



October 14, 2026

VIA EMAIL (bsaintandre@medwayma.gov)

AND CERTIFIED MAIL

Medway Zoning Board of Appeals
c/o Barbara J. Saint Andre
Director, Community and Economic Development
Town of Medway
155 Village Street
Medway, MA 02053

RE: Appeal of the Building Commissioner's October 8, 2026 Zoning Determination for 0-R and 12 Waterview Drive, Medway (Map 67, Lots 46 & 61)

Dear Ms. Saint Andre and Members of the Board:

This firm represents several neighboring property owners and abutters (the "Abutters") to the property located at 0-R and 12 Waterview Drive, Medway, Massachusetts (the "Site"): Gail and Pete Hachenberg of 16 Waterview Drive, Pat and Peter Jensen of 13 Waterview Drive, and Tom Murray of 8 Waterview Drive. Pursuant to G.L. c. 40A, §§ 8 and 15, the Abutters appeal the Formal Zoning Determination issued by Building Commissioner Jonathan Ackley on October 8, 2026 (the "October 8 Determination"), which found that the farming operations and single-family dwelling proposed by Nancy and David Dubin (the "Applicants") constitute an exempt agricultural use under G.L. c. 40A, § 3 (the "Dover Amendment") and approved both as of right.

The October 8 Determination reverses the Commissioner's August 6, 2026 determination (the "August 6 Determination"), which denied the requested exemption "for the proposed use as a whole" and expressly declined to decide whether the farming uses themselves would be exempt. The October 8 Determination was issued one day after the Applicants submitted their October 7, 2026 supplemental letter, and on the same day the Abutters submitted their written opposition to the Applicants' September 24, 2026 Amended Request. It does not mention or respond to the Abutters' September 29 and October 8 letters, both of which are incorporated by reference here and included in the appeal package. For the reasons below, the Board should reverse the October 8 Determination and require the Applicants to seek the zoning relief the Bylaw requires.

I. THE SINGLE-FAMILY DWELLING IS A PRINCIPAL RESIDENTIAL USE, NOT AN INCIDENTAL AGRICULTURAL STRUCTURE

The core error in the October 8 Determination is its conclusion that a new single-family house is an "integral, incidental structure" that shares in the Dover Amendment exemption. That conclusion cannot be squared with the Bylaw, with the governing case law, or with the Applicants' own description of the house.

A. The Commissioner identified the correct standard, and the Applicants did not meet it.

On September 28, 2026, the Commissioner correctly advised Applicants' counsel that "a single-family dwelling is not allowed by-right on this property due to the noncompliance with the dimensional requirements of Zoning Bylaw, 6.2.D," and that to be allowed by right "the single-family dwelling must be clearly incidental and accessory to the agricultural use." He asked the Applicants to "explain . . . how the proposed dwelling is a necessary accessory use, that is subordinate and minor in significance to the farming operations, and not simply its own primary use." That framing tracks the Supreme Judicial Court's test: an incidental use "must not be the primary use of the property but rather one which is subordinate and minor in significance," and "[i]t is not enough that the use be subordinate; it must also be attendant or concomitant." *Henry v. Board of Appeals of Dunstable*, 418 Mass. 841, 845 (1994), citing *Harvard v. Maxant*, 360 Mass. 432, 438 (1971).

Section 6.2.D, the Bylaw's "Buildable Lot" provision, provides that "[n]o structure may be erected on any lot that does not include contiguous upland area of at least 50 percent of the required minimum lot area for the zoning district," and defines upland as "land that is not subject to protection under the Wetlands Protection Act, G.L. c. 131, § 40." The Commissioner's September 28 email thus acknowledges that the Site, which lies largely within wetland resource areas, lacks the upland required to support a house. The only route around that prohibition is to show that the house is not a residential principal use at all, but a use "customarily incidental and subordinate to the principal use," which is how the Bylaw defines an accessory use. Bylaw § 2 (Accessory Use).

This is not a new question. On June 25, 2026, the Commissioner asked Applicants' counsel to explain "how a person living on site will affect operation of the farm compared to a person not living on the site." The August 6 Determination then denied the exemption because the Applicants had not established that the secondary uses were accessory to farming. The Applicants' answer has also shifted. Their July 20, 2026 request described a residence "occupied by the farmer, who will manage and work on the farm." Their October 7 letter now states that the residence "will be used by the farmer and her/his immediate family as their home." A family home is not "minor in significance"; it is a self-standing principal use that would exist whether or not a single goose, flower, or vegetable is raised on the Site. Living on one's land is not "attendant or concomitant" to farming in the sense *Henry* requires; it is the ordinary residential use of land, which the Bylaw separately regulates through dimensional controls the Site concededly cannot meet.

The remaining justifications in the October 7 letter do not change the analysis. The need to store a tractor, keep a farm office, and monitor security cameras could each be met by an agricultural structure such as a barn or equipment shed; none of them requires a single-family residence. The descriptions of feeding schedules, fence maintenance, predator control, and goose egg collection describe tasks that farmers throughout the Commonwealth perform without living on the parcel being farmed. If those general statements of farming practice were sufficient, every farm parcel in Town would carry an automatic right to a house regardless of the upland requirement of Section 6.2.D, and the Commissioner's own September 28 standard would be meaningless.

B. The October 8 Determination recharacterizes the house.

The October 8 Determination describes the dwelling as “strictly dedicated to housing full-time farm management personnel and equipment.” That is not what the Applicants proposed. The Applicants described a home for “the farmer and her/his immediate family.” The record contains no proposal to restrict occupancy to farm personnel, no deed restriction, no condition tying occupancy to active farm operations, and no information on the size, footprint, or design of the house. The Determination’s findings therefore rest on a characterization the record does not support.

C. The Bylaw does not permit a single-family dwelling as an accessory use or two principal uses on one lot.

As set forth in Section III of the Abutters’ September 29 letter, the Medway Zoning Bylaw is a prohibitive bylaw: “Any use not listed in Section 5.4, Schedule of Uses, or otherwise allowable under the provisions of this Zoning Bylaw is prohibited.” Bylaw § 5.2.A; see *Tanner v. Board of Appeals of Boxford*, 61 Mass. App. Ct. 647, 648 (2004). Table 1 lists a “[d]etached single-family house” among the principal Residential Uses in the AR-II district. The only residential accessory uses Table 1 permits are an accessory dwelling unit, a home-based business, a boathouse, and a greenhouse; a single-family house is not among them. Bylaw § 5.4, Table 1. The Bylaw therefore treats a single-family house as a principal use, not as an accessory to anything. The Bylaw also requires that an accessory use “not alter the character of the premises on which it is located or have an adverse impact on the surrounding area,” Bylaw § 5.1.C.1, and prohibits construction of an accessory structure “prior to the time construction begins on the principal building or structure or use to which it is accessory,” Bylaw § 6.3.G. A new house on vacant land, built before any farm exists, cannot satisfy either requirement. The October 8 Determination does not address any of these provisions.

D. The Land Court decisions the Applicants cite do not support the Determination.

The Applicants rely on a treatise summary of *Dailey v. Tinkham* (Land Ct. 1997) and *Jarvis v. Knowles* (Land Ct. 1998) for the proposition that concurrent residential and agricultural use “does not negate the ‘primary use’ protection afforded by § 3.” The Abutters do not contend that the presence of a house strips an otherwise qualifying farm of its protection. The question here is the reverse: whether the Dover Amendment affirmatively authorizes construction of a new house that the Bylaw independently prohibits because the lot does not satisfy the upland requirement of Section 6.2.D. As described by the Applicants, neither decision holds that a residence becomes exempt from dimensional zoning simply because it is located on a farm. The statute protects “structures . . . for the primary purpose of commercial agriculture,” G.L. c. 40A, § 3, and a family home is not such a structure.

II. THE APPLICANTS HAVE NOT CARRIED THEIR BURDEN OF PROVING A PRIMARY AGRICULTURAL USE

The Applicants bear the burden of proving that their proposal qualifies for the exemption. *Trustees of Tufts College v. Medford*, 415 Mass. 753, 759 (1993). The August 6 Determination applied that rule, stating that “[t]he applicant bears the burden of proof.” The October 8 Determination does not. Its

findings on primary use consist of two sentences: that the use “constitutes commercial agriculture, horticulture, and floriculture under state law,” and that the parcel exceeds five acres. Parcel size is a threshold, not a finding that the primary use of the land is commercial agriculture.

The Abutters recognize that in an October 1, 2025 email the Commissioner stated that the Applicants’ “proposed farming operations do qualify for an agricultural exemption.” That informal statement preceded any formal request, and the Commissioner later made clear in the August 6 Determination that he had “not made a determination” whether the farming uses would be exempt. The question is open, and the record does not answer it.

As explained in the Abutters’ October 8 letter, the Amended Request remains a two-page description of an aspirational farm. Among other gaps:

- The Applicants propose up to eight miniature cows but have never stated that they will be raised for meat or dairy. The statutory definition covers “cattle and other domesticated animals used for food purposes.” G.L. c. 128, § 1A. Absent any food purpose, miniature cows used for display are not livestock farming.
- The Amended Request states that “[t]he horses and mini cows will be driven off the farm as needed for events at other locations.” Transporting animals to off-site events is an entertainment enterprise, not agriculture. See *Sturbridge v. McDowell*, 35 Mass. App. Ct. 924, 926 (1993); Mrs. Dubin described this component to the Commissioner in October 2025 (“We will also be taking the animals off property to events”), and the August 6 Determination noted that the Applicants’ July 20 submission described uses that “seem to be described as agritourism.” The off-site event component remains in the Amended Request.
- The only financial information offered is a conclusory statement that farm income “will well exceed \$1,000 per acre per year.” The Applicants made the same claim on July 20, 2026, when the projected income expressly included “riding, programs, day camps and events.” The Amended Request drops those uses but repeats the figure without any breakdown. The Commissioner asked in October 2025 for “the expected proportion of revenue” from non-farming uses and in June 2026 for “projected hours of operation and revenue for each use,” and the August 6 Determination found the submittal lacked “visitor capacity, event frequency, expected revenue comparison, and facility footprint.” We have not seen same.
- The Amended Request provides no information about stables, pastures, pens, or other facilities, or how they can be located on a Site that lies largely within the Riverfront Area of the Charles River, Bordering Land Subject to Flooding, Bordering Vegetated Wetlands, the 100-foot Buffer Zone, and NHESP Priority Habitat.

The October 8 Determination also describes “direct on-site farm product sales (eggs),” although the Amended Request states that the farm “will not be open to the public.” That inconsistency illustrates that the Determination was not grounded in a developed record of what will actually occur on the Site.

Notably, the record did not change materially between the August 6 denial and the October 8 approval. The July 20 request proposed day camps, educational programs, and events, and a menagerie of goats, sheep, llamas, alpacas, mini pigs, donkeys, miniature horses, and rabbits in addition to the horses, cows, chickens, and geese. The Amended Request simply omits those items from a two-page narrative. Removing descriptions of uses from a narrative, without any binding commitment or operational detail, does not establish that the remaining primary use is commercial agriculture.

III. THE DETERMINATION IGNORES THE FLOOD PLAIN DISTRICT AND OTHER REASONABLE REGULATION

Even if every proposed use were exempt, the Dover Amendment bars only prohibition or unreasonable regulation; it does not exempt agricultural uses from reasonable regulation. See *Prime v. Zoning Bd. of Appeals of Norwell*, 42 Mass. App. Ct. 796, 802-803 (1997). The October 8 Determination approves the house and farm “as-of-right” without addressing the Flood Plain District, Section 5.6.1 of the Bylaw. Uses in the Flood Plain District are permitted only “provided that the Conservation Commission has acted within the scope of its jurisdiction under G.L. c. 131, § 40.” Bylaw § 5.6.1.G.1. The Bylaw allows grazing and farming, but the only structures it expressly permits for farming are “[s]mall non-residential structures of less than 100 square feet of floor area used in connection with recreation or the growing, harvesting, storage, or sale of crops raised on the premises.” Bylaw § 5.6.1.G.1.e, g. It expressly prohibits “[n]ew construction of a building or structure except as otherwise provided in this Section 5.6.1” and “[s]torage of road salt, fertilizer, manure, or other organic or chemical leachable material.” Bylaw § 5.6.1.G.5.a, d. A permit is required for all development in the district, including “placement of agricultural facilities, fences, sheds, [and] storage facilities.” Bylaw § 5.6.1.M. Any variance requires “good and sufficient cause and exceptional non-financial hardship” and must be “the minimum action necessary to afford relief.” Bylaw § 5.6.1.K.

These are flood safety regulations of general application, and the Determination makes no finding that they would unreasonably regulate the proposed farm. The Conservation Commission has not acted on the Applicants’ Notice of Intent, and MESA review by NHESP remains outstanding. At a minimum, the as-of-right approval of the dwelling and of any structures or manure storage within the Flood Plain District must be reversed.

IV. CONCLUSION

The October 8 Determination adopts a characterization of the house that the Applicants never proposed, applies a standard the Commissioner himself articulated without explaining how it was met, and makes no findings on the Bylaw’s treatment of a single-family house as a principal use, the Section 6.2.D upland requirement, the Applicants’ unsupported revenue and livestock claims, or the Flood Plain District. The Abutters respectfully request that the Board reverse the October 8 Determination, reinstate the conclusion of the August 6 Determination, and require the Applicants to apply for any zoning relief required for the proposed uses and structures.

Thank you for your consideration of this matter. Please do not hesitate to contact me with any questions.

Medway Zoning Board of Appeals

October 14, 2026

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Very truly yours,



Anthony T. Panebianco, Esq.

cc: Clients

Town Clerk

Building Commissioner Jonathan Ackley (jackley@medwayma.gov)

Planning and Economic Development Board

Conservation Commission

Pamela N. Fourtounis, Esq.



**TOWN OF MEDWAY
BUILDING DEPARTMENT**
155 Village Street
Medway, Massachusetts 02053
508.533.3253

Jonathan Ackley
Building Commissioner &
Zoning Enforcement Officer
JAckley@MedwayMA.Gov

CERTIFIED MAIL & ELECTRONIC DELIVERY

Date: October 8th, 2026

To: Nancy Dubin & David Dubin, [REDACTED]

Re: Formal Zoning Determination — Request for Agricultural Exemption (M.G.L. c. 40A, § 3)

Location: 0-R & 12 Waterview Dr, Medway, MA 02053 **Zone:** AR-2 **Size:** 12.1 Acres

Reference: Amended Request(s) for Determination of Agricultural Exemption, Dated September 24th, 2026, and October 7th, 2026.

I. BACKGROUND & SCOPE OF REVIEW

On September 26th, 2026, this office received your revised proposal and supporting operational narrative for the subject 12.0-acre parcel. After review, a request for additional information related to the proposed dwelling was made to Attorney Cannon on September 28th, 2026, to which Attorney Cannon provided a response, dated October 7th, 2026. The scope of this zoning determination evaluated herein comprises:

1. Primary agricultural operations: Crop cultivation (flowers, vegetables), livestock keeping and breeding, and direct on-site farm product sales (eggs).
2. Construction of a single-family residential dwelling strictly dedicated to housing full-time farm management personnel and equipment required for continuous on-site agricultural operations.

II. DETERMINATION

Pursuant to **M.G.L. c. 40A, § 3**, this office determines that the proposed agricultural operations and the primary farm manager's single-family dwelling—as an integral, incidental structure that will allow subordinate uses necessary for the operation of the commercial farm—constitute an **EXEMPT AGRICULTURAL USE**.

The proposed farming operations and the single-family farm dwelling are **APPROVED AS-OF-RIGHT**.

III. FINDINGS & LEGAL REASONING

1. Primary Agricultural Use (M.G.L. c. 40A, § 3 & M.G.L. c. 128, § 1A):

The primary use of the 12.0-acre parcel constitutes commercial agriculture, horticulture, and floriculture under state law. Because the parcel exceeds five (5) acres, these primary agricultural operations cannot be prohibited or unreasonably regulated by municipal zoning bylaws.

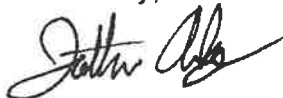
2. Incidental & Necessary Status of the Farm Dwelling:

Based on the operational narrative provided on October 7th, 2026, the applicant has established that continuous, 24-hour on-site management is required to support the livestock breeding, animal care, crop maintenance, and farm operations on the premises. Under M.G.L. c. 40A, § 3 and M.G.L. c. 128, § 1A, structures and the related uses thereof that are customarily incidental and subordinate to the primary agricultural use share in the statutory zoning exemption.

IV. APPEAL RIGHTS

Pursuant to **M.G.L. c. 40A, §§ 8 and 15**, any person aggrieved by this decision or determination of the Building Commissioner/Zoning Enforcement Officer may appeal to the **Medway Zoning Board of Appeals** by filing a formal Notice of Appeal with the Town Clerk within **thirty (30) days** from the date of this determination.

Sincerely,



Jonathan Ackley

Building Commissioner & Zoning Enforcement Officer
Town of Medway, Massachusetts

Enclosure:

Amended Request(s) for Determination of Agricultural Exemption, Dated 9/24/26 & 10/7/26

Email Correspondence to Atty. Cannon, Request for Additional Information, Dated 9/8/2026

cc: Town Clerk, Zoning Board of Appeals, Planning Board, Town Counsel, Atty. Ted Cannon



Doherty, Dugan, Cannon,
Raymond & Weil, P.C.

124 Grove Street, Suite 220
Franklin, MA 02038
TEL. NO. (508) 541-3000
FAX NO. (508) 541-3008
<https://ddcrwlaw.com>

Edward V. Cannon, Jr., Esq.
evc@ddcrwlaw.com

September 24, 2026

Certified Mail No. 9589 0710 5270 3799 5100 78
Return Receipt Requested

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
Town of Medway
155 Village Street,
Medway, MA 02053

Re: Amended Request for Determination of Agricultural Exemption
Applicant: Dubin, Nancy and David
Locus: 0-R and 12 Waterview Drive, Medway, MA 02053

Dear Commissioner Ackley:

After listening to the concerns raised by their neighbors at the initial public hearing for site plan approval to operate a farm at the above property, and in an effort to work with the town to find a compromise to enable the farm operation to move forward without the need for court involvement, the Dubins are pleased to submit this amended request for determination of an agricultural exemption for their farm operation.

The proposed farm will consist of a large field for growing produce and flowers for sale. The proposed farm will also include up to six (6) horses, chickens for egg sales (no roosters), no more than eight (8) mini cows, and no more than eight (8) Sebastopol geese. The site will also include a single-family dwelling for the farmer to be able to remain on site to care for the farm and the animals.

The proposed farm will not be open to the public. The horses and mini cows will be driven off the farm as needed for events at other locations.

The existing driveway will remain in operation for the proposed farm, but no parking spaces will be added. However, the Dubins will ensure the emergency vehicles will have the ability to travel the length of the driveway with room to turn around and exit.

The income generated by farming operations from, for example, animal products, breeding and selling geese and flower and vegetable sales will well exceed \$1,000 per acre per year.

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
September 24, 2026
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The Dubins understand that you have thirty (30) days to issue your decision. Accordingly, they will ask the Zoning Board of Appeals ("ZBA") to continue the hearing currently scheduled for October 7, 2026 to the Board's November 4, 2026 meeting.

The Dubins reserve all their rights under their current appeal to the ZBA as noted above pending your determination of this revised request. Should you determine that this proposal is an exempt agricultural use, the Dubins will withdraw their current appeal to the ZBA and amend their site plan accordingly to continue with their current application before the Planning Board.

Please let me know if you have any questions or would like any additional information.

Thank you for your time and attention to this matter.

Respectfully,

Edward V. Cannon, Jr.

Edward V. Cannon, Jr.

EVC

ecc: Barbara J. Saint Andre, Dir. Of Comm. & Eco. Dev.
Dan Merrikin
Nancy Dubin
David Dubin



Doherty, Dugan, Cannon,
Raymond & Weil, P.C.

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Edward V. Cannon, Jr., Esq.
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October 7, 2026

Via Email: jackley@medwayma.gov

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
Town of Medway
155 Village Street,
Medway, MA 02053

Re: Amended Request for Determination of Agricultural Exemption
Applicant: Dubin, Nancy and David
Locus: 0-R and 12 Waterview Drive, Medway, MA 02053

Dear Commissioner Ackley:

This letter is provided in response to your inquiry about whether the inclusion of a single-family residential dwelling is accessory to the primary use of the land for commercial agriculture.

The single-family residence will be used by the farmer and her/his immediate family as their home to be able to attend to the animals and vegetation raised and grown on the farm. The garage with the house will be used to keep the required farm tractor and other farm tools and equipment. The house will also have the Farm Office to manage the daily financial aspects of running a commercial farm, including but not limited to, being the nerve center for the security cameras and systems that are required to operate a small suburban commercial farm.

Farm animals and crops require many hours of work during the day, including three (3) feedings daily for the animals, and generally three (3) waterings per day for the crops (the actual amount may vary depending on the time of year and weather conditions).

Best practices for livestock healthcare require close monitoring of animals daily to be able to react as needed in the case of illness, injury or emergency. The health of animals can change rapidly due to breeding, injury, ingesting something harmful, animal attack, and even attempted theft. Whatever the cause, when an animal's health is at risk, the sooner the farmer can respond the better outcomes can be realized for the animals. For example, the farm will include the breeding of Sebastopol geese whose breeding season is January – March, which requires the farmer to promptly collect their eggs throughout the day to make sure they don't freeze. Horses and cows must be fed multiple times per day so they can maintain their genetic need to graze. Properly feeding is a key component of maintaining good animal health.

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
October 7, 2026
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Best farming practices require the farmer to maintain and monitor fencing so that livestock remain contained and safe. The most effective method to do this is continually monitor fence lines to look for breaks and compromises and then repair any defects rapidly. Good fence maintenance also helps to keep predators away in addition to maintaining a continual and lively presence on the property to discourage coyotes, foxes, and sometimes bears. According to UMass Amherst, "Predation accounts for the majority of livestock losses in agriculture, thus the importance of practicing preventative methods."¹

Unfortunately, but no less importantly, the farm must be protected from thieves, vandals, and trespassers. People will at times dump unwanted waste on a farm and it must be removed immediately so that animals do not ingest or become entangled in something that can harm them. Some people try to come to the farm unannounced and try to feed the animals, which can be harmful or fatal to the animals if they ingest the wrong substance.

Growing and caring for crops commercially also requires round-the-clock vigilance. Larger animals can get loose and trample large swaths of crops, smaller animals such as rabbits and groundhogs can feed on and ruin crops, and people can trespass across a field without knowing they are damaging a large crop area.

In terms of land area alone, the proposed residence takes up a small area very close to Waterview Drive of the 12.1 acres that comprise the farm. The remaining land is devoted entirely to the commercial farm operation.

The Massachusetts Land Court has considered this issue and spoken clearly that the inclusion of a residential use does not eliminate the "primary use" protection afforded commercial agriculture, "In *Dailey v. Tinkham*, Misc. Case No. 237153 (Land Ct. 1997), and in *Jarvis v. Knowles*, Misc. Case No. 234576 (Land Ct. 1998), ***the Land Court ruled that the concurrent use of land for both residential and agricultural purposes does not negate the 'primary use' protection afforded by §3. If concurrent residential use could negate the Zoning Act's protection for agricultural uses, family farms throughout the Commonwealth would be stripped of their status.***" Bobrowski, Mark. *Handbook of Massachusetts Land Use and Planning Law*. 6th ed., New York, Wolters Kluwer, 2024, Section 4.03, p. 4-6, Note 17 (emphasis added).

¹ UMass Amherst Outreach – UMass Extension, "UMass Extension Crops, Dairy, Livestock, Equine," CDLE Pub. 08-12, p.1.

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
October 7, 2026
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For the foregoing reasons we respectfully submit that the proposed single-family residence to be included at the commercial farm is a vital accessory component in order to successfully operate a commercial farm.

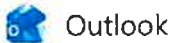
Respectfully,

Edward V. Cannon, Jr.

Edward V. Cannon, Jr.

EVC

ecc: Barbara J. Saint Andre, Dir. Of Comm. & Eco. Dev.
Dan Merrikin
Nancy Dubin
David Dubin



Re: [External] Dubin Farm - Waterview Drive

From Jonathan Ackley <jackley@medwayma.gov>

Date Mon 9/28/2026 2:56 PM

To Edward V. Cannon <evc@ddcrwlaw.com>; Barbara Saint Andre <bsaintandre@medwayma.gov>

Cc Mackenzie M. Wilson <MMW@DDCRWLAW.com>; jperrotta@k-plaw.com <jperrotta@k-plaw.com>

Bcc Michael Boynton <mboynton@medwayma.gov>

 1 attachment (137 KB)

LTR to Bldg Comm - Agric Exemp v2 - 9.24.26.pdf;

Hi Ted,

I have completed a preliminary review of this latest request for determination, dated September 24th, 2026, and I am requesting more information, as follows:

In this request, you state *"The site will also include a single-family dwelling for the farmer to be able to remain on site to care for the farm and the animals."* As you are aware, a single-family dwelling is not allowed by-right on this property due to the noncompliance with the dimensional requirements of Zoning Bylaw, 6.2.D. In order to be allowed by-right, the single-family dwelling must be clearly incidental and accessory to the agricultural use.

Please explain to me how the proposed dwelling is a necessary accessory use, that is subordinate and minor in significance to the farming operations, and not simply its own primary use. I will need a detailed summary before I can provide a response to the request for determination.

Sincerely,

Jonathan Ackley
Building Commissioner
Town of Medway
155 Village Street
Medway, MA 02053
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508-321-4928 (direct)
MedwayMA.gov



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Pamela N. Fourtounis
P: 617.589.3849
pfourtounis@davismalm.com

October 8, 2026

VIA EMAIL: jackley@medwayma.gov
Jonathan Ackley
Building Commissioner, Medway Building Department

Re: Opposition to the Amended Request for Zoning Determination for 0R and 12 Waterview Drive

Dear Mr. Ackley:

As you are aware, this firm represents several neighboring property owners and abutters (the "Abutters") to the above-referenced property located at 0R and 12 Waterview Drive, Medway, Massachusetts (the "Site"). We write in opposition to the Amended Request for Zoning Determination ("Amended Request") submitted to you on September 24, 2026, by Nancy and David Dubin (the "Applicants").

On September 29th, prior to receiving notice of the Amended Request, the Abutters filed with the Community and Economic Development Department an Opposition Letter asking the Zoning Board of Appeals to uphold your determination that the Applicants' proposed use for the Site is not entitled to the agricultural exemption in G.L. c. 40A, § 3, also known as the Dover Amendment. That letter was forwarded to your attention and is incorporated by reference herein

As explained further herein, the Amended Request does not ameliorate all of the Abutters' concerns about the project, nor does it correct all of the zoning issues identified in the September 29 Opposition Letter. Because the Applicants still have not proven they are entitled to the exemption, the Abutters respectfully request that you uphold your original determination.

First, as set forth in Section III of the Opposition Letter, the Medway Zoning Bylaw does not allow two principal uses on the same lot, nor does it allow a single-family home as an accessory use to another, non-residential use. The Abutters are not aware of, nor have Applicants cited, any authority which would support a finding that the residential use is exempt as incidental to the proposed "agricultural" use. Simply put, even if you were to determine that the other uses set forth in the Amended Request qualify for the exemption, under the Bylaw, the Applicants cannot tack on a residential use.

Second, the Applicants have not articulated, in their Amended Request, how each proposed use qualifies for the agricultural exemption. The definition of agriculture includes:

October 8, 2026

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“farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market”

G.L. c. 128, § 1A; G.L. c. 40A, § 3, ¶1. The Medway Zoning Bylaw, in Section 2, adopts this definition of agriculture.

The manifest intent of the exemption is to promote the use of land for cultivating plant and animal products. The keeping of miniature highland cows, which are best described as novelty petting zoo animals, does not qualify as “raising of livestock” or “keeping...cattle...for food purposes.” In fact, the Applicants have not indicated in their Original Request or their Amended Request that they will be using these mini cows for meat or dairy. The only rational implication from the application materials is that the mini cows will be used for entertainment at events at other locations, which is not a Dover-protected use.

The Abutters have similar concerns regarding the horses. The Amended Request describes the property as a “farm” but does not provide any detail about the planned operations. It does not indicate what proportion of the anticipated revenue will be derived from selling plant and animal products versus trucking the animals off-site to events. It does not even indicate whether the horses will have a stable, riding pen, or grazing areas on-site. On the face of the Amended Request, Applicants could be proposing to hold the mini cows and horses in a trailer between off-site events.¹ Such a use would not be Dover-protected.

Lastly, the vast majority of the site is either (or both) within the Riverfront Area of the Charles River, Bordering Land Subject to Flooding, Bordering Vegetated Wetlands, or the 100-foot Buffer Zone to the above-mentioned areas. Applicants have not explained whether it is feasible or even possible to put a farm capable of holding 6 horses, an unspecified number of chickens, 8 mini cows, 8 geese, and any attendant equipment, supplies, and structures on land so environmentally

¹ See October 7, 2025 email from Applicant to Jonathan Ackley attached to the August 6, 2026 Zoning Determination.



October 8, 2026

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vulnerable. The farm is wholly fictional and aspirational at this point, and it follows that the Amended Request is premature.

The Abutters emphasize that the Applicants have the burden of proving that their proposed uses for the property qualify as Dover-protected by meeting the statutory definition of agriculture. It is not as simple as proposing a farm and receiving a rubber stamp of approval. Because the Applicants have not carried their burden, the Abutters maintain that the original Zoning Determination should be upheld.

Thank you for your consideration of this matter. Please do not hesitate to contact me with any questions.

Sincerely,

/s/ Anthony T. Panebianco
Anthony T. Panebianco

CC: Board of Health
Town Clerk
Conservation Commission
Community and Economic Development



Doherty, Dugan, Cannon,
Raymond & Weil, P.C.

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Franklin, MA 02038
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Edward V. Cannon, Jr., Esq.
evc@ddcrwlaw.com

September 24, 2026

Certified Mail No. 9589 0710 5270 3799 5100 78
Return Receipt Requested

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
Town of Medway
155 Village Street,
Medway, MA 02053

Re: Amended Request for Determination of Agricultural Exemption
Applicant: Dubin, Nancy and David
Locus: 0-R and 12 Waterview Drive, Medway, MA 02053

Dear Commissioner Ackley:

After listening to the concerns raised by their neighbors at the initial public hearing for site plan approval to operate a farm at the above property, and in an effort to work with the town to find a compromise to enable the farm operation to move forward without the need for court involvement, the Dubins are pleased to submit this amended request for determination of an agricultural exemption for their farm operation.

The proposed farm will consist of a large field for growing produce and flowers for sale. The proposed farm will also include up to six (6) horses, chickens for egg sales (no roosters), no more than eight (8) mini cows, and no more than eight (8) Sebastopol geese. The site will also include a single-family dwelling for the farmer to be able to remain on site to care for the farm and the animals.

The proposed farm will not be open to the public. The horses and mini cows will be driven off the farm as needed for events at other locations.

The existing driveway will remain in operation for the proposed farm, but no parking spaces will be added. However, the Dubins will ensure the emergency vehicles will have the ability to travel the length of the driveway with room to turn around and exit.

The income generated by farming operations from, for example, animal products, breeding and selling geese and flower and vegetable sales will well exceed \$1,000 per acre per year.

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
September 24, 2026
Page 2,

The Dubins understand that you have thirty (30) days to issue your decision. Accordingly, they will ask the Zoning Board of Appeals ("ZBA") to continue the hearing currently scheduled for October 7, 2026 to the Board's November 4, 2026 meeting.

The Dubins reserve all their rights under their current appeal to the ZBA as noted above pending your determination of this revised request. Should you determine that this proposal is an exempt agricultural use, the Dubins will withdraw their current appeal to the ZBA and amend their site plan accordingly to continue with their current application before the Planning Board.

Please let me know if you have any questions or would like any additional information.

Thank you for your time and attention to this matter.

Respectfully,

Edward V. Cannon, Jr.

Edward V. Cannon, Jr.

EVC

ecc: Barbara J. Saint Andre, Dir. Of Comm. & Eco. Dev.
Dan Merrikin
Nancy Dubin
David Dubin



Pamela N. Fourtounis
P: 617.589.3849
pfourtounis@davismalm.com

September 29, 2026

VIA EMAIL: bsaintandre@medwayma.gov
Medway Zoning Board of Appeals
c/o Barbara J. Saint Andre
Director, Community and Economic Development

Re: Opposition to the Appeal of the Building Commissioner's Zoning Determination for 0R
and 12 Waterview Drive

Dear Ms. Saint Andre and Members of the Board:

This firm represents several neighboring property owners and abutters (the "Abutters") to the above-referenced property located at 0R and 12 Waterview Drive, Medway, Massachusetts (the "Site"). We write in opposition to the Appeal filed on September 2, 2026, by Nancy and David Dubin (the "Applicants"), which asks the Board to overturn the Building Commissioner's determination that the Applicants' proposed use for the Site is not entitled to the agricultural exemption¹ in G.L. c. 40A, § 3, also known as the Dover Amendment. For the reasons below, and those stated in the Commissioner's August 6, 2026 determination, the Board should affirm the Commissioner's determination and require the Applicants to apply for zoning relief for the proposed uses of the Site.

I. The Applicants Have Not Provided Adequate Information About Their Plans For the Site to Determine Whether the Primary Use is Agricultural Nor Whether the Other Uses Are Incidental Thereto

The Commissioner properly denied the Applicants' Request because, among other reasons, the Applicants failed to provide certain information repeatedly requested by the Commissioner. The Applicants have the burden to prove they are entitled to the exemption, and the requested information is crucial to that analysis.

The Dover Amendment does not provide that all uses involving animals, plants, or farm products are considered "farming" or "agriculture" and permitted as of right. *Tanner v. Bd. of Appeals*, 61 Mass. App. Ct. 647, 652 (2004) (veterinary hospital not an agricultural use protected by G. L. c. 40A, § 3); *Duca v. Zoning Bd. of Appeals of Saugus*, 91 Mass. App. Ct. 1111 (2017) (Unpublished

¹ The Applicants did not request a determination from the Commissioner as to any purported educational exemption, so this letter will not address same.

September 29, 2026

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Opinion) (“Commercial dog kenneling, pet day care, and grooming are not agriculture uses within the meaning of G. L. c. 40A, § 3.”); *Cotton Tree Serv. v. Zoning Bd. of Appeals of Westhampton*, 89 Mass. App. Ct. 1136 (2016) (Unpublished Opinion) (making mulch from wood trucked into the property from other locations not an agricultural use). Nor does it provide that as long as some farming is conducted at the property, any uses that are tangentially related to farming may follow.

Rather, the primary use of the site must be agriculture² for Dover protection to apply, and all other uses of the site must be incidental to that primary use.³ Incidental “means that the use must not be the primary use of the property but rather one which is subordinate and minor in significance.” *Henry v. Board of Appeals*, 418 Mass. 841, 845 (1994). Further, “[i]t is not enough that the use be subordinate; it must also be attendant or concomitant.” *Id.*, citing *Harvard v. Maxant*, 360 Mass. 432, 438 (1971).⁴ Part of the analysis involves comparing the net effect of the incidental use to that of the primary use. *Id.* at 844.

Applicants propose to use the Site for various purposes beyond raising animals and growing plants, including a single-family residence, “educational programs, summer camps, and some agritourism programs.”⁵ The Commissioner aptly honed in on this issue a year ago and requested from the Applicants information such as the area of the property that will be used for the other uses compared to the farming uses, the number of visitors expected related to the other uses, the

² The applicable definition of agriculture includes “farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.” G.L. c. 128, § 1A; G.L. c. 40A, § 3, ¶1. The Medway Zoning Bylaw adopts this definition of agriculture in Section 2.

³ G.L. c. 40A, § 3, ¶1 provides in relevant part:

No zoning ordinance or by-law shall ... prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture...

(emphasis added).

⁴ For example, in *Jackson v. Building Inspector of Brockton*, 351 Mass. 472 (1966), the court determined that using an agricultural dehydration machine to process fodder and manure from the farm to either sell or reuse on the farm was an incidental use to the primary farming activities on the property, but that using the machine to process manure trucked in from other locations for sale was not an incidental use.

⁵ See Project Narrative.

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expected proportion of revenue that will be generated by the other uses as compared to the farming uses.⁶ Applicants failed to provide most if not all of this information. After receiving the Applicants' Exempt Use Narrative in June 2026, the Commissioner again asked for information to support Applicants' position that the "educational" and residential uses will be incidental and subordinate to the primary agricultural use, including the projected hours of operation and revenue for each use.⁷ Again, his questions were not sufficiently answered. However, the information provided in the "Project Narrative" about the hours of operation suggest that the other uses are anything but "minor in significance." *See Henry*, 418 Mass. at 845.⁸

Ultimately, there is nothing in the record that would permit this Board to find that the primary use is agricultural and all the other proposed uses are minor and subordinate to that use. Because Applicants have the burden to prove they are protected from zoning under the Dover Amendment, the Commissioner's determination must stand. *See Jewish Cemetery Ass'n of Mass. v. Bd. of Appeals of Wayland*, 18 LCR 428, 431–32 (2010), citing *Trustees of Tufts College v. Medford*, 415 Mass. 753, 759 (1993).

II. Several of the Proposed Uses Are Not Incidental to Agriculture and Are Either Prohibited Outright or Would Require Zoning Relief

Applicants would not fare differently if they provided more information about the Project. Several of the uses proposed by Applicants are either prohibited outright or would require zoning relief because they are entertainment uses, not agricultural uses nor uses incidental to agriculture. For example, operating a summer camp, "taking the animals off property to events,"⁹ hosting programs, and operating a "petting farm" are not necessary by-products of raising animals – they are separate economic endeavors that just so happen to involve animals.¹⁰ *See Sturbridge v. McDowell*, 35 Mass. App. Ct. 924, 926 (1993) (boarding, grooming, and training of dogs not owned or kept as breeding stock by the property owner not an integral part of the breeding or raising of dogs). These uses primarily serve to entertain. It follows that these uses are not allowed in the AR II district. *See Medway Zoning Bylaw*, Section 5.4, Table 1.

⁶ See October 1, 2025 email from Jonathan Ackley to Applicant attached to the August 6, 2026 Zoning Determination.

⁷ See June 25, 2026 email from Jonathan Ackley to Applicant attached to the August 6, 2026 Zoning Determination.

⁸ The Applicants propose holding after school programs in the spring and fall, presumably every weekday, and propose holding summer camps from the hours of 8:30 a.m. to 4:30 p.m.

⁹ See October 7, 2025 email from Applicant to Jonathan Ackley attached to the August 6, 2026 Zoning Determination.

¹⁰ See September 16, 2025 email from Applicant to Jonathan Ackley attached to the August 6, 2026 Zoning Determination.

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III. The Applicants Propose More Than One Principal Use on the Site, Which is Not Permitted

Applicants maintain that the proposed single-family residence is an accessory use to the purported agricultural uses. The Medway Zoning Bylaw says otherwise. The Bylaw is a “prohibitive” rather than a “permissive” bylaw, because it provides a specific enumerated list of permitted accessory uses and states: “Any use not listed in Section 5.4, Schedule of Uses, or otherwise allowable under the provisions of this Zoning Bylaw is prohibited.” See Medway Zoning Bylaw Section 5.2.A; see *Tanner v. Board of Appeals of Boxford*, 61 Mass. App. Ct. 647, 648 (2004); *Leominster Materials Corp. v. Board of Appeals of Leominster*, 42 Mass. App. Ct. 458, 461 (1997) (the exclusion of rock and stone removal from the list of permissible uses was presumably deliberate and not an oversight); *Beale v. Planning Bd. of Rockland*, 423 Mass. 690, 693 (1996) (prohibiting retail uses in district based upon absence of uses from the list of permitted uses in the zone). Given that a single-family home is not enumerated as an accessory use in the AR II district, it follows that it is a primary use. Nothing in the Medway Zoning Bylaw permits two primary uses on the same lot.

IV. Because the Site is Within the Flood Plain Overlay District, Applicants Must Apply for Zoning Relief for the Project

Even if the Board were to find that all of the Applicants’ proposed uses were Dover protected, the Applicants would still require a variance for the construction of a single family residence in the Flood Plain Overlay District and any structure other than “Small non-residential structures of less than 100 square feet of floor area used in connection with recreation or the growing, harvesting, storage, or sale of crops raised on the premises”, as well as for the storage of manure. See Zoning Bylaw, Section 5.6; *Prime v. Zoning Bd. of Appeals*, 42 Mass. App. Ct. 796, 802-803 (1997) (special permit requirement imposed on agricultural use because the locus is within an aquifer protection district was valid but could not be imposed unreasonably). For context, a variance from the Flood Plain Overlay District provisions of the Zoning Bylaw can only be granted after Conservation Commission review is completed. See Zoning Bylaw, Section 5.6.G. Here, the Commission has yet to hold a public hearing on the NOI, which proposes significant alterations to land within the Riverfront Area of the Charles River, Bordering Land Subject to Flooding (“BLSF”), Bordering Vegetated Wetlands (“BVW”), the 100-foot Buffer Zone, and a Priority Habitat of Rare Species.

V. Conclusion

The Commissioner’s determination must be affirmed. The Applicants have not proven that their proposed primary use of the site is agricultural, nor that all other proposed uses of the site are incidental to that primary use. Rather, they propose significant entertainment and residential use



September 29, 2026

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of the Site. Thus, they are not entitled to a determination of exempt status under the Dover Amendment.

Thank you for your consideration of this matter. Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Pamela Fourtounis', written in dark ink.

Pamela N. Fourtounis

cc: Clients; Anthony T. Panebianco, Esq. (apanebianco@davismalm.com)



Pamela N. Fourtounis
P: 617.589.3849
pfourtounis@davismalm.com

August 19, 2026

VIA EMAIL: bgraziano@medwayma.gov

Bridget Graziano
Conservation Agent
Medway Conservation Commission
Medway Town Hall
155 Village Street
Medway, MA 02053

Re: Opposition to Notice of Intent— 12 Waterview Drive, Medway, MA 02053 (Map 67, Parcels 46 & 61); MassDEP File # (eDEP Transaction #2033868)

Dear Ms. Graziano and Members of the Conservation Commission:

This firm represents several property owners along Waterview Drive (the “Neighbors”) near the above-referenced property located at 0R and 12 Waterview Drive, Medway, Massachusetts (the “Site”). We write in opposition to the Notice of Intent (“NOI”) filed on July 15, 2026, by Nancy and David Dubin (the “Applicants”), as prepared by Legacy Engineering LLC, for the proposed construction of a single-family dwelling and “agricultural” development on the 12.1-acre Site. We respectfully request that the Commission deny the NOI, or, in the alternative, impose substantial conditions to drastically reduce the scope of the project in order to protect the interests identified in the Town of Medway Wetlands Protection Bylaw (“Bylaw”), the Rules and Regulations of the Medway Conservation Commission (“Local Rules”), the Massachusetts Wetlands Protection Act (G.L. c. 131, § 40) (“the Act”), and the State Wetlands Regulations (310 CMR 10.00) (“State Regulations”) (collectively, “Applicable Law”).

As set forth in detail below, the proposed project will have significant adverse impacts on multiple protected resource areas, including the Riverfront Area of the Charles River, Bordering Land Subject to Flooding (“BLSF”), Bordering Vegetated Wetlands (“BVW”), and the 100-foot Buffer Zone. The project, as proposed, violates the Bylaw, the Local Rules, the Act, and the State Regulations, and does not meet the required performance standards.

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I. THE PROJECT WILL HAVE SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS ON PROTECTED RESOURCE AREAS

First and foremost, it is the Applicants' burden to demonstrate that the project will not harm the interests protected by Applicable Law, including public or private water supply, prevention of pollution, groundwater, flood control, erosion and sedimentation control, wildlife habitat, and rare species habitat. G.L. c. 131, § 40; 310 CMR 10.03(1)(a); Bylaw, § 21.1 & 21.8. In fact, the Applicants must prove that either the Site is "not significant to the protection of any of the interests identified" in the Applicable Law; or the project will "*contribute to the protection of*" said interests. 310 CMR 10.03(1)(a) (emphasis added). Nothing in the NOI suggests that the Applicants will be able to meet this heavy burden, especially given that there are several overlapping resource areas on the Site.

The NOI proposes extensive development—including a large-scale operation of numerous structures housing six (6) full-size horses, Miniature Highland cows, Nigerian Dwarf goats, sheep, llamas, alpacas, miniature pigs, donkeys, miniature horses, rabbits, Sebastopol Geese, and chickens. Importantly, the Site as it exists consists of two undeveloped lots, with open pastureland in the center. As a general matter, the NOI proposes to alter 23,860 square feet (8.7%) of the total Riverfront Area¹ and 139,660 square feet of Bordering Land Subject to Flooding. The sheer magnitude of disturbance within these protected areas demonstrates that the project cannot be undertaken without significant adverse environmental impacts.

More specifically, the scope and intensity of the proposed use raise grave concerns regarding:

- a. Water Quality Degradation and Pollution:** The concentration of diverse livestock in close proximity to the Charles River and associated wetlands creates a significant risk of nutrient loading (nitrogen, phosphorus) and pathogen contamination from animal waste entering surface water and groundwater. The proposed concrete manure slab with weekly truck-off is an insufficient mitigation measure for the volume of waste

¹ MassDEP notes in its Technical Comments to the NOI that this 8.7% figure is an understatement. "[A]lthough areas for stormwater and compensatory storage may be excluded from the calculation of 10% to demonstrate compliance with the Riverfront Area (RA) performance standards in 310 CMR 10.58(4), the areas should still be quantified as total alteration to accurately permit the alteration. In order to qualify for the stormwater structure exclusion, an Applicant must demonstrate that there are no viable alternatives and show that a wildlife corridor is maintained. Otherwise, the alteration should be quantified and count towards the 10%. See 310 CMR 10.58(4)(d)."

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generated by the number and variety of animals proposed, especially given the fact that nearly the entire Site is located on a floodplain.

- b. Erosion and Sedimentation:** The conversion of vegetated areas to livestock pens, fenced pastures, and cultivated agricultural fields within the Buffer Zone and Riverfront Area will destabilize soils and increase erosion and sedimentation into adjacent resource areas.
- c. Habitat Destruction:** The Site lies within Priority Habitat of Rare Species (PH 881) as mapped by the Natural Heritage and Endangered Species Program (“NHESP”). The introduction of a large-scale livestock operation—with the attendant noise, disturbance, fencing, and removal of natural vegetation—will fragment and degrade habitat for rare and protected species.² Soil compaction and erosion from livestock/domestic animal grazing and trampling is also a significant risk which would degrade habitat quality. Introduction of domestic livestock could bring in parasites, disease, and invasive species that were not present before.

II. THE APPLICANTS ARE NOT ENTITLED TO THE REDUCED 100-FOOT RIVERFRONT AREA FOR AGRICULTURAL USES

The NOI presupposes that the project is a “new agricultural project” under 310 CMR 10.58(2)(3)(c), such that the Applicants have elected to use the reduced 100-foot Riverfront Area width applicable to new agricultural uses instead of the 200-foot Riverfront Area that would otherwise apply. This assumption is improper for several reasons.

The nature and scale of the proposed operation raises legitimate questions as to whether the primary use for the Site constitutes bona fide “agriculture” entitled to the reduced Riverfront Area, or whether it more closely resembles a commercial animal exhibition, petting zoo, or hobby farm. The extraordinary variety of animals proposed—Highland cows, Nigerian Dwarf goats, llamas, alpacas, Sebastopol Geese, miniature horses, miniature pigs, donkeys, and rabbits—is inconsistent with any conventional agricultural purpose and suggests a recreational enterprise.

² Moreover, the Commission defer its decision on the NOI until the Massachusetts Endangered Species Act review is finalized and any conditions imposed by NHESP are incorporated into the project design. Approving the NOI prior to completion of MESA review would be premature and could result in an Order of Conditions that is inconsistent with MESA requirements.

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The Applicants must demonstrate that the “*primary*” proposed use genuinely qualifies as “agriculture” under the applicable regulatory definition or is “*directly*” related thereto before granting the reduced Riverfront Area. The burden of proof rests with the Applicants. See 310 CMR 10.04; Bylaw Section 21.8; ConCom Rules, Section 3. Having provided inadequate information on this point, the Commission should apply the standard 200-foot Riverfront Area to the entirety of the project. 310 CMR 10.58(2)(3)(a).³

Applying this more stringent standard, Applicants’ propose significant work within the Riverfront Area,⁴ and Applicants must either make “a clear showing that the riverfront area does not play a role in the protection of one or more of” the interests protected by Applicable Law, or must demonstrate that there is “no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on” said interests. 310 CMR 10.58(3)-(4). The Applicants have not provided the required information that would allow the Commission to complete this analysis, either.

III. THE PROJECT VIOLATES THE BYLAW AND THE LOCAL RULES BY PROPOSING DEVELOPMENT IN THE 25, 50, 75, AND 100 FT BUFFER ZONES

Under the Local Rules, Section 25.02, “Land within the 100 foot Buffer Zone is presumed to be significant to the protection of the adjacent Resource Area and therefore to the protection of the interests protected by the By Law.” In fact, “[t]he buffer zone surrounding a Resource area is itself deemed to be a Resource Area protected by the By-Law.” Local Rules, Section 2.

The proposed project places a large portion of the development, including livestock pens, parking, fenced areas, and agricultural cultivation—squarely within the 100 foot Buffer Zone, in direct contravention of these Rules.

First of all, the Applicants are seeking a waiver to improve an existing cartpath within the 25-foot no-alter zone. See Local Rules Section 26.06(a) (“no work shall be allowed within 25 feet of

³ The Zoning Determination issued by the Building Commissioner on August 6, 2026 echoes this concern and notes that the project as proposed consists of uses that “can be described as agritourism.”

⁴ The neighbors likewise note that under the Federal Clean Water Act, Section 404, a permit from the U.S. Army Corps of Engineers is required for the discharge of dredged or fill material into waters of the United States, which includes the Charles River. Applicants have not provided any information in the NOI as to compliance with, or exception from, this provision.



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wetland resource areas identified in this By-Law.”). The scale and intensity of the proposed project do not warrant such a waiver, and granting it would be inconsistent with the protective purposes of Applicable Law. See Local Rules Section 29.

Further, the Applicants propose significant alteration and disturbance to the area between the 25 foot and 100 foot mark of the buffer zone. The Commission should not allow same, as it directly conflicts with the Local Rules. Section 26.01 states that “[b]uffers of less than 50 feet are generally ineffective in protecting wetlands” and “[b]uffer widths effective in preventing significant water quality impacts to wetlands are generally 100 feet or greater.” Section 26.06(b) of the Regulations further state that “[s]tructures are discouraged between 25 and 50 feet from any Resource Area.” Critically, a 75-foot minimum No Build Setback applies “when the Commission identifies a critical wildlife, fish or plant habitat.” Given the NHESP Priority Habitat designation (PH 881) covering the entirety of this Site, the 75-foot No Build Setback, at minimum, should apply.

IV. STORMWATER AND FLOOD CONTROL CONCERNS ARE INADEQUATELY ADDRESSED

Bordering Land Subject to Flooding. The NOI acknowledges that the majority of the Site lies within Bordering Land Subject to Flooding. The Applicants propose to disturb 139,660 square feet of BLSF. While the Applicants claim zero net loss of flood storage volume and a net gain of 52,420 cubic feet, this claim warrants rigorous independent scrutiny given the extent of proposed grading, earthwork, construction of a dwelling, installation of a concrete manure slab, and placement of multiple structures (shed-like buildings, tented areas, and fenced pens).

Stormwater Management. The Town of Medway Stormwater Bylaw (Article 26, Section 5.8.2) requires post-construction stormwater management systems to retain runoff equivalent to one (1) inch multiplied by total impervious surface area and to remove 90% of Total Suspended Solids and 60% of Total Phosphorus. Agricultural runoff—particularly from concentrated animal operations—is a major source of nutrient pollution. The Applicants’ stormwater management plan must adequately account for the pollutant loading from the proposed livestock operation, including manure-laden runoff, elevated nitrogen and phosphorus levels, and pathogen contamination. The Commission should require an independent peer review of the stormwater report to verify its adequacy.

Climate Resilience. The Local Rules, Section 31, address Climate Change Resiliency. The proposed project places intensive agricultural development within a flood-prone area adjacent to the Charles River. As climate change increases the frequency and intensity of storm events, the

August 19, 2026

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risk of flood-related contamination from livestock operations in BLSF will only increase. The Commission should consider these long-term climate impacts in its analysis.

V. CONCLUSION

The Commission is well within its discretion to deny the NOI or to impose conditions substantially more restrictive than those proposed by the Applicants. See *FIC Homes of Blackstone, Inc. v. Conservation Comm'n of Blackstone*, 41 Mass. App. Ct. 681 (1996); *Lovequist v. Conservation Commission of Dennis*, 379 Mass. 7 (1979). Accordingly, for all the foregoing reasons, the Neighbors respectfully request that the Conservation Commission:

- a. Deny the Notice of Intent application in its entirety, on the grounds that the Applicants have failed to meet their burden of proving, by a preponderance of the credible evidence, that the proposed work will not have a significant or cumulative effect upon the wetland values protected by Applicable Law and will promote the protection of such values;
- b. In the alternative, if the Commission is inclined to approve the NOI in any form, impose the following conditions at minimum:
 - i. Substantially reduce the number and type of livestock permitted on the Site to a level consistent with the Site's environmental constraints and the Town's Board of Health Regulations (after subtracting all of the area consisting of Wetlands, the 100-foot Buffer Zone, and the 200-foot Riverfront Area);
 - ii. Apply the standard 200-foot Riverfront Area to the entirety of the project;
 - iii. Deny the waiver request for work within the 25-foot buffer zone;
 - iv. Require completion of MESA review by NHESP and incorporation of all MESA conditions before any approval becomes effective;
 - v. Require comprehensive, ongoing water quality monitoring of surface water and groundwater, at the Applicants' expense, with automatic cessation of livestock operations if contamination thresholds are exceeded;
 - vi. Require enhanced stormwater treatment specifically designed for agricultural and animal waste runoff;



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- vii. Require an independent peer review of the stormwater report and flood storage calculations;
- viii. Apply the 75-foot No Build Setback given the confirmed Priority Habitat designation; and
- ix. Require a comprehensive manure management plan reviewed and approved by the Board of Health.

The Neighbors reserve the right to submit additional comments, testimony, and expert reports at any continued public hearing on this matter.

Respectfully submitted,

Very truly yours,

/s/ Pamela N. Fourtounis
Pamela N. Fourtounis

cc: Clients; Anthony Panebianco, Esq. (apanebianco@davismalm.com); Medway Building
Commissioner Jonathan Ackley (jackley@medwayma.gov); Medway Board of Health Director
Derek Kwok (dkwok@townofmedway.org)

PROPERTY INFORMATION

Location Address: 0 R Waterview Drive and 12 Waterview Drive

The land shown on the plan is shown on Medway Assessor's Map # 67 as Parcel # 061/046

Total Acreage of Land Area: 12.420 Acres

General Description of Property: Properties are located in the ARII Zoning district. Located in-between Village Street and the Charles River on the Medway/Franklin Town Border.

Medway Zoning District Classification: ARII

Current Use of Property: Undeveloped land.

Length of Existing Frontage: 150 feet On what street? Waterview Drive

Setbacks for Existing Structure (if applicable)

Front: N/A
Back: N/A

Side: N/A
Side: N/A

Scenic Road

Does any portion of this property have frontage on a Medway Scenic Road?

☐ Yes ☒ No If yes, please name street: _____

Historic District - N/A

Is any portion of this property located within a Medway National Register Historic District? No.

☐ Yes - Rabbit Hill

☐ Yes - Medway Village

Wetlands

Is any portion of the property within a Wetland Resource Area? ☒ Yes ☐ No

Groundwater Protection

Is any portion of the property within a Groundwater Protection District? ☐ Yes ☒ No

Flood Plain

Is any portion of the property within a Designated Flood Plain? ☒ Yes ☐ No

PROPOSED DEVELOPMENT PROJECT INFORMATION

Development Name: _____

The proposed project pertains to a:

- ☐ Child Care Facility (as defined in Chapter 28A, §9, MGL)
☐ Religious Facility
☒ Educational Facility
☒ Other Farm/Agricultural

VARIANCE/SPECIAL PERMIT – Will this project require a variance or special permit from the Zoning Board of Appeals?

☐ Yes ☒ No

Explanation: Site Plan Review only for two exempt uses (agricultural and educational)

SPECIAL PERMIT – Will this project require a special permit from the Planning and Economic Development Board?

☐ Yes ☒ No

Explanation: Site Plan Review only for two exempt uses (agricultural and educational)

ORDER OF CONDITIONS – Will this project require an Order of Conditions from the Conservation Commission?

☒ Yes ☐ No

Explanation: Portions of the work occur within wetland resource areas.

LAND DISTURBANCE PERMIT – Will this project require a Land Disturbance Permit pursuant to Medway General Bylaws, Section 26?

☒ Yes ☐ No

PROPERTY OWNER INFORMATION (If not applicant)

Property Owner's Name: Nancy Dubin and David Dubin

Mailing Address: 1070 Washington Street

Holliston, MA 01746

Primary Contact: Edward V. Cannon Jr.

Telephone:

Office: [REDACTED]

Cell: [REDACTED]

Email address: [REDACTED]

The owner's title to the land that is the subject matter of this application is derived under deed from: Ross Smith to Nancy Dubin and David J. Dubin dated January 27, 2022 and recorded in Norfolk County Registry of Deeds, Book 40286 Page 205 or Land Court Certificate of Title Number [REDACTED], Land Court Case Number [REDACTED], registered in the Norfolk County Land Registry District Volume [REDACTED], Page [REDACTED].

DESIGNATED REPRESENTATIVE INFORMATION

Name: Edward V. Cannon Jr., Esq.

Address: Doherty, Dugan, Cannon, Raymond & Weil, P.C.

124 Grove Street, Suite 220, Franklin, MA 02038

Telephone:

Office: [REDACTED]

Cell: [REDACTED]

Email address: [REDACTED]

Relationship to applicant: Attorney for applicant

CONSULTANT INFORMATION

ENGINEER: Daniel Merrikin

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

Primary Contact: Dan Merrikan

Telephone: [REDACTED] Office: [REDACTED] Cell: [REDACTED]

Email address: [REDACTED]

Registered P.E. License #: 43309

SURVEYOR: Colonial Engineering Inc.

Mailing Address: PO Box 95
Medway, MA 02053

Primary Contact: Anthony Dellorco

Telephone: [REDACTED] Office: [REDACTED] Cell: N/A

Email Address: [REDACTED]

Registered P.L.S. License #: 34303

ARCHITECT: Not applicable.

Mailing Address: _____

Primary Contact: _____

Telephone: _____ Office: _____ Cell: _____

Email address: _____

Registered Architect License #: _____

LANDSCAPE ARCHITECT/DESIGNER: Not applicable.

Mailing Address: _____

Primary Contact: _____

Telephone: _____ Office: _____ Cell: _____

Email address: _____

Registered Landscape Architect License #: _____

ATTORNEY: Edward V. Cannon Jr., Esq.

Mailing Address: Doherty, Dugan, Cannon, Raymond & Weil, P.C.

124 Grove Street, Suite 220, Franklin, MA 02038

Primary Contact: Edward V. Cannon Jr., Esq. or Mackenzie M. Wilson, Paralegal

Telephone: [Redacted] Office: [Redacted] Cell: [Redacted]

Email address: [Redacted]

SIGNATURES

The undersigned, being the Applicant for approval of a Site Plan for an Exempt Use, and the property owner, herewith submits this application and Site Plan to the Medway Planning and Economic Development Board for review and approval. I hereby certify, under the pains and penalties of perjury, that the information contained in this application is a true, complete and accurate representation of the facts regarding the property and proposed development under consideration.

Edward V. Cannon Jr., Esq.
If applicable, I hereby authorize _____ to serve as my Agent/Designated Representative to represent my interests before the Medway Planning & Economic Development Board with respect to this application.

In submitting this application, I authorize the Board, its consultants and agents, and Town staff to access the site during the plan review process.

I understand that pursuant to M.G.L. c. 44 §53G, the Medway Planning and Economic Development Board may retain outside professional consultants to review this application and that I am responsible for the costs associated with such reviews.

I understand that the Planning and Economic Development Board, its agents, staff, consultants, and other Town staff and committees may request additional information which I am responsible for providing to assist them in reviewing the proposed development.

Signed by: [Signature]
74C8B5D4093848D
Signature of Property Owner

6/4/2026
Date

Signed by: [Signature]
A0B0220AFC0B47D
Signature of Property Owner

6/4/2026
Date

Signature of Applicant (if other than Property Owner)

Date

[Signature]
Signature of Agent/Designated Representative

6/15/26
Date

PROJECT NARRATIVE FOR 12 WATERVIEW DRIVE MEDWAY, MA

INTRODUCTION

This narrative is for an Exempt Use Site Plan Review for a proposed agricultural and educational use at 12 Waterview Drive.

EXISTING CONDITIONS AND USE

SITE

The existing 12.1-acre site located on the west side of Waterview Drive contains an existing agricultural field. Large areas of the site consist of a field and other associated cleared areas. Portions of the site also contain shrub growth in areas that were formerly used as agricultural fields. The site does not contain any building structures.

The site directly abuts the Charles River and contains a variety of wetland resource areas including Bordering Vegetated Wetland, Riverfront Area, and Bordering Land Subject to Flooding (100-year flood plain). A notice of intent and accompanying Land Disturbance permit application will be filed with the Conservation Commission for the work within the associated jurisdictional areas.

ZONING

The site is located in the Agricultural Residential II district. Portions of the site are in the Flood Plain District (100-year flood plain). The site does not lie within the Groundwater Protection District.

PROPOSED CONDITIONS AND USE

USE

The applicants propose to expand the existing agricultural use of the site. An older field area on the eastern portion of the site will be used for cultivating wildflowers and vegetables. The remainder of the farm will include the keeping and raising of various

livestock, including chickens for eggs, horses for horsemanship, riding and equestrian care classes. Activity at the farm will also include educational programs, summer camps, and some agritourism programs. Families will be taught various aspects of livestock care and farming in a direct, hands-on environment.

The farm will not be open to the public on a daily basis. All programs will be reserved in advance including educational/interactive classes and events and one-on-one educational sessions. All programs will require signups in advance in order to control the number of attendees at any one time and the flow of visitors to the farm during the day. The farm will partner with Medway Parks and Recreation to offer educational opportunities to Medway residents. The farm will be properly licensed on the state and local levels.

The focus of farming activities will be on smaller breeds of livestock, including some that are on the national conservatory list. Animals will be kept in small shed-like buildings, all of which will be portable (no foundations). Manure will be maintained on a dedicated concrete slab and trucked off site weekly.

Livestock is anticipated to include:

- Miniature Highland cows
- Chickens (no roosters) for egg production
- Nigerian Dwarf goats
- Sheep (which will be shorn for fiber)
- Llamas (which will be shorn for fiber)
- Alpacas (which will be shorn for fiber)
- 6 Horses
- Mini pigs (up to 2)
- Donkeys
- Miniature horses
- Rabbits
- Sebastopol Geese

BUILDINGS

There will be several types of structures on the farm as follows:

- The front of the site will contain a modest residence for the farm's caretakers. This is an accessory use to the principal agricultural and educational use of the site.
- The southwest field on the site will contain a variety of fenced animal pen areas with small shed-like structures in most. These structures will be small and do not require a foundation.
- The southwest field on the site will contain approximately three tented areas as shown on the site plan.

DRIVEWAYS AND PARKING AREAS

A variety of gravel driveways are proposed throughout the site leading from Waterview Drive to the southwest field area. The proposed residence will include a separate driveway area with two parking spaces.

A gravel parking lot is proposed in the existing southwest field area adjacent to the livestock pens. Given this is an exempt agricultural use, there are no specific parking requirements. 20 parking spaces are proposed adjacent to the livestock pens for employees and visitors. With the two spaces at the residence, a total of 22 parking spaces is provided.

STORMWATER

Stormwater management is accommodated by two vegetated swales and two infiltration basins with pretreatment devices. For a complete discussion of the stormwater facility design and analysis of compliance with the state and local regulations, please refer to the Stormwater Report.

UTILITIES

Water

The site will be connected to Town water. The expected water usage for the site is estimated to be approximately 400 gpd.

Sewer

The site will be connected to Town sewer. The expected sewer usage for the site is estimated to be approximately 200 gpd.

EMPLOYEES AND OCCUPANTS

2-3 owners/farm operators are expected to live in the on-site residence. In addition, during certain times, During the summer camp season, 3-4 additional employees are expected be on-site.

HOURS OF OPERATION

As a farm, the site is essentially always in operation to some degree. Principal farming activities will occur during daylight hours, seven days a week. During spring and fall, after-school educational and other agricultural activities are expected to occur between the hours of 3:00 pm and 6:30 pm. During the summer, camp hours are generally 8:30 am to 4:30pm. Any weekend programs are typically between the hours of 9:00 am and 5:00 pm. Staff will be present outside of these hours to prepare and closeout daily activities.

OTHER PERMITS

The applicant will apply for the following:

1. A Notice of Intent to the Conservation Commission for work in wetland jurisdictional areas.
2. A Land Disturbance Permit application to the Conservation Commission.

CONSTRUCTION TIMETABLE

A general construction sequence is provided on the site plan. At this time, the following is anticipated:

- Initial construction activities will include constructing the stormwater management systems and gravel driveway and parking areas.
- Livestock pens and structures will be installed and livestock gradually established.
- The vegetable and wildflower field will be sowed at a time appropriate given seasonal factors.
- The residential unit is expected to be constructed at the same time as the rest of the farm use.
- Depending on the timing of permitting, the construction activities are expected to commence in the Summer/Fall of 2026 and be completed by the Summer of 2027.

WAIVERS

There are presently no proposed waivers for this development.



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

MASS.GOV/MASSWILDLIFE

August 13, 2026

David and Nancy Dubin
1070 Washington Street
Holliston, MA 01746

Medway Conservation Commission
155 Village St.
Medway, MA 02053

RE: Applicant: David and Nancy Dubin
 Project Location: 12 Waterview Drive
 Project Description: Construction of a single-family home, infiltration basin, and agricultural structures
 DEP Wetlands File No.: 216-1088

NHESP File No.: 26-20564

Heritage Hub Form ID: RC-99849

Dear Commissioners and Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent with site plans titled "12 Waterview Drive Medway, MA Site Plan" (5-29-2026, 9 sheets, prepared by Legacy Engineering LLC) in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.58(4)(b)). The Division also received the MESA Review Checklist and supporting documentation for review pursuant to the MA Endangered Species Act Regulations (321 CMR 10.18).

PROJECT DESCRIPTION "the Project"

The Project, as currently proposed, includes the construction of a single-family home and utilities on the north side of the parcel adjacent to Waterview Drive. The Project also includes an agricultural development within the existing hay field which includes the construction of an infiltration basin, parking area, animal structures including an exhibit area, tent, turnout, and covered pen. An agricultural field is proposed to the east of the existing hay field, and a proposed gravel drive will connect the agricultural development to Waterview Drive. In total the proposed Project includes a Limit of Work of ± 3.4 acres on a ± 12.1 acre parcel. The Division notes further consultation is recommended for any future change in use of the property.

STATE-LISTED SPECIES

The Division has determined that this Project, as currently proposed, will occur **within** the Priority Habitat and Estimated Habitat of the following species:

Scientific Name

Common Name

Taxonomic Group

State Status

MASSWILDLIFE

Glyptemys insculpta

Wood Turtle

Reptile

Special Concern

State-listed species and their habitats are protected in accordance with the MESA and state-listed wetland wildlife habitat is protected pursuant to the rare species provisions of the WPA

MA WETLANDS PROTECTION ACT (WPA) and MA ENDANGERED SPECIES ACT (MESA)

The purpose of the Division's review of the proposed project under the WPA regulations is to determine whether the project will have any adverse effects on the Resource Areas Habitats of state-listed species. The purpose of the Division's review under the MESA regulations is to determine whether a Take of state-listed species will result from the proposed project.

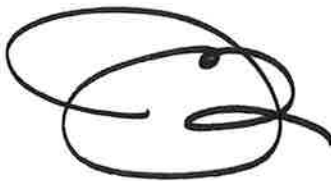
Based on a review of the information provided and the information that is contained in our database, the Division has determined that this project, as currently proposed, **must be conditioned in order to avoid adverse effects to the Resource Area Habitats of state-listed wildlife species (310 CMR 10.37, 10.58(4)(b), 10.59) and must be conditioned in order to avoid a prohibited Take of state-listed species (321 CMR 10.18(2)(a)). To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species, the conditions attached to this letter must be met.**

Provided these conditions are included in any approving Orders of Conditions issued by the Conservation Commission, and the applicant complies with all the above noted conditions, the project **will not result in an adverse impact to the resource area habitats of state-listed wildlife species pursuant to the WPA and will not result in a prohibited Take pursuant to the MESA.** A copy of the final Order of Conditions shall be sent to the NHESP simultaneously with the applicant as stated in the Procedures section of the WPA (310 CMR 10.05(6)(e)).

This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Devon Harrington, Endangered Species Review Biologist, at devon.a.harrington@mass.gov, or 508-389-6354.

Sincerely,



Jesse Leddick
Assistant Director

cc:

Attachment: List of Conditions

List of Conditions

Applicant: David and Nancy Dubin
Project Location: 12 Waterview Drive
Project Description: Construction of a single-family home, infiltration basin, and agricultural structures
NHESP File No.: 26-20564
Heritage Hub Form ID: RC-99849
Approved Plan: 12 Waterview Drive Medway, MA Site Plan
Plan date: 5-29-2026, 9 sheets, prepared by Legacy Engineering LLC

To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species, the following condition(s) must be met:

1. **Turtle Protection Plan:** Prior to the start of work, including vegetation clearing or soil disturbance, the Applicant shall submit a Wood Turtle Protection Plan to the Division for review and written approval. The protection plan shall detail procedures for protecting state-listed turtles during construction including but not limited to installation of barriers to prevent state-listed species from entering the work area. Protective measures for state-listed turtles are required for any construction activities occurring between April 15th and November 1st of any year unless otherwise approved by the Division. The protection plan must be prepared and implemented by a qualified, Division-approved wildlife biologist that has experience with the subject species. The Division-approved Plan shall be implemented as written; and any proposed changes to the Plan must be submitted to the Division for review and written approval prior to implementation of said changes. By December 31st of any year in which work occurs, the qualified biologist shall submit: a) a summary report to the Division detailing project status and compliance with the Plan; and b) any observations of state-listed turtles at <https://www.mass.gov/how-to/report-rare-species-vernal-pool-observations>.
2. **Limits of Work:** No work or alteration to the soil, surface, or vegetation shall occur outside of the limits of work, including within the 100ft buffer to the Charles River, as shown on the site plan, unless otherwise approved in writing in advance by the Division.
3. **Authorization Duration:** This authorization is valid for 5 years from the date of issuance. Work may be completed at any time during this 5-year period in compliance with the conditions herein. Thereafter, the Applicant must re-file pursuant to the MESA.
4. **Wetlands Protection Act, Notice:** Upon filing for renewal, extension, or amendment of the Orders of Conditions, the Applicant shall contact the Division for written response regarding impacts to Resource Area habitat of state-listed wildlife.

REQUESTED WAIVERS

CHAPTER 200 - SITE PLANS

* 205-5D 13. TO NOT REQ

BMP	INFILTRATION BASIN #1	INFILTRATION BASIN #2
CONSTRUCTING WATERWAYS	P1-P16	P1-P14
LAND USE	LOVES TOES, BARKING	RESIDENTIAL DRIVEWAY
SOILS	SUPERFICIAL CLASS B	SUPERFICIAL CLASS B
IMPERVIOUS AREA	10, 46.82 S.F. (40.8%)	5,400 S.F. (40.8%)
TREATMENT TYPE	10, 27.76 S.F. (65.4%)	5,400 S.F. (40.8%)
PENETRANT CAPACITY	INFILTRATION	INFILTRATION
STORAGE	3, 93.5 C/F	3, 94 C/F
APPROXIMATE DRAINAGE AREA	3.22 AC/HWY	3.22 AC/HWY

FLOOD STORAGE		ELEVATION	EXISTING VOLUME (C.F.)	PROPOSED VOLUME (C.F.)	CHANGE (C.F.)	CUMULATIVE CHANGE (C.F.)
1	17.0	17.0	0	4,230	0	0
2	17.5	17.5	4,549	10,270	2,840	2,840
3	18.0	18.0	10,770	16,210	4,450	7,340
4	18.5	18.5	17,740	23,690	6,050	13,390
5	19.0	19.0	26,940	32,690	5,750	19,140
6	19.5	19.5	38,340	41,140	2,800	21,940
7	20.0	20.0	52,740	51,340	1,600	23,540
8	20.5	20.5	70,840	61,340	9,500	33,040
9	21.0	21.0	92,840	72,800	20,000	53,040
10	21.5	21.5	118,840	87,800	31,000	84,040
11	22.0	22.0	148,740	107,800	41,000	125,040
12	22.5	22.5	182,740	132,800	50,000	175,040
13	23.0	23.0	220,740	162,800	58,000	233,040
14	23.5	23.5	262,740	197,800	65,000	298,040
15	24.0	24.0	309,740	237,800	72,000	370,040
16	24.5	24.5	361,740	282,800	79,000	449,040
17	25.0	25.0	418,740	332,800	86,000	535,040
18	25.5	25.5	480,740	387,800	93,000	628,040
19	26.0	26.0	547,740	447,800	100,000	728,040
20	26.5	26.5	620,740	512,800	108,000	836,040
21	27.0	27.0	699,740	582,800	117,000	953,040
22	27.5	27.5	784,740	657,800	127,000	1,080,040
23	28.0	28.0	875,740	737,800	138,000	1,218,040
24	28.5	28.5	972,740	822,800	150,000	1,368,040
25	29.0	29.0	1,075,740	912,800	163,000	1,531,040
26	29.5	29.5	1,184,740	1,007,800	177,000	1,708,040
27	30.0	30.0	1,299,740	1,107,800	192,000	1,900,040
28	30.5	30.5	1,420,740	1,212,800	208,000	2,108,040
29	31.0	31.0	1,547,740	1,322,800	225,000	2,333,040
30	31.5	31.5	1,681,740	1,437,800	244,000	2,577,040
31	32.0	32.0	1,821,740	1,557,800	264,000	2,841,040
32	32.5	32.5	1,967,740	1,682,800	285,000	3,126,040
33	33.0	33.0	2,119,740	1,812,800	307,000	3,433,040
34	33.5	33.5	2,277,740	1,947,800	330,000	3,763,040
35	34.0	34.0	2,441,740	2,087,800	354,000	4,117,040
36	34.5	34.5	2,611,740	2,232,800	379,000	4,496,040
37	35.0	35.0	2,787,740	2,382,800	405,000	4,901,040
38	35.5	35.5	2,970,740	2,537,800	433,000	5,334,040
39	36.0	36.0	3,160,740	2,697,800	463,000	5,797,040
40	36.5	36.5	3,358,740	2,862,800	496,000	6,293,040
41	37.0	37.0	3,564,740	3,032,800	532,000	6,825,040
42	37.5	37.5	3,778,740	3,207,800	571,000	7,396,040
43	38.0	38.0	3,999,740	3,387,800	610,000	8,006,040
44	38.5	38.5	4,227,740	3,572,800	655,000	8,661,040
45	39.0	39.0	4,462,740	3,762,800	700,000	9,361,040
46	39.5	39.5	4,704,740	3,957,800	747,000	10,108,040
47	40.0	40.0	4,953,740	4,157,800	796,000	10,904,040
48	40.5	40.5	5,209,740	4,362,800	846,000	11,750,040
49	41.0	41.0	5,472,740	4,572,800	899,000	12,649,040
50	41.5	41.5	5,742,740	4,787,800	955,000	13,604,040
51	42.0	42.0	6,019,740	5,007,800	1,012,000	14,616,040
52	42.5	42.5	6,303,740	5,232,800	1,071,000	15,687,040
53	43.0	43.0	6,594,740	5,462,800	1,132,000	16,819,040
54	43.5	43.5	6,892,740	5,697,800	1,195,000	17,914,040
55	44.0	44.0	7,197,740	5,937,800	1,260,000	19,074,040
56	44.5	44.5	7,509,740	6,182,800	1,327,000	20,301,040
57	45.0	45.0	7,828,740	6,432,800	1,396,000	21,597,040
58	45.5	45.5	8,153,740	6,687,800	1,467,000	22,964,040
59	46.0	46.0	8,484,740	6,947,800	1,540,000	24,404,040
60	46.5	46.5	8,821,740	7,212,800	1,615,000	25,919,040
61	47.0	47.0	9,164,740	7,482,800	1,692,000	27,511,040
62	47.5	47.5	9,513,740	7,757,800	1,771,000	29,182,040
63	48.0	48.0	9,868,740	8,037,800	1,852,000	30,934,040
64	48.5	48.5	10,229,740	8,322,800	1,937,000	32,771,040
65	49.0	49.0	10,596,740	8,612,800	2,024,000	34,695,040
66	49.5	49.5	10,969,740	8,907,800	2,113,000	36,708,040
67	50.0	50.0	11,348,740	9,207,800	2,205,000	38,713,040
68	50.5	50.5	11,733,740	9,512,800	2,299,000	40,712,040
69	51.0	51.0	12,124,740	9,822,800	2,395,000	42,707,040
70	51.5	51.5	12,521,740	10,137,800	2,494,000	44,691,040
71	52.0	52.0	12,924,740	10,457,800	2,595,000	46,666,040
72	52.5	52.5	13,333,740	10,782,800	2,698,000	48,624,040
73	53.0	53.0	13,748,740	11,112,800	2,803,000	50,567,040
74	53.5	53.5	14,169,740	11,447,800	2,910,000	52,497,040
75	54.0	54.0	14,596,740	11,787,800	3,019,000	54,416,040
76	54.5	54.5	15,029,740	12,132,800	3,130,000	56,326,040
77	55.0	55.0	15,468,740	12,482,800	3,243,000	58,229,040
78	55.5	55.5	15,913,740	12,837,800	3,358,000	60,127,040
79	56.0	56.0	16,364,740	13,197,800	3,475,000	62,012,040
80	56.5	56.5	16,821,740	13,562,800	3,594,000	63,886,040
81	57.0	57.0	17,284,740	13,932,800	3,715,000	65,741,040
82	57.5	57.5	17,753,740	14,307,800	3,838,000	67,579,040
83	58.0	58.0	18,228,740	14,687,800	3,963,000	69,402,040
84	58.5	58.5	18,709,740	15,072,800	4,090,000	71,212,040
85	59.0	59.0	19,196,740	15,462,800	4,219,000	73,001,040
86	59.5	59.5	19,689,740	15,857,800	4,350,000	74,771,040
87	60.0	60.0	20,188,740	16,257,800	4,483,000	76,524,040
88	60.5	60.5	20,693,740	16,662,800	4,618,000	78,262,040
89	61.0	61.0	21,204,740	17,072,800	4,755,000	80,007,040
90	61.5	61.5	21,721,740	17,487,800	4,894,000	81,741,040
91	62.0	62.0	22,244,740	17,907,800	5,035,000	83,466,040
92	62.5	62.5	22,773,740	18,332,800	5,178,000	85,174,040
93	63.0	63.0	23,308,740	18,762,800	5,323,000	86,867,040
94	63.5	63.5	23,849,740	19,197,800	5,470,000	88,547,040
95	64.0	64.0	24,396,740	19,637,800	5,619,000	90,206,040
96	64.5	64.5	24,949,740	20,082,800	5,770,000	91,846,040
97	65.0	65.0	25,508,740	20,532,800	5,923,000	93,469,040
98	65.5	65.5	26,073,740	20,987,800	6,078,000	95,077,040
99	66.0	66.0	26,644,740	21,447,800	6,235,000	96,662,040
100	66.5	66.5	27,221,740	21,912,800	6,394,000	98,226,040
101	67.0	67.0	27,804,740	22,382,800	6,555,000	99,771,040
102	67.5	67.5	28,393,740	22,857,800	6,718,000	101,289,040
103	68.0	68.0	28,988,740	23,337,800	6,883,000	102,772,040
104	68.5	68.5	29,589,740	23,822,800	7,050,000	104,222,040
105	69.0	69.0	30,196,740	24,312,800	7,219,000	105,641,040
106	69.5	69.5	30,809,740	24,807,800	7,390,000	107,031,040
107	70.0	70.0	31,428,740	25,307,800	7,563,000	108,394,040
108	70.5	70.5	32,053,740	25,812,800	7,738,000	109,722,040
109	71.0	71.0	32,684,740	26,322,800	7,915,000	111,017,040
110	71.5	71.5	33,321,740	26,837,800	8,094,000	112,271,040
111	72.0	72.0	33,964,740	27,357,800	8,275,000	113,486,040
112	72.5	72.5	34,613,740	27,882,800	8,458,000	114,654,040
113	73.0	73.0	35,268,740	28,412,800	8,643,000	115,777,040
114	73.5	73.5	35,929,740	28,947,800	8,830,000	116,847,040
115	74.0	74.0	36,596,740	29,487,800	9,019,000	117,866,040
116	74.5	74.5	37,269,740	30,032,800	9,210,000	118,836,040
117	75.0	75.0	37,948,740	30,582,800	9,403,000	119,759,040
118	75.5	75.5	38,633,740	31,137,800	9,598,000	120,637,040
119	76.0	76.0	39,324,740	31,697,800	9,795,000	121,462,040
120	76.5	76.5	40,021,740	32,262,800	9,994,000	122,236,040
121	77.0	77.0	40,724,740	32,832,800	10,195,000	122,951,040
122	77.5	77.5	41,433,740	33,407,800	10,398,000	123,609,040
123	78.0	78.0	42,148,740	33,987,800	10,603,000	124,212,040
124	78.5	78.5	42,869,740	34,572,800	10,810,000	124,762,040
125	79.0	79.0	43,596,740	35,162,800	11,019,000	125,251,040
126	79.5	79.5	44,329,740	35,757,800	11,230,000	125,681,040
127	80.0	80.0	45,068,740	36,357,800	11,443,000	126,054,040
128	80.5	80.5	45,813,740	36,962,800	11,658,000	126,372,040
129	81.0	81.0	46,564,740	37,572,800	11,875,000	126,627,040
130	81.5	81.5	47,321,740	38,187,800	12,094,000	126,821,040
131	82.0	82.0	48,084,740	38,807,800	12,315,000	126,956,040
132	82.5	82.5	48,853,740	39,432,800	12,538,000	127,024,040
133	83.0	83.0	49,628,740	40,062,800	12,763,000	127,024,040
134	83.5	83.5	50,409,740	40,697,800	12,990,000	127,024,040
135	84.0	84.0	51,196,740	41,337,800	13,219,000	127,024,040
136	84.5	84.5	51,989,740	41,982,800	13,450,000	127,024,040
137	85.0	85.0	52,788,740	42,632,800	13,683,000	127,024,040
138	85.5	85.5	53,593,740	43,287,800	13,918,000	127,024,040
139	86.0	86.0	54,404,740	43,947,800	14,155,000	127,024,040
140	86.5	86.5	55,221,740	44,612,800	14,394,000	127,024,040
141	87.0	87.0	56,044,740	45,282,800	14,635,000	127,024,040
142	87.5	87.5	56,873,740	45,957,800	14,878,000	127,024,040
143	88.0	88.0	57,708,740	46,637,800	15,123,000	127,024,040
144	88.5	88.5	58,549,740	47,322,800	15,370,000	127,024,040
145	89.0					

GRADING NOTES:

ALL GUTTER DOWNSPOUTS TO BE PIPED TO STORMWATER MANAGEMENT SYSTEM AS SHOWN

NOTES.

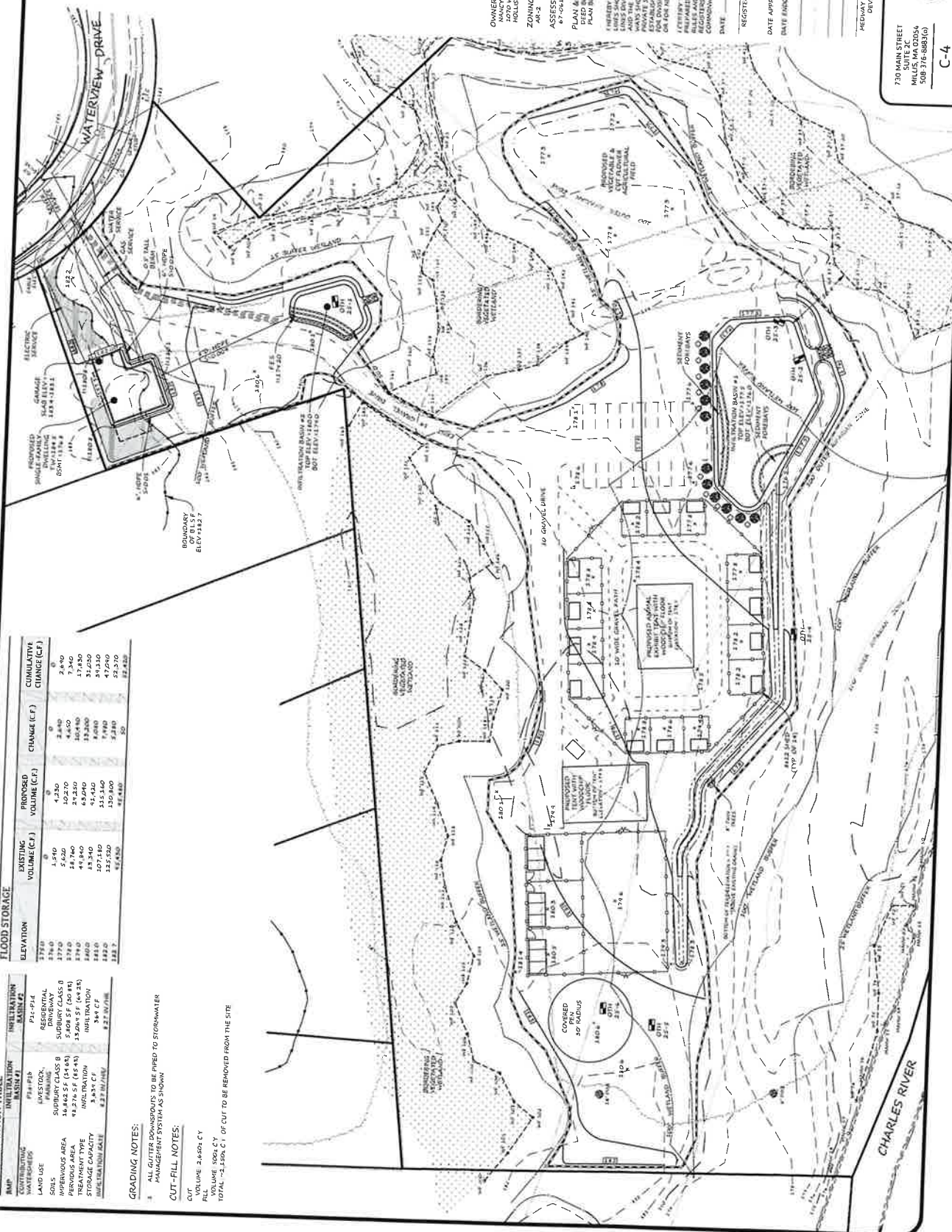
CUT-FILL NOTES:

ur

VOLUME 2,650, CY
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VOLUME 5002 CY

TOTAL 2,150 C1 OF CUT TO BE REMOVED FROM THE SITE



OWNER/APPLICANT
NANCY & DAVID J DUBIN
1070 WASHINGTON STREET
HOLLISTON, MA 01746

ZONING DISTRICT
AR-2

ASSESSORS PARCEL
67-061 & 67-046

PLAN & DEED REFERENCE
DEED BOOK 40214 PAGE 209
PLAN BOOK 153 PAGE 103

PROPERTY CERTIFY THAT THIS PROPERTY IS NOT OWNED BY ANY OF THE PARTIES INVOLVED IN THIS TRANSACTION. THE PARTIES INVOLVED IN THIS TRANSACTION HAVE BEEN ADVISED OF THE RIGHTS OF THE PARTIES INVOLVED IN THIS TRANSACTION AND HAVE BEEN ADVISED OF THE RIGHTS OF THE PARTIES INVOLVED IN THIS TRANSACTION.

12 WATERVIEW DRIVE
GRADING & UTILITIES
PLAN OF LAND
IN
MEDWAY, MA

MIDWAY PLANNING & ECONOMIC
DEVELOPMENT BOARD

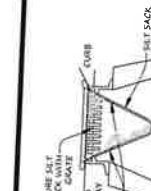
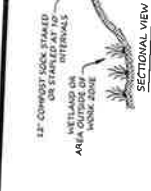
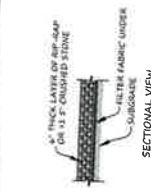
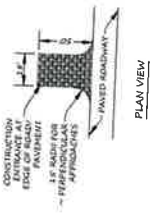
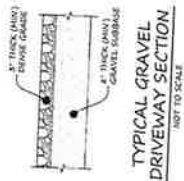
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130 MAIN STREET
SUITE 2C
MILLIS, MA 02054
508-376-8883(a)

C-4

**LEGACY
ENGINEERING**

MIDWAY PLANNING & ECONOMIC
DEVELOPMENT BOARD



TYPICAL GRAVEL DRIVEWAY SECTION
NOT TO SCALE

CONSTRUCTION ENTRANCE DETAIL
NOT TO SCALE

EROSION CONTROL DETAIL (COMPOST SOCK)
NOT TO SCALE

CATCH BASIN SILT SACK DETAIL
NOT TO SCALE

TYPICAL SEWER TRENCH
NOT TO SCALE

SECTION B-8
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GRASS SWALE DETAIL



OWNER/APPLICANT
WANCY & DAVID J. DUBIN
 1070 WASHINGTON STREET
 WASHINGTON, MA 01966

ZONING DISTRICT
 A-2

ASSESSOR'S PARCEL
 87-042 & 87-046

PLAN & DEED REFERENCES
 1070000-40284-PAID 2010
 1070000-40284-PAID 2010

PROPERTY CERTIFICATE THAT THE INTEREST
 LINES SHOWN ON THIS PLAN ARE THE
 LINES DIVIDING EXISTING OWNERSHIPS,
 AND THE LINES SHOWN ARE THOSE OF PUBLIC OR
 PRIVATE STREETS OR WAYS ALREADY
 EXISTING OR TO BE LATER ESTABLISHED
 FOR DIVISION OF EXISTING OWNERSHIP
 OR FOR NEW WAYS ARE SHOWN

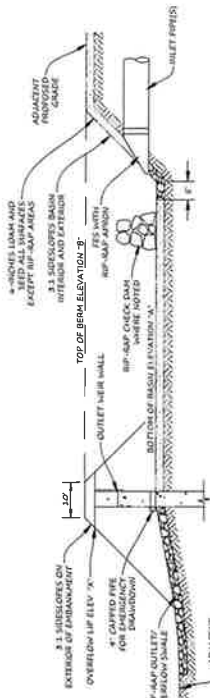
I CERTIFY THAT THIS PLAN HAS BEEN
 PREPARED IN CONFORMANCE WITH THE
 RULES AND REGULATIONS OF THE
 COMMONWEALTH OF MASSACHUSETTS

DATE _____
REGISTERED LAND SURVEYOR
DATE APPROVED _____
DATE DISCLOSED _____

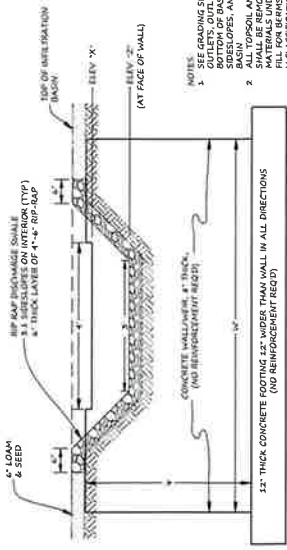
MEDWAY PLANNING & ENGINEERING
1000 CENTURY PARKWAY
SUITE 100
ALPHARETTA, GA 30004
(404) 487-1100
WWW.MEDWAYPLANNING.COM

TYPICAL BASIN CROSS-SECTION

	BASIN #1	BASIN #2
BOTTOM OF BASIN ELEVATION "A"	176.0	174.0
TOP OF BERM ELEVATION "B"	177.0	180.0
OUTLET NO. 4 BALL LENGTH "C"	11'	11'
OVERFLOW ELEVATION "X"	176.4	174.5
RIP RAP SWALE OUTLET ELEV "Z" (AT FACE OF WALL)	176.3	174.2



TYPICAL INFILTRATION BASIN CROSS-SECTION



OUTLET WEIR AND RIP-RAP SWALE DETAIL



**TOWN OF MEDWAY
BUILDING DEPARTMENT**
155 Village Street
Medway, Massachusetts 02053
508.533.3253

Jonathan Ackley
Building Commissioner &
Zoning Enforcement Officer
JAckley@MedwayMA.Gov

CERTIFIED MAIL & ELECTRONIC DELIVERY

Date: August 6th, 2026

To: Nancy Dubin & David Dubin, [REDACTED]

Re: Formal Zoning Determination — Request for Agricultural Exemption (M.G.L. c. 40A, § 3)

Location: 0-R & 12 Waterview Dr, Medway, MA 02053 **Zone:** AR-2 **Size:** 12.1 Acres

Reference: Request for Determination of Agricultural Exemption, Dated July 20th, 2026.

Prior Correspondence: Email to Attorney Cannon, Dated June 25th, 2026.

Prior Correspondence: Email with Nancy Dubin, Dated September 16th, 2025, including "Farm Description" from Nancy and David Dubin, Received September 16th, 2025

I. BACKGROUND & PRIOR CORRESPONDENCE

Prior to the submission of the formal Request for Determination, this office engaged in preliminary correspondence with Nancy Dubin starting on **September 16th, 2025** (attached hereto as **Enclosure 1**). In that communication, this office requested specific operational details related to the proposed educational use at this property—such as participant capacity, and expected revenue generated from educational programs vs. farming — required under Massachusetts land use law to demonstrate that educational and event activities could qualify as protected accessory uses if it were determined that the proposed farming uses were protected as exempt agricultural uses.

Additionally, this office engaged in correspondence with Attorney Ted Cannon, on **June 25th, 2026** (attached hereto as **Enclosure 2**), where additional information was requested detailing how the educational programming at this property will be incidental and subordinate to the agriculture use.

Your subsequent formal submittal dated **July 20th, 2026**, did not include these essential operational parameters.

To date, this office has not received the requested operational details related to educational programming at this property to show that it is customarily incidental and subordinate to an agricultural use. Nor has this information been provided relating to uses that seem to be described as agritourism in the July 20th, 2026, submission. Consequently, this determination is rendered based on the administrative record as presently constituted.

II. DETERMINATION

This office has reviewed your formal request for an agricultural zoning exemption under **M.G.L. c. 40A, § 3** for the proposed combined use of the property as a farm and interactive educational program venue consisting of day camps and events and/or uses that may be described as agritourism. (attached hereto as **Enclosure 3**),

Based upon the submittal presented, the requested exemption for the proposed use as a whole is **DENIED**. As currently presented, the proposed use and development of this property does not qualify as an exempt agricultural use under M.G.L. c. 40A, § 3 and may not proceed as-of-right.

III. FINDINGS & LEGAL REASONING

1. **Failure to Establish Primary / Accessory Relationship:** Under M.G.L. c. 40A, § 3, land and structures are exempt from local zoning prohibition only if their *primary purpose* is commercial agriculture, and any secondary uses are strictly *accessory* (incidental and subordinate) to that farming operation. The applicant bears the burden of proof. Your submittal lacks the necessary operational facts—such as visitor capacity, event frequency, expected revenue comparison, and facility footprint—to establish that the proposed day camps, events, and other secondary uses would be subordinate accessory uses to the primary farming activities (assuming the primary farming uses would be exempt, regarding which I have not made a determination).
2. **Inapplicability of Educational Exemption:** Because the proposed educational programs and day camps are operated by a for-profit entity, Paragraph 2 of M.G.L. c. 40A, § 3 (the "Dover Amendment") does not apply to exempt the educational components.

IV. APPEAL RIGHTS

Pursuant to **M.G.L. c. 40A, §§ 8 and 15**, any person aggrieved by the decision or determination of the Building Commissioner/Zoning Enforcement Officer may appeal to the **Medway Zoning Board of Appeals** within **thirty (30) days** from the date of this determination.

Sincerely,



Jonathan Ackley

Building Commissioner & Zoning Enforcement Officer
Town of Medway, Massachusetts

Enclosures:

- **Enclosure 1:** Prior Correspondence and Farm Description, Dated September 16th, 2025
- **Enclosure 2:** Prior Correspondence, Dated June 25th, 2026
- **Enclosure 3:** Request for Determination, Dated July 20th, 2026

cc: Town Clerk, Zoning Board of Appeals, Planning Board, Town Counsel, Atty. Ted Cannon



Re: [External] 12 Waterview Medway

From NANCY DUBIN [REDACTED]
Date Tue 10/7/2025 4:25 PM
To Jonathan Ackley <jackley@medwayma.gov>

Good Afternoon !

Sorry for the delayed response, We were away last week !

I want to clarify all of this with the Mass Farm Bureau Lawyer to be sure we are on the same page . I really don't see tours and educating the public, children on animals as an incidental item ,as say .. selling ice cream would be. I see educating and exposing the public to animals as a main by product of our keeping and raising of farm animals (as eggs are a to keeping chickens) We do not plan on operating year round , we do not Plan on having open hours daily . Everything will be booked, planned programs with very limited and planned traffic flow . We will also be taking the animals off property to events. This past spring we even went to a Medway Park and Rec program .

As you stated , I am allowed to keep the farm animals there. So I would ,at the very least ,like to start the process of setting up the living areas for our animals to

Move onto the property. I didn't send info over to you in April as I have been waiting on my land surveyor to complete the plans and wanted it all together .

We can start with having the animals go off property to events as we navigate through any on property programs .

We are excited to move forward and be a part of the Medway community . Currently there are no Farms with animals where the public can send their kids for educational interactions .

Thank you for all of your time !

Nancy and Dave

On Oct 1, 2025, at 9:45 AM, Jonathan Ackley <jackley@medwayma.gov> wrote:

Note: As of July 1st, 2025, all Town of Medway emails have changed to @medwayma.gov. Please edit your contacts to reflect this change.

Hi Nancy,

I have been in touch with Town Counsel on this matter and we would like to request some additional information regarding the proposed educational aspects of the farm. While your proposed farming operations do qualify for an agricultural exemption, it must be the primary use of the property, with the educational aspects being clearly incidental to and accessory to the farming. Some factors that may aid in determining whether the educational aspects are incidental may be the area of the property that will be used for the educational uses compared to the farming uses, the number of visitors expected related to the educational uses, the expected proportion of revenue that will be generated by the educational uses as compared to the farming uses.

Could you please produce a response that summarizes how farming will be the primary use and the educational aspects will be clearly subordinate to the farming?

Thank you.

Jonathan Ackley

Building Commissioner &
Zoning Enforcement Officer
Town of Medway Building Dept.
155 Village Street, Medway MA
508-533-3253
www.MedwayMA.gov

From: NANCY DUBIN <[REDACTED]>
Sent: Tuesday, September 16, 2025 11:33 AM
To: Jonathan Ackley <jackley@medwayma.gov>
Cc: Jeremy Thompson <jthompson@medwayma.gov>
Subject: Re: [External] 12 Waterview Medway

Thank you for confirming receipt !

On Sep 16, 2025, at 11:30 AM, Jonathan Ackley <jackley@medwayma.gov> wrote:

Note: As of July 1st, 2025, all Town of Medway emails have changed to @medwayma.gov. Please edit your contacts to reflect this change.

Hi Nancy,

Thanks for sending this. We will review and be in touch.,

Take care.

Jonathan Ackley

Building Commissioner &
Zoning Enforcement Officer
Town of Medway Building Dept.
155 Village Street, Medway MA
508-533-3253
www.MedwayMA.gov

From: NANCY DUBIN <[REDACTED]>
Sent: Tuesday, September 16, 2025 11:09 AM
To: Jonathan Ackley <jackley@medwayma.gov>
Subject: [External] 12 Waterview Medway

[You don't often get email from [REDACTED]. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Good Morning !

I stopped in to see you last week but you were out ! Hope you had a nice weekend !

Attached is our farm description as requested , Please call me with any questions ! I figured email is better for your busy schedule

I know my land surveyor stopped in with our plans.

As I initially explained , Our farm will be centered around far animals , growing and educating children . The word "Petting Farm" can be a very electric word leading to a visual of Giraffes, zebras and non stop traffic for open hours .

We will remove the word "petting farm" , that are is for animal demonstration and interaction as an educational avenue.

Please call me or set up any time to review

Nancy and David Dubin

[REDACTED]

Please remember when writing or responding, the Massachusetts Secretary of State has determined that e-mail is a public record. The information in this e-mail, including attachments, may contain privileged and confidential information intended only for the person(s) identified above. If you are not the intended recipient, you are hereby notified that any dissemination, copying or disclosure of this communication is strictly prohibited. Please discard this e-mail and any attachments and notify the sender immediately.

<Medway Description 2025 pdf.pdf>



12 Waterview Medway , Mass. 02053

We recently purchased 12 Waterview Dr. In Medway . We are excited to get our plans going for this 61A Property focusing on Farming ~ A cut Flower farm, vegetables ,raising/keeping animals, Chickens for Eggs, Horses for Horsemanship Classes/riding ,Agri ~Educational programs, Summer camps and Agri ~ Tourism events . A complete Agri~ Educational Farm to educate children and their families on Farm Livestock , how to care for them , interact with them and hands on how a farm works !

We will not be open to the pubic on a daily basis . All programs will be booked : camps , educational/interactive classes, events and one on one educational sessions.

We currently own and operate a 61A property in Holliston , Mass., Willow Brook Farm . We have not determined yet if the name will carry over or if the Medway farm will have a new name.

Livestock we will Have on the Property ~

Miniature Highland Cows
Chickens for eggs (no roosters)
Nigerian Dwarf Goats
Sheep (will be shorn for fiber)
Llamas (will be shorn for fiber)
Alpacas (will be shorn for fiber)
6 Horses for hands on learning hands on Equine basics
Mini Pigs - No more then 2
Donkeys
Miniature Horses
Rabbits
Sebastopol Geese

We focus on smaller breeds, with some being on the national conservatory list
Our Housing for Animals will be raised and individual small buildings.
Our Manure will be trucked away ~ Loaded daily into a Trailer and taken away weekly

Please call me with questions !

Nancy and David Dubin
[REDACTED]



Exempt Use Review Application - 0R and 12 Waterview Drive

From Jonathan Ackley <jackley@medwayma.gov>
Date Thu 6/25/2026 4:04 PM
To evc@ddcrwlaw.com <evc@ddcrwlaw.com>
Cc MMW@DDCRWLAW.com <MMW@DDCRWLAW.com>; Barbara Saint Andre <bsaintandre@medwayma.gov>; Jeremy Thompson <jthompson@medwayma.gov>
Bcc JPerrotta@k-plaw.com <jperrotta@k-plaw.com>

4 attachments (18 MB)

1. Exempt Use Application v2.pdf; 2. Site Plan - 2026-05-29.pdf; 8. Project Narrative.pdf; 9. Project Narrative - Exempt Status.pdf;

Good afternoon, Attorney Cannon,

I am reaching out regarding the proposed agricultural use at this property to request some additional information that will aid in my review for zoning compliance, in accordance with G.L 40A section 3. Specifically, I am trying to determine if the primary use of this property is indeed agricultural, or if its educational, as the application and supporting documentation submitted appears to state both. As you are aware, the primary use must be agricultural, and the educational and residential uses must be clearly accessory to the agricultural use.

The Zoning Bylaw defines accessory uses as uses that are "customarily incidental and subordinate to the principal use." Please provide further information to support your position that the accessory educational and residential uses will satisfy this definition. In particular, in regard to the educational uses, how they will be "subordinate" to the agricultural use. Helpful information may be the projected hours of operation and revenue for each use, but feel free to provide any information that may support your position. In regard to the residence, please provide further support or information relating to your position that a person living on the site will "protect the farm and livestock", and how a person living on site will affect operation of the farm compared to a person not living on the site.

Lastly, I did have an additional question regarding the Building Code compliant use of tents onsite as shown on the site plan. There are typically two types of tents, permanent and temporary, each with their own requirements and design parameters under the Building Code. Could you and/or the property owner please clarify whether the proposed tents will be set up permanently or will be temporary tents to be setup and taken down seasonally. I plan to provide additional comments regarding the code compliant installation once I know which style tent is proposed.

Thank you for your time.

Regards,

Jonathan Ackley
Building Commissioner
Town of Medway
155 Village Street
Medway, MA 02053
508-533-3253 (office)
508-321-4928 (direct)
MedwayMA.gov



Doherty, Dugan, Cannon,
Raymond & Weil, P.C.

Edward V. Cannon, Jr., Esq.
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Enclosure 3

124 Grove Street, Suite 220
Franklin, MA 02038
TEL. NO. (508) 541-3000
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<https://ddcrwlaw.com>

July 20, 2026

Certified Mail No. 9589 0710 5270 0067 8238 61
Return Receipt Requested

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
Town of Medway
155 Village Street,
Medway, MA 02053

Re: Request for Determination of Agricultural Exemption
Applicant: Dubin, Nancy and David
Locus: 0-R and 12 Waterview Drive, Medway, MA 02053

Dear Commissioner Ackley:

As you know this office is representing the above applicants concerning the use of their farm off Waterview Drive in Medway. Please accept this as a formal request for a determination from you that the applicants' proposed agricultural use is an exempt use pursuant to M.G.L. Chapter 40A, Section 3. At this time the applicants are not seeking a determination from you concerning the exempt status of any educational use, but the applicants are reserving all their rights to seek such a determination at a later date.

The proposed farm will include a single-family residence on a small portion of the 12.1 acre site, which will be occupied by the farmer, who will manage and work on the farm. A copy of sheet C-3 of the proposed Site Plan is enclosed herewith for your reference.

The proposed agricultural activities will take place on the vast majority of the site, at least ten times the area used for the farmhouse, and will consist of the following:

- In a large field taking up most of the eastern portion of the site, planting and harvesting flowers and vegetables to be sold;
- All of the remainder of the farm that is not wetlands will be used for purposes of keeping and raising livestock, which is intended to include: chickens for eggs, horses for horsemanship, riding and equestrian care activities, miniature highland cows, Nigerian dwarf goats, sheep, llamas, alpacas, mini pigs, donkeys, miniature horses, rabbits, and Sebastopol geese.
- The farming operations will include educational and interactive agricultural programs, agricultural day camps and agricultural events to help visitors learn about farming and appropriate care of the animals.

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BY: [Signature]

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
July 20, 2026
Page 2,

The income generated by farming operations from animal products, riding, programs, day camps and events will far exceed \$1,000 per acre per year.

"Agriculture" is defined as "the science or art of cultivating the soil, harvesting crops, and raising livestock." "Livestock" is defined as "animals of any kind kept or raised for use or pleasure." *Building Inspector of Mansfield v. Curvin*, 22 Mass.App.Ct. 401, 494 N.E.2d 42, 43 (1986).

"In *Dailey v. Tinkham*, Misc. Case No. 237153 (Land Ct. 1997), and in *Jarvis v. Knowles*, Misc. Case No. 234576 (Land Ct. 1998), the Land Court ruled that the concurrent use of land for both residential and agricultural purposes does not negate the 'primary use' protection afforded by §3. If concurrent residential use could negate the Zoning Act's protection for agricultural uses, family farms throughout the Commonwealth would be stripped of their status." Bobrowski, Mark. *Handbook of Massachusetts Land Use and Planning Law*, 6th ed., New York, Wolters Kluwer, 2024, Section 4.03, p. 4-6, Note 17.

For your reference enclosed please find a current copy of Article 28 of the Town of Medway General Bylaws "Right to Farm". Please note that Article 28 states that "farming" includes "conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to the marketing and agricultural output or services of the farm." - p. 70.

Please let me know if you have any questions or would like any additional information.

Thank you for your time and attention to this matter.

Respectfully,

Edward V. Cannon, Jr.

Edward V. Cannon, Jr.

EVC

ecc: Barbara J. Saint Andre, Dir. Of Comm. & Eco. Dev.
Dan Merrikin
Nancy Dubin
David Dubin

