

Board Members

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Member



Medway Town Hall
155 Village Street
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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
PLANNING AND ECONOMIC
DEVELOPMENT BOARD

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20 Day Appeal
October 18, 2022

CERTIFICATE OF ACTION
Wingate Farm
Modification to DEFINITIVE SUBDIVISION PLAN
And Land Disturbance Permit

Decision Date: September 27, 2022

Location: 168 Holliston Street and Wingate Farm Road

Assessors' Reference: Map 09, Parcels 037-0000, 036-0000, 035-0000, and 034-0000

Parcel Size: 5.77 acres

Name/Address of Applicant: Karyl and Eugene Walsh
168 Holliston Street
Medway, MA 02053

Name/Address of Property Owner:
Karyl and Eugene Walsh
Karyl and Eugene Walsh, Trustees of Wingate Farm Realty Trust
168 Holliston Street
Medway, MA 02053

Engineer: Legacy Engineering
730 Main Street, Suite 2C
Millis, MA 02054

Land Surveyor: Colonial Engineering, Inc.
P.O. Box 95
Medway, MA 02053

Plan: Subdivision Modification Plan – Wingate Farm dated August 18, 2022 by
Legacy Engineering, Millis, MA, last revised September 12, 2022

Zoning District: Agricultural Residential I

Members voting: Matthew Hayes, Robert Tucker, Richard Di Iulio, Jessica Chabot

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I. BACKGROUND: The Wingate Farm subdivision was approved by a Planning Board decision issued on 5-23-2000. That decision was modified on 4-28-2005 and the corresponding modified Wingate Farm subdivision plan was endorsed on 11-8-2005 and recorded in October and November 2007 at the Registry of Deeds. That plan divided the property into 4 lots with a permanent private roadway known as Wingate Farm Road; one lot includes the existing single-family home at 168 Holliston Street. The modified subdivision approval from April 2005 required the subdivision to be completed by November 8, 2008. This time limit was extended four years due to the state's Permit Extension Act, to November 8, 2012. Considerable work has been undertaken to install the subdivision's utilities and stormwater infrastructure and roadway. However, the project is not complete, and the specified (and extended) completion deadline has expired.

II. MODIFICATION DESCRIPTION: The applicant requests an extension of time to complete the subdivision and has requested associated waivers from the Board's current *Subdivision Rules and Regulations*. The applicant has also requested that the Board waive its regulation allowing rescission of the subdivision if not completed in a timely manner, although this was determined to not be relevant given the issuance of this subdivision modification decision. During the course of the review process, a modified subdivision plan was prepared and reviewed by the Board.

II. PROCEDURAL SUMMARY:

A. On March 31, 2021, the Planning and Economic Development Board received an application for approval of a modification to the Wingate Farm subdivision decision and plan. The application was filed with the Town Clerk the same date.

B. On May 10, 2021, the Board notified various Town boards and departments, including the Board of Health, of the public hearing on the proposed subdivision modification, provided copies of the plan, and requested review comments. The information was also posted to the Board's web page.

C. On May 25, 2021, the Board commenced a public hearing. The public hearing was duly noticed in the *Milford Daily News* on May 10 and May 13, 2021. The public hearing notice was posted with the Medway Town Clerk on May 4, 2021 and was sent by *Certified Sent Mail* on May 6, 2021 to abutters in Medway within 300 feet of the subject property and to parties of interest. The public hearing was continued to June 22, July 13, July 27, September 28, October 26, November 9, 2021; January 25, April 26, July 12, August 23, September 13, and September 27, 2022, when it was closed.

D. All members voting on this Certificate of Action were present at all sessions of the public hearing or have provided a certification pursuant to General Laws c. 39 section 23D.

- Certificate for Robert Tucker for 5-25-21 hearing
- Certificate from Matthew Hayes for 7-21-21 hearing

E. On September 12, 2022, the Applicant filed a Land Disturbance Permit Application with the Board.

III. PUBLIC HEARING SUMMARY: The public hearing and the Board's review of the proposed Wingate Farm subdivision were conducted over the course of 12 Board meetings, during which substantive information was presented and evaluated. The project was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005 which are currently in effect.

Specified below is a list of plan documents and support materials, public comments, consultant and Town departmental board review documents, and supplemental information which have been provided by the Applicant or placed on the record by the Planning and Economic Development Board. All information is on file in the Medway Planning and Economic Development office and is available for public review.

Wingate Farm Definitive Subdivision Plan Modification Application Materials

- *Application to Modify Previously Approved Subdivision Plan and/or Decision*
- *Wingate Farm Subdivision As-Built Plan* - Prepared by O'Driscoll Land Surveying, Inc. dated 2-22-2021
- *Requests for Waivers from Subdivision Rules and Regulations* – Prepared by applicant
- *CWV-UNIFLOW 3*
- *168 Holliston Street – VZ Conduit Sketch*
- *Applicant's Response dated 11-13-18 to Tetra Tech's punch list dated 12-7-17*

Town Engineering Consultant Reviews

- Steven Bouley, P.E. Tetra Tech – 12-5-2017 email re: sight distance
- Steven Bouley, P.E. Tetra Tech – 12-7-2017 punch list and bond estimate
- Steven Bouley, P.E. Tetra Tech – 3-23-2018 review letter
- Steven Bouley, P.E. Tetra Tech – 6-22-2021 email
- Steven Bouley, P.E. Tetra Tech – 9-24-2021 review letter
- Courtney Sudak, P.E. Tetra Tech – 11-8-21 review letter

Supplemental Information Provided by Applicant's Consultants

- Letter from Daniel Merrikin, P.E. Legacy Engineering dated July 19, 2021
- Letter from Legacy Engineering dated September 14, 2021
- Letter from Legacy Engineering dated October 12, 2021
- Stormwater Report dated August 18, 2022
- Letter from Legacy Engineering dated August 18, 2022
- Subdivision Modification Plan dated August 18, 2022
- Letter from Legacy Engineering dated September 8, 2022
- Letter from Legacy Engineering dated September 12, 2022
- Stormwater Report revised September 12, 2022
- Subdivision Modification Plan revised September 12, 2022
- Land Disturbance Application dated September 12, 2022

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

- Wingate Farm Certificate of Action 4-28-2005
- Wingate Farm modified definitive Subdivision Plan endorsed 11-8-2005
- Wingate Farm subdivision chronology prepared by Susan Affleck-Childs, dated 12-6-2017
- Notes summarizing Applicant's request, prepared by Susan Affleck-Childs, dated 5-25-2021
- Compilation of PEDB Meeting Minutes from 2017 and 2018 when the Board discussed the status of the Wingate Farm subdivision
- Excerpt from Timber Crest 40B decision (3-23-2016) - Condition #35 regarding required Holliston Street roadway regrading improvements to address sight distances and safety.
- Green International Sight Distance letter dated 3-15-2017 regarding regrading work on Holliston Street for the Timber Crest development.
- Email communication dated 6-18-2021 from PEDB member Jessica Chabot
- Notes from 6-15-21 site visit by 3 PEDB members

Professional Testimony

- Steven Bouley, P.E. and Courtney Sudak, P.E. of Tetra Tech
- Daniel Merrikin, P.E., of Legacy Engineering

Medway Departmental/Board Review Comments

- Email dated 7-12-21 from Fire Chief Jeff Lynch

IV. PROJECT EVALUATION CRITERIA – Before taking action on a definitive subdivision plan, the Board shall evaluate the proposed subdivision according to the criteria as specified in Section 5.16 of the *Subdivision Rules and Regulations*. At the public hearing on September 27, the Board voted 4 to 0 to approve the Project Evaluation Findings below.

5.16.1 Completeness and technical accuracy of all submissions.

FINDINGS – All submissions were reviewed by Town staff and/or the Town's Consulting Engineer. The Board's consulting engineer has reviewed the 2005 modified subdivision plan against the current Subdivision Rules and Regulations and has identified a number of ways in which the previously endorsed subdivision plan does not meet the current subdivision standards. The submitted revised subdivision plans, stormwater report and other documents remedy these deficiencies as discussed further herein.

5.16.2 Determination that the street pattern is safe and convenient, and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.

FINDINGS – The Board finds that the proposed street pattern within the subdivision is safe and convenient. The layout has been reviewed by the Board's Consulting Engineer. Future roadway extension to adjacent property is not feasible so provisions to do so are not required. The roadway shown on the approved subdivision plan was designed to the Board's construction specifications for a permanent private way

subdivision road. The roadway width has been widened to 20 feet as requested by the Fire Chief.

5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health, and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.

FINDINGS – The intersection sight distance (ISD) for traffic exiting Wingate Farm Road onto Holliston Street was reviewed by the Board’s consulting engineer. Looking north, the ISD is 260 feet. The South ISD is well in excess of 500 feet. These calculations do not take into consideration the required future Timber Crest improvements on Holliston Street (including a 3.8% downhill slope correction) which will further increase the northerly ISD at Wingate Farm Road. In addition, the existing shoulder grade immediately to the north of Wingate Farm Road will be lowered 2-3 ft. to achieve the ISD. The big oak tree will not be taken out. Consultant Sudak’s letter dated 9-8-21 indicates that the ISD will be met for the 35 m.p.h. posted speed limit on Wingate Farm Road.

With respect to Stopping Sight Distance (SSD), based on the AASHTO (American Association of State Highway Officials) formula, the recommended SSD for the posted 35 m.p.h. speed limit is 246 feet. To reinforce speed limits on the southbound Holliston Street travel lane, the applicant is willing to install reasonable signage including an intersection ahead warning sign and a radar speed display feedback sign. Also, the applicant is moving the roadway further north which is a safer location. Tetra Tech communicated that they continue to have concerns since this does not meet the AASHTO standard for stopping sight distance at the higher actual travel speeds on Holliston Street (vs. posted speeds) but what is proposed is reasonable for the three-lot subdivision. It was noted that the Board’s Subdivision Rules and Regulations indicate that intersection sight distances shall meet AASHTO standards. However, the Regulations only address stopping speed distances within a subdivision, not on the approaching streets.

5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

FINDINGS – Due to the small size of the subdivision, an environmental impact analysis is not required. The site is not within a Priority Habitat area. The previously approved design of the stormwater management facilities has been reviewed by the Town’s consulting engineer and does not comply with the current stormwater regulations and standards (Tetra Tech review letter dated 3-23-2018). However, the Applicant has provided a modified subdivision plan which does meet current standards. The project will result in a net increase of two single-family houses (three if Lot 2 is later developed). Significant trees on site that are not within the house footprints or infrastructure elements will be protected and retained. The Board finds that the subdivision does not cause substantial and irreversible damage to the environment

5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan

where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

FINDINGS – The subdivision site is accessed from Holliston Street, a major north-south arterial road in Medway. The Board finds that Holliston Street is adequate to provide emergency medical, fire and police protection as well as safe travel for the anticipated additional volume of traffic to be generated by the additional Wingate Farm residences. It is noted that the subdivision has the capacity for an additional three houses as shown on the 2005 subdivision plan, although the modified subdivision plans only create two new lots. The third new house lot may be created at a later date and the subdivision infrastructure design has given consideration to this potential. The plans have been reviewed by the Board’s Consulting Engineer and the Town’s safety and emergency personnel.

5.16.6 Conformity with all applicable requirements of the Medway Zoning Bylaw including but not limited to minimum area and frontage standards.

FINDINGS – The Board finds that the lots created by this plan conform to all applicable requirements of the Medway Zoning Bylaw, including minimum area and frontage requirements for the Agricultural Residential I zoning district.

5.16.7 Consistency with the purposes of the Subdivision Control Law.

FINDINGS – The Board finds that the subdivision is consistent with the purposes of the Subdivision Control Law

V. ADDITIONAL FINDINGS - At the public hearing held on September 27, 2022 the Board voted 4 to 0 to approve the Additional Findings noted below.

- A. The original time period for project completion expired in November 2012. This includes the initial standard 3-year construction period plus 4 years of extensions through the Commonwealth’s Permit Extension Act.
- B. The Board’s consulting engineer has inspected the site and determined that the subdivision’s current as-built condition does not fully comply with previously approved and endorsed modified Wingate Farm Definitive Subdivision Plan (Tetra Tech review letter dated 12-7-2017) nor the current *Subdivision Rules and Regulations*. (Tetra Tech review letter dated 3-23-2018). Based on the information received from the consulting engineer, testimony at the public hearing, and observations during the site visit, and the revised subdivision plan, the Board finds that the proposed modification with the waivers granted complies with the current *Subdivision Rules and Regulations*.
- C. Land Disturbance Permit Findings** – After reviewing the application and information gathered during the public hearing and review process, the Board finds that the work proposed for construction of a three lot residential subdivision with the associated stormwater management system, utilities, parking and access was presented at a public hearing where the Applicant presented evidence sufficient to demonstrate that the proposed activity meets the provisions under Medway General Bylaw Article XXVI Stormwater Management and Land Disturbance. It is noted that the new stormwater management system design is based on the original four lots (one existing house and

three new houses). As such, should a fourth lot be created in the future by approval not required endorsement (G.L. c. 41, §81P), the Board finds that the stormwater management system accommodates it.

VI. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS – The Planning Board granted a number of waivers in the original decision dated May 23, 2000. Those waivers were from the Board’s November 21, 1978 regulations and are no longer relevant. The Board also granted a number of waivers in the modification decision dated April 28, 2005. Those waivers are from the Board’s April 25, 2000 regulations, and, to the extent that any are still applicable, those waivers are hereby incorporated into this decision. The Applicant has requested additional waivers from the following sections of the *Subdivision Rules and Regulations*, dated April 26, 2005.

Section 5.6.3 Use of NAVD88 Datum – Applicant requests use of 1929 NGVD Datum.

EXPLANATION – The 1929 Datum was used previously for the original and modified definitive subdivision plan, so continuing to use the same Datum will avoid confusion. Also, the Board listed this as an approved waiver on the approved modified plan, although it was not reflected in the 2005 decision.

FINDINGS – The use of the previous Datum will provide consistency and requiring the change to the new datum would be an unnecessary expense. The waiver is granted as it is in the public interest and consistent with the purpose of the Subdivision Control Law.

Section 6.1.3 Time for Completion - *An extension of time to complete the ways and improvements within the subdivision may be granted by the Board if there are mitigating circumstances. At least ninety days prior to the expiration of the three-year approval period, the Applicant and/or owner may request in writing to the Board an extension of time, if necessary, to complete the construction of subdivision roadways, etc. The developer shall submit a written request to the Board outlining the mitigating circumstances necessitating such extension request. An extension request shall constitute a modification of the approved Definitive Subdivision Plan and shall be processed in accordance with Section 6.2 herein. Any modification is subject to the Rules and Regulations in effect at the time the modification is sought. Prior to approving any extension of time, the Board will review and revise the amount of the bond deposit or other surety and the Applicant shall provide a new or revised security instrument prior to the Board's vote to approve the requested extension. An extension shall not exceed one year. Additional extensions after the first may be applied for but not until at least nine months have expired on the extension in effect.*

EXPLANATION – The completion deadline for the Wingate Farm subdivision was November 8, 2012. That date is based on the original standard 3-year time window for completion after plan endorsement (November 8, 2005 through November 8, 2008) which was extended four years as a result of the Commonwealth’s permit extension statute after the Great Recession of 2008, thus automatically extending the completion deadline to November 8, 2012. The Applicant’s request for an extension of time to complete the subdivision was not made before November 8, 2012. The Applicant first started talking

with the Planning and Economic Development Board in 2017 about an extension. The Applicant has requested a waiver from this particular regulation pertaining to the timetable for project completion.

The Applicant has provided written testimony documenting a series of mitigating circumstances in the lives of the Walsh family which halted project completion.

FINDINGS - The Board finds that an extension is warranted, and that the provisions of Section 6.1.3 requiring the filing 90 days prior to the expiration and requiring a new security instrument prior to the Board vote are not needed to safeguard the purposes of the Subdivision Control Law. The required subdivision surety will be provided in the usual course. The extension is in the public interest and consistent with the purpose of the Subdivision control Law and is granted

Section 6.2.1 Plan Modification – The Applicant withdrew its request for this waiver at the public hearing of September 27, 2022, therefore no action was taken on it.

Section 6.3.1 Plan Rescission – The Applicant withdrew its request for this waiver at the public hearing of September 27, 2022, therefore no action was taken on it.

Section 7.7.2.p – Requirement for stormwater basins to be on a separate lot; applicant requests that stormwater basin be located on one of the lots, as shown on the plan, with an appropriate easement.

EXPLANATION – The Town Assessors have requested that the Board not approve subdivisions with separate parcels for stormwater infrastructure, as the taxes on these parcels often are not paid and become a burden on the Town.

FINDINGS – There will be a homeowners' association that will be responsible for the stormwater system, with an appropriate easement for accessing the stormwater basins. This will address the need to assure the stormwater basins are maintained. The waiver is granted as it is in the public interest and consistent with the purpose of the Subdivision Control Law.

Section 7.7.4.b – Requirement for use of Class IV concrete drainage pipes. Applicant requests use of HDPE pipes where shown on the plan.

EXPLANATION – The outlet pipes for infiltration basin no. 1 are not conducive to concrete. HDPE is consistent with low impact design. Also, this is a private way subdivision, so the Town will not be responsible for any maintenance.

FINDINGS – The use of HDPE pipes is appropriate where shown for this subdivision. The waiver is granted as it is in the public interest and consistent with the purpose of the Subdivision Control Law.

ACTION ON WAIVERS – At the public hearing held on September 27, 2022, the Board voted 4 to 0 to GRANT the above noted requests for waivers from the *Subdivision Rules and Regulations*.

VII. DECISION – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on September 27, 2022, the Board voted 4 to 0 to GRANT the applicant’s requests to modify the previously endorsed site plan and modified subdivision certificate of action and to approve a Land Disturbance Permit MA, as shown on a plan titled *Subdivision Modification Plan, Wingate Farm, A Private Way Subdivision*, dated August 18, 2022, last revised September 12, 2022, prepared by Legacy Engineering, Inc. to be further revised as specified herein before endorsement and recording, subject to the following conditions.

VIII. CONDITIONS

The prior decisions of the Board included a number of conditions, some of which have already been fulfilled or incorporated into the September 12, 2022 modified subdivision plan. The following conditions supersede any prior conditions imposed by the Board’s prior decisions, and are intended to be a complete and comprehensive list of all conditions for this subdivision.

- 1. Authorization** - The Wingate Farm subdivision plan shows three, single-family residential house lots, as well as a “Future Lot 2”. The stormwater management plan and other aspects of the subdivision plan take into account the possible future creation of Lot 2 and construction of a single family home thereon. The further division of any lots, other than the creation of “Future Lot 2”, shall require modification of this decision, although lot boundaries within the subdivision may be adjusted so long as no additional lots are created.
- 2. Completion Schedule** - The Permittee or its Assignee shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the endorsed Definitive Subdivision Plan, to the satisfaction of the Planning and Economic Development Board, within three years of the date of endorsement of the plan. The time for such construction and/or installation may be extended upon the written request

of the applicant, for good cause shown, prior to the expiration of the three-year period, upon a vote of the majority of the Planning and Economic Development Board then present.

- 3. Plan Revisions** - Prior to plan endorsement, the Definitive Subdivision Plan, last revised September 12, 2022, shall be further revised as follows:
 - a. The Erosion Control Plan shall include a graphical representation of the protections for storm drain inlets during construction.
 - b. The Erosion Control Plan shall include a graphical representation of the construction entrance.
 - c. The Erosion Control Plan shall include the location of stockpile areas during construction.
 - d. A sheet shall be added to the Plan set to display the property's Stormwater Operations and Maintenance Plan (Attachment A from the 9-12-22 revised Stormwater Report) and Cover Sheet index shall be revised to specify the additional plan sheet.
 - e. Revise the waiver list on the cover sheet to be consistent with this decision.
 - f. Revise language on the cover sheet to reference a new subdivision covenant to be prepared and recorded.
- 4. Documents to be Prepared and Approved Before Plan Endorsement** – Prior to plan endorsement, the Permittee shall provide the following documents for review, comments, amendment and approval by Town Counsel and the Board.
 - a. **Subdivision Covenant** – Prior to plan endorsement, the Permittee shall sign a Subdivision Covenant, on a form acceptable to the Planning and Economic Development Board, to secure construction of the ways and all related infrastructure and installation of utilities and services and any off-site mitigation measures as specified in the approved subdivision plan. Reference to the *Subdivision Covenant* shall be noted on the cover sheet of the Definitive Subdivision Plan. The *Subdivision Covenant* shall specify that the roadway and all relevant infrastructure including the stormwater management system shall be constructed and all utilities and services and any off-site mitigation measures shall be installed to the satisfaction of the Planning and Economic Development Board within three years of the date of plan endorsement. The Subdivision Covenant shall apply to Lots 3 and 4 as shown on the plan. This covenant will supersede the covenant that was accepted for the prior subdivision modification and is recorded at the Norfolk County Registry of Deeds at Book 25288, page 94.
 - b. **Articles of Association or Incorporation** - Prior to plan endorsement, the Permittee shall provide a proposed Articles of Association or Incorporation establishing the Wingate Farm Homeowner's Trust for review and comment by Town Counsel. This document shall include provisions for membership by the owners of Lots 1, 3 and 4, management responsibilities, procedures for voting and fee assessment, and for the ownership and financial responsibility for the on-going maintenance, upkeep and repair of Wingate Farm including but not limited to snowplowing and sanding, the stormwater management system, and any associated landscaping.
 - c. **Lot Deeds** – Prior to plan endorsement, the Permittee shall provide the proposed deeds to convey the reconfigured house lots for review and comment by Town Counsel. Each lot deed shall reference the endorsed *Definitive Subdivision Plan for Wingate Farm* and clearly state that the Wingate Farm Homeowner's Trust shall be responsible for the maintenance and upkeep of Wingate Farm as a permanent private road, the landscaping, and the stormwater drainage system. The deeds shall ensure that the owners of Lots 1, 3, and 4 will own to the centerline of Wingate Farm Road along their property's frontage.

- d. **Easements** – Prior to plan endorsement, the Permittee shall provide a proposed easement for the owners of Lot 1, 3 and 4 to grant an easement to the Wingate Farm Homeowner’s Trust to maintain the stormwater drainage basin on Lots 1, 3 and 4, for review and comment by Town Counsel. The Permittee shall also provide drafts of other easements shown on the plan.

5. ***Plan Endorsement***

- a. Within sixty days after the Board has filed this decision with the Town Clerk, the Permittee shall submit a revised subdivision plan reflecting all Conditions and required revisions as specified herein, to the Planning and Economic Development Board and the Town’s Consulting Engineer, for review and approval prior to plan endorsement. All conditions of this Certificate of Action requiring changes to the definitive subdivision plan must be addressed to the satisfaction of the Town’s Consulting Engineer and the Planning and Economic Development Board before the Board will endorse the definitive subdivision plan. The time limit may be extended by mutual agreement of the Board and Permittee.
 - b. Prior to plan endorsement, the Permittee shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board. Prior to plan endorsement, and any form of surety reduction, proof is required from the Medway Town Treasurer/Collector that all real estate taxes and other municipal fees and charges are current for the properties included in this subdivision and for all property owned in Medway by the Permittee.
 - c. The endorsed plan shall bear the certification of the Town Clerk that twenty days have elapsed after the decision was filed in the Town Clerk’s office and no appeal has been filed within said twenty-day period.
 - d. Within thirty days after plan endorsement, the Permittee shall provide the Town with two sets of the approved plan in 24” x 36” paper format. The Permittee shall also provide the approved plan in pdf format and CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Permittee shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor’s maps relative to this subdivision.
6. ***Recording*** – The Permittee shall record this decision, the endorsed definitive subdivision plan, the subdivision covenant, and associated easements at the Norfolk County Registry of Deeds. Within thirty days of such recording, the Permittee shall provide proof of recording to the Planning and Economic Development Board. No construction shall begin on the site and no building permit shall be issued before these documents are recorded. The fee for recording or registering shall be paid by the Permittee.
7. ***Ownership of Wingate Farm***– There is no intention or expectation that the Town of Medway will ever accept the roadway as constructed pursuant to this plan.
8. ***Homeowner’s Association*** - There shall be established a Wingate Farm Homeowner’s Trust consisting of the owners of all lots in the subdivision to be responsible for the on-going maintenance, upkeep, and repair of the roadway including but not limited to snowplowing and sanding and for the stormwater detention and infiltration system, and related infrastructure located within the roadway right of way and easements including landscaping. Prior to endorsement, the Applicant shall provide a proposed Declaration of Protective

Covenants and Restrictions Governing Wingate farm, which shall apply to all present and future owners of the property included on the subdivision plan, to be reviewed and approved by Town Counsel and the Board. At a minimum, the Declaration shall include a requirement for the installation of light posts on each lot and may include other requirements as deemed appropriate by the applicant. The organizational documents shall specifically refer to the Long-Term Pollution Prevention Plan and associated Stormwater Operations and Management Plan included in the *Stormwater Report for Wingate Farm* dated August 18, 2022, last revised September 12, 2022, prepared by Legacy Engineering, Inc.

9. *Maintenance Responsibility During Construction*

- a. The Permittee shall provide for snow plowing, sanding, and full maintenance of Wingate Farm throughout the entire construction process until the roadway is determined to be complete by the Board. The Permittee shall do nothing which would alter the drainage patterns or characteristics as shown on the approved plan.
- b. Construction is subject to the Storm Water Pollution Plan included in the most recent version of the *Stormwater Report for Wingate Farm* dated August 18, 2022, last revised September 12, 2022, prepared by Legacy Engineering, Inc. This document shall be included in all construction contracts, subcontracts and specifications dealing with the proposed work. The Permittee shall ensure that all contractors, subcontractors, and other personnel performing the permitted work are fully aware of the Construction Period Operation and Maintenance Plan.
- c. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre-Construction Meeting.
- d. Prior to the Pre-Construction Meeting and commencement of any activity on the site, the erosion control plan included in the endorsed plan set and the limit of work lines shall be staked. The location of erosion controls shall be adjusted, if necessary, during the first erosion control inspection.
- e. Immediately after installation of erosion controls, the Permittee shall notify the Board's consulting engineer to schedule a follow-up inspection to ensure that erosion controls and limits of work have been properly located and installed. No work shall be conducted until the Board's consulting engineer has inspected and approved the installation of the erosion controls.
- f. It shall be the responsibility of the Permittee to conduct monitoring, maintenance, and repair of erosion control measures, as well as to take any other additional measures necessary to control erosion from the site. The erosion control measures designated on the subdivision plan shall be considered a minimum standard for compliance.
- g. All waste products, refuse, debris, grubbed stumps, slash, excavate, construction materials, etc. associated with the planned construction shall be contained and ultimately deposited at an appropriate off-site facility and shall not be incorporated in any manner into the project site.

10. *Maintenance Responsibility Post Construction* – As Wingate Farm shall be a permanent, private roadway, the ongoing maintenance responsibility for it, all associated infrastructure, landscaping, and the stormwater management system rests with the Wingate Farm Homeowner's Trust. The Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of the roadway, snowplowing, stormwater

system, sanding, etc. The Trust shall maintain the stormwater management system in accordance with the long-term stormwater operation and maintenance plan included with the stormwater report.

11. **Site Access** - Planning and Economic Development Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site during construction for compliance with the endorsed subdivision plan and the provisions of this Decision.

12. **Construction Oversight**

- a. Construction Account

- 1) Inspection of roadway and infrastructure and utility construction, and installation of site amenities including landscaping by the Town's Consulting Engineer and review of legal documents by Town Counsel are required. Prior to plan endorsement the Permittee shall pay a construction services fee to the Town of Medway to establish a construction services account for such inspections and legal services. The amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the scope of the project. The funds may be used at the Board's discretion to retain professional outside consultants to perform the items listed above as well as the following other tasks - inspect the site during construction and installation, identify what site work remains to be completed, prepare bond estimates, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue authorize project completion.
 - 2) Depending on the scope of professional outside consultant assistance that the Board may need, the Permittee shall provide supplemental payments to the project's construction inspection account, upon invoice from the Board, for reasonable additional construction services until the road construction and stormwater drainage system and other utilities are completed and the as-built plan has been reviewed and determined to be satisfactory.
 - 3) Any funds remaining in the Permittee's construction inspection account after project completion shall be returned to the Permittee.

- b. Any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit and any utility connection permits must meet the requirements of the Medway Department of Public Works and is subject to inspection by the DPW.

- c. The Permittee shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the construction of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Board within five days of inspection. Failure of the Permittee to provide these reports may be reason to withhold building or occupancy permits.

13. **Other Permits** – This permit does not relieve the Permittee from its responsibility to obtain, pay and comply with all other required federal, state and Town permits. The contractor for the Permittee or assigns shall obtain, pay, and comply with all other required Town permits.

14. ***Pre-Construction Meeting*** – At least seven days prior to the start of any site preparation or construction, a pre-construction meeting shall take place with the Town’s Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, the Medway Conservation Agent, the developer, and site contractors. The construction schedule shall be reviewed and the procedures for inspections discussed. A copy of the final Stormwater Pollution Prevention Plan (SWPPP) as filed with the US Environmental Protection Agency shall be provided to the Town.
15. ***Restrictions on Construction Activities*** – During construction, all local, state, and federal laws shall be followed regarding noise, vibration, dust and blocking of Town roads. The Permittee and its contractors shall, at all times, use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.
- a. *Construction Time* - Work at construction sites and in the operation of construction equipment including start-up and movement of trucks, vehicles, and machines shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. Monday through Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Building Commissioner. These rules do not apply to interior construction work such as painting, installation of drywall, flooring, etc.
 - b. *Neighborhood Relations* – The Permittee shall notify neighbors in the general area around the site when site work and construction are scheduled to begin and provide a phone number for them to use for questions and concerns that arise during construction.
 - c. The Permittee shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
 - d. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel and dirt is removed from the roadways and does not create hazardous or deleterious conditions for vehicles, pedestrians, or abutting residents. In the event construction debris is carried onto a public way, the Permittee shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve hours of its occurrence.
 - e. The Permittee is responsible for having the contractor clean-up the construction site and the adjacent properties onto which construction debris may fall on a daily basis.
 - f. All erosion and siltation control measures shall be installed by the Permittee prior to the start of construction and observed by the Planning and Economic Development Board’s consulting engineer and maintained in good repair throughout the construction period.
 - g. *Construction Traffic and Parking* – During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.
 - h. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Zoning Bylaw*, Section 7.3. Environmental Standards.

16. ***Traffic signage*** – To reinforce speed limits on the southbound Holliston Street travel lane, the applicant shall install an “intersection ahead” warning sign. In addition, should the Timber Crest development not have installed a radar speed display feedback sign on the southbound side of Holliston Street before occupancy of the first new home in Wingate Farm, the Applicant shall install such sign prior to the issuance of such first occupancy permit, subject to approval by the Medway DPW as to location and installation requirements.

17. ***Subdivision Performance Surety***

- a. ***Alternative Performance Security*** - At such time as the Permittee wishes to secure a release of the Subdivision Covenant for any lot, the security provided by the *Subdivision Covenant* shall be replaced by a subdivision surety in compliance with General Laws chapter 41 §81U and the Board’s *Regulations*, which method or combination of methods may be selected and from time to time varied by the Permittee, in a sufficient amount, source and form acceptable to the Board, the Treasurer/Collector and Town Counsel.
- b. ***Surety Amount*** - The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the Decision and Plan that remain unfinished at the time the performance guarantee estimate is prepared if the Permittee failed to do so. The security amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town’s Consulting Engineer based on the latest weighted average bid prices issued by the Mass Department of Transportation. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the roadway and infrastructure in the event the Permittee fails to adequately perform such. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town’s Consulting Engineer of the cost to complete the work plus a 25% contingency.
- c. ***Surety Agreement*** - The Permittee shall enter into a surety agreement with the Planning and Economic Development Board as provided in the *Regulations* to define the obligations of the Permittee and the performance guarantee company including:
 - 1) the date by which construction shall be completed
 - 2) a statement that the agreement does not expire until released in full by the Board
 - 3) procedures for collection upon default.
- d. ***Adjustment of Performance Guarantee*** - At the Permittee’s written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Board upon the partial completion of the roadway and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town’s Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the approved Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the Mass Department of Transportation. The estimate shall reflect the cost for the Town to

complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. The estimate shall also include the cost to maintain the roadway and infrastructure in the event the Permittee fails to adequately perform such. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus, a 25% contingency. The Board may authorize up to three reductions in the amount of performance security however, the Board shall not reduce the performance security below \$40,000.

- e. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

18. *Compliance with Plan and Decision*

- a. All construction shall be as specified in the approved definitive subdivision plan and any modifications thereto and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- b. The Planning and Economic Development Board or its agent(s) may use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with this Decision.

19. *On-Site Field Changes*

- a. During construction, the Permittee may be authorized to make limited, minor, on-site field changes to the approved plan based on unforeseen site or job conditions, situations, or emergencies necessitated by field conditions or due to practical considerations. These field changes shall not alter items which may affect the site's compliance with this decision and the *Bylaw* nor conflict with a specific condition of the decision. Field changes shall not substantially alter the intent, layout, or design of the endorsed plan.
- b. Prior to undertaking such field changes, the Permittee and/or contractor shall discuss the possible field changes with the Town's Consulting Engineer and submit a letter and drawings to the Planning and Economic Development Coordinator and the Building Commissioner describing the proposed changes and what conditions, situations, or emergencies necessitate such changes. The Building Commissioner may determine that the field change is insubstantial, authorize the change, and so notify the Board. Otherwise, the Board shall review the proposed field changes at a public meeting and determine whether the proposed field changes are reasonable and acceptable based on the unforeseen conditions, situations, or emergencies and whether other options are feasible or more suitable. A written authorization of field change will be provided. Any approved field change shall be reflected in the as-built plan to be provided at project completion.

20. *Modification of Plan and/or Decision*

- a. Proposed modifications to the plan or decision, not included on-site field changes, shall be subject to review by the Board.

- b. This approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the plan that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Planning and Economic Development Board for review as a subdivision plan modification.
- c. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed subdivision plan modifications, the Permittee shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific limited aspects of the site, the Planning and Economic Development Board may reduce the scope of the required review and waive part of the filing and review fees.
- d. The Board shall issue its Modification Decision, file such with the Town Clerk and provide copies to the Building Commissioner, other Town officials and the Permittee. Any modifications approved by the Board shall be made a permanent part of the approved project. Any plan modifications shall be shown on the final as-built plan.

21. ***Landscape Maintenance***

- a. Any shrubs, trees, bushes, or other landscaping features shown on the Plan that die shall be replaced by the following spring.
- b. Within 60 days after two years after the occupancy permit is issued, the Town's Consulting Engineer or the Building Commissioner may conduct an initial inspection of the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time, subsequent to this initial inspection, the Town's Consulting Engineer or the Building Commissioner may conduct further inspections of the landscaping to determine whether and which landscaping items need replacement or removal and provide a report to the Board. The Board may seek enforcement remedies with the Building Commissioner/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

22. ***Project Completion*** – The Board shall determine project completion and refund and release the performance security once the Permittee has completed the following tasks to the Board's satisfaction:

- a. provided the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all site work has been completed in substantial compliance with the approved and endorsed Plan, and any modifications thereto; and
- b. submitted an As-Built Construction Plan prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts in accordance with the *Subdivision Rules and Regulations* in effect at the time the plans are submitted to the Board for review by the Town's Consulting Engineer and the Board's approval. The Permittee shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp).
- c. paid the Town of Medway for any taxes and fees associated with these parcels or other property owned by the Permittee in the Town of Medway; and

- d. completed any mitigation measures specified in this subdivision certificate of action to the satisfaction of the Board.

VII. APPEAL

The Board and the Permittee have complied with all statutory requirements for the issuance of this Decision on the terms set forth herein. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Permittee and notice of the Decision will be mailed to all parties in interest.

Any person aggrieved by the decision of the Board with respect to subdivision approval may appeal to the appropriate court pursuant to Massachusetts General Laws, ch 41, § 81BB, which shall be filed within twenty days after the filing of this decision in the office of the Medway Town Clerk. Any person aggrieved by the decision of the Board with respect to the Land Disturbance permit under Article 26 of the General Bylaws may appeal to the appropriate court pursuant to Section 26.6.5 of the Bylaws.

[Signature page follows]

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

By a vote of 4 to 0 , the Planning and Economic Development Board hereby **GRANTS** the Applicants, Karyl and Eugene Walsh, a ***MODIFICATION*** to the Wingate Farms Subdivision Definitive Plan and Certificate of Action approved May 23, 2000, as previously modified on April 28, 2005, and a Land Disturbance permit, for the Wingate Farms Subdivision located at 168 Holliston Street and Wingate Farm Road, to be constructed in accordance with this Certificate of Action, and subject to the ***CONDITIONS*** herein.

Member:

Vote:

Signature:

Matthew Hayes

Robert Tucker

Richard Di Iulio

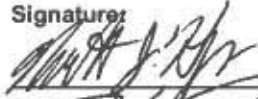
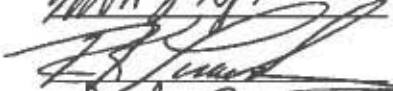

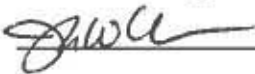
Jessica Chabot

Date Signed: _____

Copies to: Karyl and Eugene Walsh
Michael Boynton, Town Manager
Stephanie Carlisle, DPW Compliance Officer
Bridget Graziano, Conservation Agent
Chris Park, Assessor
Jeff Lynch, Fire Chief
Rindo Barese, Building Inspector
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Director of Community and Economic Development
Lt. Jeffrey Watson, Police Safety Officer
Steve Bouley, Tetra Tech
Dan O'Driscoll, O'Driscoll Land Surveying
Dan Merrikin, Legacy Engineering

Date of Action by the Planning and Economic Development Board: 9/27/2022

By a vote of 4 to 0, the Planning and Economic Development Board hereby **GRANTS** the Applicants, Karyl and Eugene Walsh, a **MODIFICATION** to the Wingate Farms Subdivision Definitive Plan and Certificate of Action approved May 23, 2000, as previously modified on April 28, 2005, and a Land Disturbance permit, for the Wingate Farms Subdivision located at 168 Holliston Street and Wingate Farm Road, to be constructed in accordance with this Certificate of Action, and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Matthew Hayes	Aye	
Robert Tucker	Aye	
Richard Di Iulio	Aye	
Jessica Chabot	Aye	

Date Signed: 9/27/2022