermore the exceptions are the result of (1) a pre-existing roadway ROW layout, (2) the constraints of such coupled with topography, and (3) most have been either vetted with the various departments/consultants (fill in excess of 6 feet, curb radii, 3% slope, curbs) or are a typical practice in Grafton (street lights).

As discussed during the first two hearing on this plan it was acknowledged the applicant could build the road and then process an ANR plan. Grafton provides for endorsement of an ANR with considerably different design/construction standards than those of the Rules and Regulations for Definitive Subdivision Plans in the following section:

"***3.1.5 ..... Enforcement of Approval Not Required Plans***

3.1.5.1 In determining whether a way in existence when the Subdivision Control Law became effective in the Town is adequate to qualify a plan as not constituting a subdivision, the Board shall take into consideration the following factors, among others:

a) whether the right-of-way is at least thirty three (33) feet wide and of reasonable horizontal alignment;

b) whether the existing horizontal and vertical alignment of the roadway provides safe visibility;
c) whether the roadway is at least eighteen (18) feet wide, with at least eight (8) inches of gravel, and with adequate provisions for drainage;
d) whether the road could ever service more than six (6) dwelling units. If it is determined that the road could ever serve more than 6 dwelling units then, in order to be entitled to ANR endorsement, it must be suitably paved with bituminous concrete at no cost to the Town."

The Definitive Modification Plan seeks to exceed item (a) above with a 50 foot minimum ROW and provides both a reasonable horizontal alignment and a 'pre-determined' (1953 approved subdivision) alignment. The roadway's horizontal and vertical alignments (b) together provide for safe visibility, and the 3% 'exception' has been both previously discussed and an opinion as to its appropriateness is in the record, and it is also provided with a 'stop' traffic control. The pavement widths are 26 and 28 feet, well in excess of the 18 feet in (c) above, and the gravel base exceeds the 8 inches. Further the drainage system design meets current DEP Stormwater Standards. Finally item (d) is met with the proposal for the bituminous concrete pavement. Accordingly the Definitive Modification would best serve the Town of Grafton over the otherwise available ANR process. As such and in contemplation with "***Section 3.3.4.2*** *Any waivers from the requirements of these Rules and Regulations which are sought by the applicant, including the citation from the Regulations and a description of the requirements, a justification for each requested waiver, and a thorough description of the harm to be suffered by compliance with these Regulations, and of the benefit(s) to be realized by allowing such waiver(s)."* The justification for the waivers overall is that the harms are that compliance is simply ceremonial not substantive, that the areas of non-compliance do not affect the construction of the roadway and its long term life, and that the benefits realized are a roadway that is appropriately controlled for the particular situation at the site by the Town. To further this we refer to the following sections as well:

3.3.5.3 Review by Town Officials
b) The Planning Board will transmit copies of the Definitive Plan to Town Officials (and others) other than the Board of Health requesting their written statements regarding the following aspects of the proposed improvements at a minimum, as well as any pertinent information they may provide.
d) Before approval of the Plan, the Board shall submit the Plan to such professional service(s) as it deems appropriate for review at the Applicant's expenses. After this review, the Board shall establish whether the purposes of the Subdivision Control Law are met.

The professional services review of the plans have identified no defects in the design. And thus the plan meets the purposes of the Subdivision Control Law.

5.1.4 *..... To facilitate reference where appropriate, each section in these specifications is noted with the paragraph number of the particular section as contained in the Standard Specifications. Where appropriate, references are also made to the Construction Manual. No departure from these regulations will be*

permitted without the approval of the Planning Board, working in conjunction with the Department Head involved.

It is clear the Department heads involved with this project have found the design to meet their requirements relative to the 'departures' from the Rules and Regulations, as in consideration to a previously approved plan.

Very truly,

Connorstone Engineering Inc.
By George Connors

Reference material-

Section 81R. A planning board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations, and with the frontage or access requirements specified in said law, and may, where the ways are not otherwise deemed adequate, approve a plan on conditions limiting the lots upon which buildings may be erected and the number of buildings that may be erected on particular lots and the length of time for which particular buildings may be maintained without further consent by the planning board to the access provided. The planning board shall endorse such conditions on the plan to which they relate, or set them forth in a separate instrument attached thereto to which reference is made on such plan and which shall for the purpose of the subdivision control law be deemed to be a part of the plan.

Section 81M. The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a planning board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions. Such powers may also be exercised with due regard for the policy of the commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive, as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable.