

9/6/2023

# FINAL DRAFT

PLANNING BOARD SUBDIVISION RULES & REGULATIONS  
Town of Middleton, Massachusetts



9/6/2023

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## 1. General Provisions

### 1.1. Authority.

Under the authority vested in the Planning Board of the Town of Middleton by MGL c. 41, § 81Q, said Board hereby adopts these amended "Rules and Regulations Governing the Subdivision of Land in the Town of Middleton, Massachusetts."

### 1.2. Purpose.

These rules and regulations have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of Middleton, by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and of the Board of Appeals under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; will provide safe and convenient access for all users of all ages and abilities, by all modes of transportation including pedestrians, bicyclists, motorists, public transportation users, and delivery and emergency vehicle operators, for lessening congestion in such ways and in the adjacent ways; for reducing danger to life and limb in the operation of motor vehicles or travel by foot, bus, bike or wheelchair; for securing safety in the case of fire, panic and other emergencies; for ensuring compliance with the applicable provisions of the Zoning Bylaws and the Stormwater Management Bylaw of the Town of Middleton: for securing adequate provisions of water, sewerage, drainage, underground utility services, street lighting, fire, police, and other similar municipal equipment and other requirements where necessary in a subdivision; for coordinating the ways in a subdivision with each other and with the public ways in Middleton and with the ways in neighboring subdivisions.

To the fullest extent reasonable and practicable, all subdivisions shall be designed and constructed to incorporate the most recent design standards, best practices, policies and design elements of:

- The most recent update of the Town's Master Plan.
- The Town of Middleton Complete Streets Policy (Chapter 355 of Town Code\_)
- Town of Middleton Stormwater Management Bylaw (see Chapter 204 of Town Code)

It is the intent of the Subdivision Control Law that any subdivision plan filed with the Planning Board shall receive the approval of the Planning Board if said plan conforms to the recommendation of the Board of Health and to the rules and regulations of the Planning Board pertaining to the subdivision of land; provided, however, that the Planning Board may, when appropriate, waive, as provided for in §250-16.B (renumber), such portions of the rules and regulations as is deemed advisable.

### 1.3.Number of dwellings per lot.

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to such use on any lot in in Town without the consent of the Board unless allowed by the Zoning Bylaws. Such consent may be conditioned upon providing adequate ways and furnishing access to each site for such building in the same manner as otherwise required for lots in a subdivision.

### 1.4.Changes and alterations.

No changes or alterations, except as provided for in MGL c. 41, § 81-0, shall be made in an approved definitive plan without first resubmitting the changes to the Board for approval. Any alteration in grades, drainage plans or other utilities shall be deemed to constitute a change in a definitive plan.

### 1.5.Acceptance of ways and improvements.

Approval of a definitive plan shall not of itself constitute the laying out or acceptance by the Town of any way shown on such plan as a Town way, or the establishment as a public improvement for which the Town is responsible any park, playground, reserved area or other work or improvement shown on the plan. The ways shown on such plan shall not become public ways unless and until laid out and accepted as Town ways under the provisions of MGL c. 82, §§ 21 to 24 inclusive and according to the requirements found in Town Code Chapter 383: Roadway Acceptance Procedures.



## 2. Definitions

For the purpose of these Rules and Regulations, unless a contrary intention clearly appears, the terms and words defined in Section 81-L of Chapter 41 of the General Laws shall have the meaning given therein. The following other terms and words shall have the following meaning:

**ABUTTING OWNER:** The owner(s) of property which is contiguous to the property being subdivided and the owner(s) of property with frontage immediately across a public way from the property being subdivided. This will be identified from the assessors' records at the time of application.

**ACRE:** A unit of land equal to 43,560 square feet.

**AGRICULTURAL SOILS:** Agricultural land with soils designated as prime or of statewide or local significance by the Natural Resources Conservation Service (NRCS) soil surveys.

**APPLICANT:** Either the owner of the land stated in the application for subdivision or all the owners where title is held jointly, in common, or in tenancy by the entirety, including corporations. An agent, representative, or his assigns may act for an owner, provided written evidence of such fact is submitted. Evidence in the form of a list of their officers and designated authority to sign legal documents shall be required for a corporation.

**APPLICATION:** The application for the approval of a proposed subdivision or resubdivision of land, preliminary, modification, or definitive, or for an endorsement of an "approval not required", or "ANR" plan" (Form A).

**APPROVAL NOT REQUIRED (ANR):** Subdivisions that result in new parcels with frontage along existing roadways. This type of subdivision does not require approval from the Planning Board

**APPROVED AND ENDORSED BY PLANNING BOARD:** As applied to a plan or other instrument required or authorized by the subdivision control law to be recorded, shall mean, bearing a certification or endorsement signed by a majority of the members of a planning board, or by its chairman or clerk or any other person authorized by it to certify or endorse its approval or other action and named in a written statement to the register of deeds and recorder of the land court, signed by a majority of the board.

**BOARD:** The Planning Board of the Town of Middleton.

**CMR:** The Code of Massachusetts Regulations.

**COMPLETE STREETS:** Roads that are designed for all modes of transit, including vehicles, public transportation, biking and walking, for people of all abilities. Design considerations include bike or bus lanes, road narrowing, sidewalks, crosswalks, and facilities such as covered bus stops or bicycle parking. Please reference the Town of Middleton's Complete Streets Policy [Chapter 355 of Town Code] See Appendix B.

**CONSULTANTS or CONSULTING SERVICES:** Includes, but is not limited to, architects, biologists and other environmental experts, chemists, engineers, geologists, landscape architects, planners, lawyers, sanitarians, and surveyors.

**DEAD END STREET (CUL-DE-SAC):** A street which joins another street at only one end with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**DETENTION BASIN:** An excavated basin for the short-term detention of stormwater runoff that allows a controlled release, typically through a combination of pipes and weirs sized to provide a certain discharge rate.

**DEVELOPER:** Not necessarily the owner of the land, but the person, persons, or corporation responsible for the subdivision application and development. This is interchangeable with APPLICANT and SUBDIVIDER. The developer may or may not be the original applicant, and may be a subsequent owner of the subdivision.

**DEVELOPMENT:** Any construction or grading activities conducted on real estate.

**DEVELOPMENT REVIEW GROUP:** A municipal review group composed of representatives from Middleton land use related departments that meet on a monthly basis to review ongoing and newly proposed projects in the Town of Middleton. The meetings are scheduled by the Town Administrator's office and the Town Planner acts as a point of contact for information pertaining to the meetings.

**EASEMENT:** A right to use or control real property owned by another for a specified purpose, and must be recorded at the Registry of Deeds.

**ENGINEER:** Any person who is currently registered by the Commonwealth of Massachusetts to perform professional civil engineering services.

**FRONTAGE:** The horizontal distance between the side boundaries of a lot, measured along the exterior line of the way or street serving as legal access to the lot.

**GENERAL LAWS (MGL):** The General Laws of Massachusetts. In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections in the new codification.

**IMPROVEMENT:** Any change to the existing conditions of a subdivision site for the purpose of complying with these regulations or rendering the site suitable for development and habitation. As used in these regulations, improvements include, but are not limited to, construction and installation of roadways, paved streets, berms, gutters, sidewalks, utilities, street signs, monuments, shade trees, drainage facilities, erosion and sedimentation control measures, fire ponds, sewage and water systems, buildings, earth filling or removal, seeding, and grading.

**LANDSCAPING:** Changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce a desired aesthetic effect appropriate to the site.

**LOT:** An area of land in one ownership, with definitive boundaries, used, or available for use, as the site of one or more buildings.

**MAXIMUM EXTENT PRACTICABLE (MEP):** Refers to the extent of efforts to comply with local post-construction stormwater management requirements. Elements of MEP indicate serious intent to comply and include selecting and implementing design elements to address site restrictions. MEP is defined as the following:

- Proponents of development/redevelopment projects have made all reasonable efforts to meet the applicable Massachusetts Stormwater Standards;
- They have made a complete evaluation of possible stormwater management measures stormwater BMPs, and environmentally sensitive site design that minimizes land disturbance and impervious surfaces; and,
- If not in full compliance with the applicable Standards, they are implementing the highest practicable level of stormwater management.

**MUNICIPAL SERVICE:** Public utilities furnished by the Town in which a subdivision is located, such as water, sewerage, gas, and electricity.

**NEW DEVELOPMENT:** Any construction activities or land alteration resulting in total earth disturbances equal to or greater than 20,000 sq. ft. (or activities that are part of a larger common plan of development disturbing equal to or greater than 20,000 sq. ft. on an area that has not been developed previously to include impervious cover.

**OPEN SPACE:** Property within a subdivision designated to be deeded by the developer to the Town of Middleton, a homeowner's association or other approved agency, or to be maintained by the developer or owner in an undeveloped state in a manner approved by the Planning Board. Such open space is to be used for passive or active recreation, agriculture, forestry, rare and endangered species habitat, natural or scenic vistas, unique natural or cultural features, or greenways. Such open space shall be retained in substantially a natural, wild or open condition, or in a landscaped condition in such a manner as to allow to a significant extent the preservation of wildlife or other natural resources. Open space shall be contiguous areas containing a high ratio of interior area to edge area. Open space shall contain to the greatest extent possible soils uniquely suited to agricultural use and that further create greenway corridors to establish linkages in landscape. Such areas shall be of adequate size and configuration to accommodate the intended use, and shall not include narrow or irregular pieces of land which are remnants from the layout of lots, streets, or drainage structures. Open space does not include areas designated for sediment control, erosion control, or storm water control, nor does it include wetland resource areas. Such areas are considered part of the subdivision structure, and are not intended to be for recreation.

**OWNER:** The owner of record as shown at the County Registry of Deeds, Land Court, or Probate Court.

**PERFORMANCE GUARANTEE:** A guarantee, in the form of a surety bond, cash, savings passbook, covenant, negotiable securities or lender's agreement, by the developer to be

used to complete subdivision improvements if the developer does not complete the improvements as promised, as required by MGL c. 41, Section 81U.

**PLAN, DEFINITIVE:** A proposed plan of a subdivision submitted by the applicant to be recorded in the Southern Essex County Registry of Deeds or Land Court when approved by the Planning Board.

**PLAN, PRELIMINARY:** A plan of a subdivision submitted by the applicant showing sufficient information to form a clear basis for discussion and clarification of its general contents and for the preparation of a Definitive Plan.

**POST CONSTRUCTION IMPERVIOUS SURFACE AREA:** The final impervious cover on the SITE.

**PRIVATE WAY:** a way approved under the Subdivision Control Law but conditioned to be maintained by a Homeowners Association created for the maintenance of the way.

**RECORDED:** Recorded in the Registry of Deeds of County except that, as affecting registered land, it shall mean filed with the Recorder of the Land Court.

**REDEVELOPMENT:** Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances equal to or greater than 20,000 sq. ft. (or activities that are part of a larger common plan of development disturbing equal to or greater than 20,000 sq. ft.) that does not meet the definition of NEW DEVELOPMENT.

**REGISTER OF DEEDS:** The Register of Deeds of Southern Essex County and when appropriate, shall include the Recorder of the Land Court.

**REGISTERED MAIL:** Registered or certified mail.

**REGISTRY OF DEEDS:** The Southern Essex District Registry of Deeds in Salem, Massachusetts and, when appropriate, the Land Court.

**RETENTION BASIN:** An excavated basin for the retention of stormwater runoff that is designed for infiltration or ponding and evaporation.

**RIGHT-OF-WAY:** That portion of land which is or is intended to be made available for the construction of roadways, ditches, drainage structures and utility lines and is to be conveyed to the Town in the case of a proposed Town road, or conveyed to an association charged with maintenance of such right-of-way in the case of a private road, including but not limited to the traveled portion and all adjacent land encumbered or intended to be encumbered by all necessary easements. The form and content of the instrument of conveyance shall be subject to the approval of the Middleton Town Counsel, at the option of the Planning Board.

**ROADWAY:** That portion of a way which is designed and constructed or intended to be constructed for vehicular travel, also known as the traveled portion of the way. See also STREET.

**SITE:** The area extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover, excluding redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways as described under REDEVELOPMENT above.

**SPECIAL FLOOD HAZARD AREA:** The land in the floodplain subject to a one-percent or greater chance of flooding in a given year. The special flood hazard area contains all Zones A and A1-A30 as determined from the most recently prepared Flood Insurance Rate Maps, and subsequent revisions.

**STABILIZATION:** Structural or vegetative treatment applied to an area in order to prevent soil erosion.

**STANDARD SPECIFICATIONS:** Standard Specifications for Highways and Bridges, Massachusetts Department of Transportation, most current as amended/supplemented standard edition.

**STORMWATER POLLUTION:** Occurs when rain that falls on streets, parking lots and other land carries pollution into lakes, rivers, streams or other water bodies. Pollutants can include oil and fuel from vehicles, fertilizers and pesticides from yards or agricultural lands, pet waste, and soil picked up by erosion.

**STREET, COLLECTOR:** a street designed to receive and distribute traffic from and to various sub-areas and neighborhoods, and which will carry a substantial volume of traffic generally, over 400 vehicles per day.

**STREET:** A public or private way either shown on a plan approved in accordance with these rules and regulations or otherwise qualifying a lot for access and frontage under MGL c. 41, Section 81L.

**STREET, MINOR:** A street which primarily provides access to adjacent land uses. It will usually have a cul-de-sac.

**STREET, MAJOR:** a street having the primary purpose of carrying through traffic and the secondary purpose of providing access to abutting property.

**STREET, SECONDARY:** A street which primarily provides access to adjacent land uses and which serves to connect minor streets with major streets.

**SUBDIVISION:** Subdivision shall mean the division of a tract of land into two or more lots and shall include resubdivision, and when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided however that the division of a tract of land in two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it was made, every lot within the tract so divided has frontage on:

- A public way or a way which the Clerk of the Town of Middleton certifies is maintained and used as a public way; or

- A way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law; or
- A way in existence when the Subdivision Control Law became effective in the Town of Middleton, having, in the opinion of the Planning Board, sufficient construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.
- All of which have adequate Access from Public way

**SUBDIVISION CONTROL LAW:** Refers to Sections 81-K to 81 GG, inclusive of Chapter 41, of the General Laws of the Commonwealth of Massachusetts, entitled "Subdivision Control" as last amended.

**SUBDIVISION TYPE I:** a subdivision for residential uses

**SUBDIVISION TYPE II:** a subdivision for commercial uses

**SUBDIVISION TYPE III:** a subdivision for industrial uses

**SURVEYOR:** Currently Registered Land Surveyor in the Commonwealth of Massachusetts.

**TOWN:** The Town of Middleton, Commonwealth of Massachusetts.

**UTILITIES:** Public utilities furnished by off-site providers, such as water, sewer, gas, electricity, telephone, television, or other media.

**WAY:** A right-of-way or means of access to a lot. A public way is a way which has been accepted by, and the land owned by, the Town of Middleton, or by other means created as a public street. Any other way (private way) is a way over land which is owned by a private party but which is set forth by deed covenant, deed description or by other means as a private way.

**ZONING:** No subdivision rule may affect the size, shape, width, frontage, or use of lots. All subdivisions will fully comply with the Town Zoning By-Law.

**ZONING BYLAWS and ZONING MAP:** The Zoning Bylaws and Zoning Map of the Town of Middleton, as amended.

### 3. Plan Believed Not to Require Approval.

#### 3.1.Filing Procedure.

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and believes that their plan does not require approval under the Subdivision Control Law may submit a plan, application, and any necessary evidence via the online permitting portal and deliver to the planning office the following:

- One (1) original and one (1) copy of signed application (Form A)
- Two (2) full size hard copies of plan,
- Necessary evidence to show that the plan does not require approval under the Subdivision Control Law.

One copy of application and plan shall be filed with the Town Clerk. Receipt of the notice of filing by the Town Clerk shall constitute the date of submission. The applicant shall also file the appropriate filing fee to cover the cost of handling reviews and public meeting expenses (See Chapter 240, General Rules, Section 2 for the appropriate Planning Board fees).

#### 3.2.Board Action.

The night of the meeting, the applicant shall bring the mylar copy of the plan to the meeting. Before the Board makes its determination, it shall review or have a consultant review the correctness of all street information and compliance with the Zoning By-Laws. If, in the judgment of the Board, consulting services are necessary or appropriate, the applicant shall be responsible to cover the full cost of such services prior to the endorsement of the plan.

If the Board determines that said plan does not require such approval, it shall, without a public hearing, endorse the plans. The board may add explanatory notes to the plan before endorsement. Said plan shall be returned to the applicant, and the Board shall notify the Town Clerk of its action.

Where the Board determines that in its opinion adequate access (as contemplated by section 81M of the Subdivision Control Law) does not exist, or that the plan shows a subdivision of land, then the Board shall determine that the plan does require approval under the Subdivision Control Law and shall give written notice of its determination stating its reason(s) to the Town Clerk and the applicant within 14 days and return the applicant's plan.

If the Board fails to act upon a submitted plan within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Laws is not required as certified by the Town Clerk.

After endorsement by the Board the applicant shall file the endorsed mylar with the Southern Essex District Registry of Deeds.

Appeal. Any person may submit his plan for approval as provided by law and the rules and regulations of the Board or he may appeal the determination of the Board in the manner provided in MGL c. 41, § 81BB.

### 3.3. Plan Contents.

The plan shall be prepared by a Massachusetts Registered Land Surveyor, shall be clearly and legibly drawn with waterproof ink upon mylar at a scale not smaller than one (1) inch equals forty (40) feet or a scale appropriate to project proposed, with the sheet size not exceeding thirty-six (36) inches by twenty-four (24) inches, and shall contain the following information:

- 1.** North arrow, date, scale, legend, locus, and title, "Subdivision Approval Not Required".
- 2.** The names and addresses of the owner/s of record at the time of submission of the application, the applicant, and Land Surveyor (including the official seal).
- 3.** The names, lines and widths of all existing streets, sidewalks, publicly owned trails and shared use paths, and any common or public areas.
- 4.** Location and setbacks of all existing structures on the proposed site.
- 5.** Location, dimensions and purpose of all easements, both existing and proposed, within and adjacent to the land in question.
- 6.** The plan shall show boundary lines, dimensions of all subject lots, sites of divisions, lot areas (in acres or square feet, as appropriate), with all lots designated numerically and in sequences.
- 7.** Location of all monuments properly identified as to whether existing or proposed.
- 8.** Frontage dimensions of all lots created and the dimensions of any frontage remaining on the original subdivided parcels, including the area of any subdivided parcels with a structure.
- 9.** Suitable space to record the action of the Board and the signatures of members.
- 10.** Book and page number from the Registry of Deeds or title reference of subject property.
- 11.** A notation reading "Endorsement of this Plan does not certify compliance with the zoning required for a building lot."
- 12.** Zoning classifications and location of any zoning district boundaries that may lie within the locus of the plan.
- 13.** In the case of the creation of a new lot plan, the remaining contiguous land area and frontage of the land in the ownership of the applicant shall be shown.
- 14.** Notice of any decision of the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any building(s) thereon.
- 15.** Abutters from the latest Assessors' records unless the applicant has knowledge of any changes subsequent to the latest available Assessors' records.
- 16.** Location of all existing buildings, including setback and side and rear dimensions.
- 17.** A locus plan of sufficient scale to clearly indicate the location of the property.
- 18.** Areas of all parcels being subdivided must be shown.
- 19.** The status of the roadway on which the lots have frontage must be shown (i.e., public, county) of existing traveled way and construction must be shown to determine the adequacy of the way.



## 4. Roadway Improvement Plan

### 4.1. Applicability

Prior to issuing a building permit for new construction, the Building Inspector must obtain a determination from the Planning Board that the lot upon which the building is being erected has frontage upon a street.

The Zoning Bylaw defines a street as:

*"A public way or a way which the Clerk of the Town of Middleton certifies is maintained and used as a public way, or a way shown on a plan approved and endorsed in accordance with the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in the Town of Middleton on March 15, 1955, having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the building erected or to be erected thereon."*

For a lot with frontage on one of the aforementioned ways, which lot existed prior to the date on which subdivision control was adopted by the Town (March 15, 1955), and does not have, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the building erected or to be erected thereon; the Planning Board hereby adopts rules and regulations by which an applicant may improve said way without submitting a definitive plan under the Board's "Rules and Regulations Governing the Subdivision of Land in Middleton, MA.

### 4.2. Procedure for review of Roadway Improvement Plans

Prior to implementing these rules, the Board must find that the lot in question falls under the criteria described in the above paragraphs. To make this determination, the Board requires applicants to submit, as part of their application, the following information.

#### 4.2.1. Existence of lot prior to subdivision control.

To demonstrate that the lot in question existed prior to the date on which subdivision control was adopted by the Town, the applicant shall provide a copy of the recorded deed and plan (if any) as recorded in the Essex County Registry of Deeds, which shows that the lot existed in its current form prior to March 15, 1955.

#### 4.2.2. Existence of way.

**Town Clerk Certification.** If the applicant is attempting to demonstrate that the lot in question has "frontage on a way which the Town Clerk certifies is used as and maintained regularly and consistently as a public way by the Town to the same extent to which other public ways are maintained by the Town," then the applicant shall provide a letter from the Town Clerk in which the above-described certification is made.

**Previously Approved Plan.** If the applicant is attempting to demonstrate that the lot in question has "frontage on a way shown on a plan previously approved and endorsed by the Planning Board and recorded at the Registry of Deeds," then the applicant shall provide a copy of the approved definitive subdivision plan as recorded in the Essex County Registry of Deeds, including the book and page number of said recording.

**Existed Prior to Subdivision Control.** If the applicant is attempting to demonstrate that the lot in question has "frontage on a way existing prior to the date on which subdivision control was adopted by the Town, then the applicant shall provide deeds, maps, and other documentation which shows that the road in question existed prior to March 15, 1955 and provide evidence that the road has a history of being used as a traveled way.

#### 4.3.Submittal requirements.

Those wishing to file a Roadway improvement Plan shall submit a plan, application, and any necessary evidence via the online permitting portal and deliver to the planning office the following:

- Two copies (1 original signature) of the application form (Form M)
- Two (2) full size hard copies of plan
- the required evidence found under this section (Section 250.4) of Town Code
- Appropriate filing fee found under Chapter 240, Section 2 (Planning Board General Rules)

Plans<sup>1</sup> shall be certified by a registered land surveyor per CMR 250, drawn to scale of at least one inch to 40 feet (or in lesser detail if approved by the Planning Board), signed and stamped by a registered land surveyor and civil engineer, and showing the following information:

---

<sup>1</sup> Note: For an existing road that is adequate in all respects except that it lacks a proper surface, the Planning Board may determine that the plan does not need to be signed and stamped by a professional civil engineer, and need not contain the information described under 4.3.5., 4.3.6., & 4.3.7.

- 4.3.1. Street name, boundaries, North point, benchmarks, date, scale, legend, and title "Road Improvement Plan."
- 4.3.2. Names of the applicant, surveyor, and engineer.
- 4.3.3. Existing and proposed boundary lines of right-of-way.
- 4.3.4. Existing and proposed traveled way within the right-of-way.
- 4.3.5. Existing and proposed topography of street.
- 4.3.6. A locus plan of the subdivision at one inch equals 1,000 feet, showing proposed street and its relation to the surrounding area.
- 4.3.7. Typical cross section at one-inch equals five feet horizontal; one inch equals one foot vertical. Typical cross section of road shall show the width of layout; width and pitch of pavement, including berms and shoulders; and the depth of base course and road pavements.
- 4.3.8. Signature block and a space for the date of endorsement.
- 4.3.9. A notation reading "Endorsement of this plan does not imply compliance with zoning nor does it signify approval under the Subdivision Control Law" shall be placed on the plan.

#### 4.4. Design standards.

The design standards for road construction in the Town of Middleton are described in the Planning Board's Rules and Regulations Governing the Subdivision of Land in Middleton. As a general rule, however, roads constructed under this Section (§250-6) need conform only to the following minimum standards.<sup>2</sup>

- The width of the street right-of-way shall be no less than 20 feet.
- The minimum width of the traveled way shall be no less than 16 feet. (3)
- The maximum center-line grade shall be 12%.
- When the grade exceeds 6% on the approach to an intersection, a leveling area with a slope of not more than 4% shall be provided for a distance not less than 50 feet from the intersecting street.
- The road construction standards described in the Appendix of the Board's Subdivision Regulations.
- For a dead-end street, a "T" or "Y" shaped turnaround, of a design satisfactory to the Planning Board.

##### 4.4.1. Road surface requirements.

In order for a way to be determined to have "adequate construction," it must be paved with bituminous concrete (asphalt) and be in good condition. However, in certain situations the

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<sup>2</sup> Note: In some instances, conditions may warrant either more restrictive or less restrictive standards than those listed above; such standards may be imposed by the Planning Board in any particular case in which such standard(s) is in the public interest and not inconsistent with the intent and purpose of these regulations.

Board may allow a road surface such as processed gravel, porous bituminous concrete, or other all-weather surface, provided that:

1. The way in question will be serving no more than one additional lot; (2)
2. The grade of the way in question is not more than 5%; and
3. Any of the following three criteria are met:
  - a. The Conservation Commission has requested that the way in question not be paved to minimize the impact of the road on the surrounding wetlands; or
  - b. The way in question is an extension of, or located off a public or recognized private way that is not paved with concrete, bituminous concrete, or macadam, and which serves other house lots; or
  - c. The way in question serves as frontage for at least one other existing residential lot.

#### 4.4.2.Length of road improvement required

At a minimum, the applicant shall improve the roadway to within the design and road surface standards for a length equal to the required frontage for the lot in question. Based on the condition of the remainder of the subject road, as well as the condition of ways that provide access and egress to and from the subject road, the applicant may be required to make additional street improvement to ensure adequate access. The nature of said improvements shall be determined by the Planning Board.

#### 4.5.Plan review and approval.

Plans submitted in accordance with the above requirements shall be reviewed and acted upon by the Planning Board within 60 days of the submittal. Prior to taking action the Board will hold a public hearing to obtain public comment on the plan. The hearing shall be advertised in a newspaper of local circulation at least seven days prior to the hearing. The cost of advertising the public hearing shall be borne by the applicant.

The Planning Board shall make a final determination on the application no later than 60 days after submittal, and said decision shall be filed with the Town Clerk within said time. If a plan is approved, it shall be signed by the Chairman of the Planning Board or his/her designee. If a plan is found to be unsatisfactory, the Planning Board shall deny the application, and the reasons for denial shall be included in the Board's decision. Once the applicant has addressed the reasons for disapproval and submitted such to the Planning Board, it may be approved by the Board without a public hearing.

#### 4.6.Recording of plan.

The Planning Board's approval under these rules and regulations shall not take effect until an endorsed copy of the plan and decision, certified by the Town Clerk and executed by the developer, has been recorded with the Essex County Southern District Registry of Deeds. A certified copy of the recorded document shall be submitted to the Board prior to the issuance of a building permit.

#### 4.7.Completion of improvements.

Upon the Chairman's endorsement of the Road Improvement Plan, the applicant may proceed with the improvements. The applicant shall notify the Planning Board or its

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designee when the improvements are completed. Within 14 days of such notice, the Planning Board or its designee, upon consultation with the Director of Public Works, shall notify the applicant in writing as to whether the road improvements have been satisfactorily completed. If they are found to be unsatisfactory, the Planning Board or its designee shall state the reasons in the letter to the applicant. Once the applicant has addressed the reasons for disapproval to the satisfaction of the Planning Board or its designee, the Planning Board or its designee shall advise the Building Inspector that the roadway provides adequate access to the applicant's lot.

## 5. Preliminary Plan

### 5.1. General.

In the case of a subdivision showing lots in a residential zone, any person, before submitting his definitive plan for approval, may submit a preliminary plan. In the case of a nonresidential subdivision, any person, before submitting his definitive plan for approval, shall submit a preliminary plan. The submission of such a Preliminary Plan will enable the applicant, the Planning Board, or other municipal agencies, and owners of property abutting the subdivision to discuss and clarify any problems of such a subdivision before a Definitive Plan is prepared.

It is strongly recommended that a Preliminary Plan be filed in all cases, except those cases where pre-submission review has adequately clarified all issues. To the fullest extent reasonable and practicable, all subdivisions shall be designed and constructed to incorporate the most recent design standards, best practices, policies and design elements of:

- Complete Streets
- Stormwater Management

At the time of submission, the center line of the proposed roadway shall be adequately and accurately staked or flagged on the site, and the individual proposed lots shall be identified in some manner, sufficient for identification by the Planning Board members and Town officials when site visits are made

### 5.2. Filing Procedure.

1. Any person who submits a Preliminary Plan shall do so by submitting a plan, application, and any necessary evidence via the Online permitting portal (will serve as application to PB and BOH). A copy of the received application will be filed with the Town Clerk. Receipt of the notice of filing by the Town Clerk shall constitute the date of submission.
2. The applicant shall also deliver the following items to the Planning Department:
  - Two hard copies (one signed) of the application form (Form B)
  - Two (2) hard copies of full size plans
  - Any necessary evidence
  - Appropriate filing fee (See chapter 240, Section 2)
3. The applicant shall include a list of anticipated requested waivers from the Subdivision Rules and Regulations along with each application.
4. Any additional expenses for outside consultants for professional review of the plans, survey, or inspections shall also be paid by applicant in accordance with the Planning Board Policy for Hiring Outside Consultants under MGL chapter 44, Section 53G (See Planning Board Policies and Procedures for Fees).

### 5.3.Contents.

The Preliminary Plan shall be drawn at a scale of one inch to forty feet (1"=40') or such other scale as the Board may accept to show details clearly and adequately on a sheet of paper twenty-four by thirty-six inches (24" x 36"). Said plan shall be prepared by a currently Registered Massachusetts Engineer and currently Registered Massachusetts Land Surveyor. The Plan shall include the following:

1. The Subdivision name, boundaries, North arrow, date, scale, legend and title "Preliminary Plan".
2. The names and addresses of the owners of record, the applicant and the engineer or surveyor.
3. The names of all abutters, as determined from the most recent tax list.
4. A locus plan overlaid on the most recent MassGIS orthophotos or other best available high-quality low-elevation air photos.
5. Existing and proposed lines and names of streets, ways, sidewalks, trails, shared use paths, and easements and any public or common areas within the subdivision, in a general manner.
6. The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
7. The proposed method of sanitary sewage disposal and system and water distribution system (including general soils information), in a general manner.
8. The approximate boundary lines of proposed lots with approximate areas and dimensions. The names, approximate locations and widths of adjacent streets.
9. The topography of the land, in a general manner.
10. Land subject to protection/permitting under the Wetlands Protection Act (CMR 140)
11. An index plan at a scaled of one inch equals two hundred feet (1"=200'), when multiple sheets are used.
12. A key plan at a scale of one inch equals one thousand feet (1"=1000').
13. In the case of a subdivision covering less than all of the land owned by the subdivider, a plan showing in a general manner the proposed overall development of all said land.
14. The identification of zoning districts within the boundaries of the proposed subdivision.
15. The approximate boundary lines of all existing lots within the subdivision and those abutting the tract, with approximate areas and dimensions.
16. The names, approximate location, area and dimensions of existing nearby easements and public areas.
17. The proposed locations and depths of other municipal services and utility installations where possible.

### 5.4. Action by the Board.

Within forty-five (45) days of submission of the Preliminary Plan, the Board shall take one of the following actions:

- Approve the plan as presented;
- Approve the plan with modifications;
- Disapprove the plan.

The board shall then file its decision with the Town Clerk and notify the applicant (certified mail). Failure of the Board to file its decision on a Preliminary Plan within 45 days after submission shall be deemed to constitute approval of such a plan. In the case of disapproval, the reasons why shall be stated. Approval of the plan does not constitute the approval of a subdivision and no Register of Deeds shall record a Preliminary Plan.

Approval of the Preliminary Plan by the Board does not constitute approval of a subdivision but does facilitate the procedure in securing approval of the Definitive Plan. In addition, such approval does not in any way authorize the owner to proceed with construction of roadways and/or other work in the subdivision.



## 6. Definitive Plan

### 6.1.General.

A Definitive Plan shall be governed by the subdivision regulation in effect at the time of submission of such plan, or in effect at the time of submission of a Preliminary Plan, provided that a definitive plan evolved therefrom shall have been submitted to the Board within seven (7) months from the date of submission of the Preliminary Plan (if submitted).

A Definitive Plan shall also be governed by the zoning in effect at the time of submission of such plan or a Preliminary Plan from which a Definitive Plan is evolved in accordance with the provisions of Section 6 of Chapter 40A of the General Laws as amended.

### 6.2.Pre-submission Review.

It is strongly advised, where projects require additional approvals from other permitting authorities, that such approvals be obtained either prior to submitting applications to the Planning Board or are submitted to the other permitting authorities at the same time that applications are submitted to the Planning Board. It is important to note that other permitting authority's processes may have time lines that are not coterminous with the Planning Board's Subdivision Approval process. Prior to investing in extensive professional design efforts for subdivision plans, it may be beneficial for the prospective applicant to discuss his/her ideas with the Middleton Development Review Group to avoid possible problems at a later stage of the subdivision review process. Any person choosing to appear before the Development Review Group is strongly recommended, but not required, to prepare a Voluntary Sketch Plan that will include the following:

- Existing Resources / Site Analysis Map: A map which identifies, locates, and describes noteworthy features to be designed around through sensitive subdivision layouts, such as vegetation, wetlands, steep slopes, agricultural soils, historic or cultural features, threatened or endangered species, unusual geological formations, and scenic views or viewsheds.
- Voluntary Sketch Plan: A simple and inexpensive drawing prepared by a professional landscape architect, architect, planner, site designer or engineer, which illustrates conceptual layouts of house lots, streets, stormwater management, conservation areas and other improvements. Ideally, this is based on the Existing Resources/Site Analysis Map and reflects comments received from Town officials.

Contact between the applicant and Planning Board outside of the formal plan submission process should be limited. Any meetings between applicants and Planning Board members must be conducted at a posted public meeting. It should be noted that any comments or suggestions made by the Board are purely advisory and they are not bound by them in their review and decisions on any subsequently submitted Preliminary or Definitive Plans.

### 6.3.Filing Procedure.

Any person who submits a Definitive Plan shall do so by submitting a plan, application, and any necessary evidence via the Online permitting portal; as well as delivering the following to the Planning Department office the materials found under Section 6.4.

- Three (3) hard copies (1 original signature) of application and required materials (see Section 6.4 below for required number of Traffic & Stormwater Studies)

- Three (3)) sets of full-size Definitive Plans and seven (7) sets of reduced scale copies on 11' x 17" paper
- Filing fee (See Chapter 240, Section 2-4, Planning Board General Rules)

One of the submitted copies of said application and plan will be filed with the Town Clerk. Receipt of the notice of filing by the Town Clerk shall constitute the date of submission.

#### 6.4. Required Materials and Information.

The applicant shall file with the Board the following:

1. Three (3) 24"x36" contact prints of the Definitive Plan, plus seven (7) additional sets of reduced scale copies on 11"x17" paper.

The 24"x36" print shall have the significant features illustrated according to the following color scheme:

Feature	Identifying Color
Roads	Dark gray
Streams and water bodies	Blue
Wetlands	Solid Red
100 year floodplains	Orange
Dedicated open space and recreation areas	Green
Pedestrian and bicycle paths	Brown
Subdivision and lot boundaries	Black

2. Three (3) properly executed application Form C applications.
3. A filing fee (See Planning Board General Rules for current list of fees). In order to receive the discounted fee for submitting a Preliminary Plan, said plan must be submitted not less than 60 days before the date the Definitive Plan is submitted. Any additional expenses for outside consultants for professional review of the plans, survey, or inspections shall also be paid by applicant in accordance with the Planning Board Policy for Hiring Outside Consultants under MGL chapter 44, Section 53G (See Planning Board General Rules).
4. A list of requested waivers from the Subdivision Rules and Regulations.
5. The materials required under Chapter 240, Section 3 of the Planning Board's General Rules: "Providing Parties-In-Interest Notification Materials."
6. A detailed Development Impact Statement (see Appendix D.)
7. The Definitive Plan shall be prepared by a current Registered Civil Engineer and current Registered Land Surveyor and shall comply with the requirements of Section 6.5; "Definitive Plan Contents". The Plan shall be at a scale of one inch to forty feet (1"=40'), unless otherwise specified by the Planning Board. Sheet size shall not exceed 24" x 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision.
8. Traffic Analysis (one (1) complete hard copy of report and appendix and two (2) hard copies of report only). The developer shall be required to provide a traffic analysis prepared by a registered traffic engineer. This report must bear the traffic engineer's stamp and detail the

number of vehicle trips generated per day, and how traffic will affect the surrounding road network. This analysis must conform to the standards contained in the most recent version of the *Massachusetts Department of Transportation Highway Division Traffic and Safety Engineering 25% Design Submission Guidelines*. This plan should explain traffic impacts, types of streets, opportunities for public transit access, impacts on vehicle, pedestrian and bicycle circulation and include the following:

1. Estimated daily and peak hour vehicle trips generated by the proposed use, traffic patterns for vehicles and pedestrians showing adequate access to and from the site, and adequate vehicular and pedestrian circulation within the site. Previous generated data may be used but may not be more than two years old.
  2. Traffic flow patterns at the site, including entrances and egresses and curb cuts on site and within 200 feet of the site
  3. An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
  4. Adequate pedestrian access, including provisions for sidewalks to provide access to adjacent properties and between individual businesses within a development.
  5. Safe provision for school bus stops and public transit stops when appropriate.
9. A Stormwater Management Plan, in accordance with Section 248 of the Middleton Town Code and also in compliance with these Subdivision Rules & Regulations, must be approved by the Town before any work commences on an approved Definitive Subdivision Plan. Applicant shall submit one (1) hard copy of the Stormwater Management Plan along with the plans. Wherever possible, the proposed drainage system shall be designed to utilize, and be compatible with, the existing drainage patterns and existing natural features of the site.

The storm water management plan shall be designed to incorporate and address the stormwater management for the entire proposed development, including anticipated buildout of individual lots.

Detention ponds shall be utilized wherever possible, although other methods will be entertained where detention ponds are determined, by the Board, not to be feasible. The systems shall also be designed such that the volumes and velocities of storm water leaving the site after construction shall not exceed that of the pre-construction state of the site.

Detention ponds, retention ponds and other storm water drainage structures, not located within the proposed existing street right-of-way, must be located on their own individual parcel, and may not be included as a part of any intended building lot. Such individual parcel shall be placed under the ownership, control and responsibility of a homeowner's association, or other approved equal by the Planning Board, created for such purpose. An easement shall be granted to the entity owning the street (including its successors and assigns) authorizing the discharge of storm water into said drainage structure. Said association shall be responsible for:

1. the maintenance, repair, and improvement of the storm water drainage structure ensuring its continued functioning capability as designed and constructed
2. maintaining a bank account at all times, with a balance of no less than an amount determined by the Highway Superintendent as being sufficient, for the purpose of paying for said maintenance and improvement

3. maintaining an insurance policy in the amount of at least one million dollars (\$1,000,000.00)
  4. having said structure inspected, and maintained, repaired and improved as needed, at least once a year by a qualified person/firm (i.e., engineer, landscaper as appropriate)
  5. having said qualified person firm forward a written report, at least once each calendar year, certifying said inspection and any maintenance, repairs, and improvements that were required and undertaken to the Planning Board and Highway Superintendent/Director/stormwater permitting authority.
  6. The developer shall provide an easement on the parcel to the Town, and similar wording shall also be included in any Homeowner's Association Bylaw, where, should said association fail in any of its aforementioned responsibilities as listed above, give the Town the right to intercede and conduct any of the maintenance, repairs and improvements that it feels are necessary to ensure the proper functioning of the structure, and assess the association the cost of said maintenance, repairs and improvements, plus a 20% administrative fee.
- 10. Construction Quantities.** The applicant shall submit a detailed estimate for all construction within the proposed roadway layout and/or public utility easements, certified by the project's Registered Professional Engineer. Said estimate shall be based on the latest approved edition of "Standard Specifications for Highways and Bridges" of the Commonwealth of Massachusetts, and shall include:
1. Schedule of Values for Subdivision Construction, (see Form H: Definitive Subdivision Construction Cost Estimate)
  2. Total amount for cost of completion of project.
  3. Costs adjusted to account for municipal prevailing wages rates
  4. Costs shall be revisited and adjusted every five (5) years for an inflation/safety factor
- 11.** The applicant shall include a maintenance plan for the subdivision right-of- ways, easements and roads for the time prior to acceptance by the Town. The maintenance plan should include provision for the maintenance of road pavement, sidewalks, water and sanitary sewer, stormwater management, soil settling problems, street sweeping, snowplowing and clearing of snow from sidewalks and shared use paths, maintaining vegetative stabilization of all right-of-ways and easements, erosion controls, fall leaf clean up, catch basin and drainage system cleaning, and other provisions as determined to be necessary by the Planning Board.
- 12.** Any other information that the Board may deem necessary.

#### **6.5. Definitive Plan Required Contents**

- 1.** The subdivision name, boundaries, North arrow, date, scale, legend, and benchmark(s). All elevations shall be to the U.S.G.S. bench marks.
- 2.** The names and addresses of the owners of record, the applicant, the engineer and surveyor and their official seals.
- 3.** The names of all abutters as determined from the most recent tax list.
- 4.** Existing and proposed lines of streets, sidewalks, shared use paths, rights of way, easements, and public or common areas within the subdivision. Proposed names of new streets shall be shown.

5. Location, names and present widths of street(s) bounding, approaching, or within reasonable proximity of the subdivision.
6. Zoning districts of all the areas shown on the plan.
7. Key plan showing location of the subdivision at a scale of one inch equals one thousand feet (1"=1000'), and an index plan at a scale of one inch equals two hundred feet (1"=200'), or at a scale matching that used on the Assessors maps.
8. Existing (solid line) and proposed (broken line) topography at two (2) foot contour intervals including the finished grade of all lots.
9. Street frontage, lot numbers and areas of lots.
10. Location of all natural waterways and water bodies within and adjacent to the subdivision.
11. Location of significant site features located within the proposed right-of-way such as existing stone walls, fences, buildings, large trees (with a minimum diameter of 18" measured at 4' DBH (Diameter at Breast Height)), flood plains, and rock outcroppings.
12. Boundaries of lands subject to the Massachusetts Wetlands Law CMR-140.
13. Location and limits of soil types, particularly Agricultural Soils, consistent with the soils classification maps prepared by the Natural Resources Conservation Service.
14. Areas where the depth of natural soil to bedrock is four (4) feet or less.
15. The extent of any Interim Wellhead Protection Areas and Recharge Areas.
16. Delineation of slopes of twenty-five percent (25%) or greater.
17. Areas delineated as "BioMap Core Habitat" or "Supporting Natural Landscape" on the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program.
18. Location of all permanent monuments, properly identified as to whether proposed or existing.
19. If requested by the Board of Health, the location and results of all percolation tests to evaluate subsurface conditions for each lot in the prospective subdivision. These tests will be done if individual sewer systems are proposed. The tests will be done in accordance with the State Sanitary Code and the regulations of the Board of Health.
20. Location of all existing wells and areas of potential well locations for each proposed lot.
21. If utilizing public water, the size, pressure and location of existing and proposed water supply facilities.
22. The size, pressure and location of all fire hydrants, pump, water lines between hydrants and pump, and source(s) of water for firefighting.
23. If utilizing public sanitary sewer, the size, capacity and location of existing and proposed components of all sanitary sewer facilities.
24. Location of all the following improvements unless specifically waived in writing by the Board: street paving, bike lanes, sidewalks, shared use paths, street lighting standards, all utilities above and below ground (i.e., electricity, phone, cable TV, gas), curbs, gutters, storm drainage, and all easements (with statement of the purpose of each such easement) including any required utility easements outside of the right-of-way.
25. The location of core borings taken along the center line of the proposed road every 100' to a depth of 6'. The logs of such core borings shall be included.
26. Sufficient data including the length, bearings, radii, and central angle to determine the exact location, direction, and length of every street, and way, lot line and boundary line, and to establish these lines on the ground.
27. Profiles shall be prepared as follows:

1. A horizontal scale of 1" = 40'.
2. A vertical scale of 1" = 4'.
3. Existing grade of road center line drawn in fine black solid line.
4. Existing right sideline drawn in fine black dotted line.
5. Existing left sideline drawn in fine black dash line.
6. All elevations shall refer to the U.S. Coast and Geodetic Survey bench marks.
7. Proposed roadway center line grades drawn in heavy red line with precise elevations at point of vertical tangency, point of vertical contact, high point and low point.
8. Rates of roadway gradient shown in percentage.
9. Size, location and rates of gradient of proposed stormwater management facilities, drains, sewer lines, catch basins, man holes, as well as required new waterways, and sizes of all pipes.
10. Invert and rim elevations of each man hole or catch basin shall be shown.
11. As long as the work is related to the proposed subdivision, profiles shall be shown even if the new work is outside said subdivision.
12. Water mains will be shown in profile to demonstrate sufficient clearance of other structures.
13. Size and location of all other utilities to be placed in the right of way. These shall be placed so as to minimize flood damage.
14. Location of any intersected public or private way.
- 28.** Cross sections details shall comply with the Typical Section contained in Appendix B and shall include: Street section showing paving, crown, berm, shoulder and distance to the right of way line, sidewalks, bikelanes and cross sections for any stormwater management facilities or drainage trench.
- 29.** Suitable space to record the action of the Board and signatures of Board members.
- 30.** The following Statements shall appear on all plans:
  1. Planning Board approval of any subdivision shall be deemed revoked in all cases where the construction of ways and installation of municipal services has not been completed or where the applicant (his agents or assigns) has failed to meet any conditions of said approval by the completion deadline date stated in the Subdivision Approval, unless such time is extended in writing between the applicant (his agents or assigns) and the Planning Board in accordance with the provisions of Section 6.12.
  2. Compliance with the requirements of the Subdivision Rules and Regulations, unless they have specifically been waived by the Planning Board, are required as part of the approval of this plan.
  3. Approval of this plan shall be automatically revoked if recorded more than six (6) months following the date of endorsement unless specifically waived prior to such expiration by the Planning Board.
- 31.** Location of all special flood hazard areas as determined from Flood Insurance Rate Maps, designated as Zones A and A1-A30, for the Town of Middleton, as well as a note on the plan stating the Community Panel Number(s) and whether or not the subject property is in a Special Flood Hazard Area.
- 32.** Landscaping Plan showing the location of all existing and proposed landscaping, including the center of any proposed cul-de-sacs. Tree species must be approved by the Tree Warden.

Indicate which large trees (with a minimum diameter of 18" measured at 4' DBH (Diameter at Breast Height)) are proposed to be removed within the proposed right-of-way.

- 33.** Phased projects should include a plan showing the land included in each phase. Each phase shall be designed with both a standard roadway and a cul-de-sac. In the event that the whole subdivision is not constructed, a cul-de-sac shall be constructed at the terminus of the length of roadway that is constructed.

## **6.6. Review by Staff**

- 1.** the Board of Health. At the time of the filing of the Definitive Plan with the Board, two (2) copies shall also be filed with the Board of Health by the applicant. The Board of Health shall report in writing its approval or disapproval of said Plan. In the event of disapproval it shall make specific findings as to which if any of the lots shown on said Plan cannot be used as building sites without injury to the public health. The Board of Health shall include specific findings and the reasons therefore in such report, and where possible it shall make recommendations for adjustments necessary for the Plan's approval. Any approval by the Board shall be on the condition that lots deemed injurious to the public health shall not be built upon without prior consent of the Board of Health. The Board shall endorse on the plan such conditions, specifying the lots to which said conditions apply. Failure by the Board of Health to report on the proposed subdivision within forty-five (45) days after the filing of the Plan shall be deemed approval of the Plan by the Board of Health and in these cases a note shall be added to the plan that health approval is by failure to report.
- 2.** Other Town Departments. Upon submission of a Definitive Plan, the board shall schedule review of the plan by all town land use departments (the Development Review Group). A copy of the application shall be transmitted to any consultants that may be selected by the Board for their review. Comments and recommendations shall be made to the Board within forty-five days following receipt of a copy of the plan.

## **6.7. Public Hearing.**

Before approval, modification, and approval or disapproval of the Definitive Plan is given, a public hearing shall be held by the Board. Said Public Hearing shall be held after the Board of Health makes its report or after the 45-day period to report expires. Notice of the specific time and place shall be given by the Board at the expense of the Applicant by advertisement in a newspaper of general circulation in the Town of Middleton once in each of two successive weeks, the first publication being not less than fourteen days before the date of such hearing. A copy of the Definitive Plan shall be available to the Public through the Town Clerk's office, not less than fourteen (14) days before the date of the Public Hearing. A copy of said notice of public hearing shall be mailed by the Planning Board to the applicant and to all owners of land abutting upon the land included in such plan as appearing on the most recent tax list in accordance with M.G.L. Chapter 41, Section 81T. For a description of the applicant's responsibility to provide parties-In-Interest notification materials, see Chapter 240, Section 3 of the Planning Board's General Rules.

## **6.8. Approval, Modification or Disapproval.**

After the required public hearing, but within ninety (90) days from submission if a Preliminary Plan was approved, or within one-hundred and thirty-five (135) for non-residential subdivisions or applications which no preliminary plan was submitted, the Board

shall take final action upon the Definitive Plan. It shall approve the Plan as submitted, modify and approve the Plan or disapprove the Plan and file a decision within 14 days with the Town Clerk (see Form E: Certificate of Decision for Definitive Subdivision Plan). If the Board modifies or disapproves the Plan, it shall state with its vote the reasons for its action. Compliance with the requirements of the Subdivision Rules and Regulations, unless they have specifically been waived by the Planning Board, are required as part of the approval of this plan.

The failure of the Board either to take final action or to file with the Town Clerk a certificate of such action regarding the definitive plan submitted by an Applicant within one hundred thirty-five (135) days after such submission (or 90 days if a Preliminary Plan was filed for same project), or such further time as may be agreed upon at the written request of the applicant (see Form L: Extension of Time Request), shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the Board with the Town Clerk.

Approvals of Definitive Subdivision Plans are transferable only upon the prior approval of the Planning Board.

Appeals may be taken to the Superior Court in accordance with MGL c. 41, s.81-BB.

#### 6.9. Endorsement of Definitive Plan.

An approved, or approved with modifications, Definitive Plan shall not be endorsed until after the mandatory twenty-day appeal period has elapsed as certified by the Town Clerk, or after issuance of a final decree of the court sustaining the approval of such plan, if appealed, and not until the applicant has complied with and submitted all of the following:

1. A revised Definitive Subdivision Plan with the necessary corrections if conditional approval was given or modification required
2. One set of the Mylar originals of the plan (for recording at the Southern Essex Registry of Deeds), one copy in a digital format approved by the Planning Board, and three copies of the definitive plan; Said mylars must bear the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied.
3. A municipal lien certificate, indicating that all taxes, assessments and charges have been paid in full.
4. In a form accepted by Town Counsel, all deeds of easements, as shown on the plan and/or required by the Planning Board, and signed an agreement to pay for Town engineering or legal review service.
5. The applicant shall submit all documents including, but not limited to, master deeds, restrictive covenants, deed restrictions, shared land, detention pond, open space, and recreation areas.
6. A homeowners' association must be established to maintain the streets and infrastructure until and unless the streets are accepted by the Town. Covenants must include the requirement that the homeowner's/landowner's association or other entity accept all responsibility to keep all sidewalks in front of open space associated with the project free of snow. This requirement shall apply even if omitted from a covenant.



7. A proforma or sample of the individual property deeds to the individual homeowners to be used showing that the developer has retained their rights and ownership of the right-of-way. When selling lots, the developer shall retain their rights and ownership of the right-of-way, and such shall be stated and included in all deeds to lots in the development.
8. Performance Guarantee per Section 6.11. The monetary value of the required performance guarantee, for all methods other than a covenant, shall be based on a Construction Cost Estimate per Section 6.10 if conditional approval of the subdivision was given and if said approval changed the original quantities. In addition, the monetary value of the performance guarantee shall be adequate to cover all costs the Town would incur to complete the project at the end of the expiration of said guarantee, including but not limited to construction costs at state (or, if required, federal) prevailing wages, record plans, street acceptance plans, and legal costs.
9. In cases where the developer has requested, and the Planning Board has approved, that the road not be accepted as a Town Road but be kept as a Private Way, not under the ownership and/or responsibility of the Town but under the ownership and responsibility of a homeowner's association as established in accordance with state law, the developer shall submit to the Planning Board for its approval an irrevocable declaration that shall be included in the deed to the roadway, the homeowner's association Master Deed and Bylaw/ordinances, and the deeds to all of the lots in the subdivision. Said irrevocable declaration shall state that said way is a Private Way and not a Town road, that it is not under the ownership and/or responsibility of the Town but under the ownership and responsibility of the homeowner's association, that it shall remain a Private Way in perpetuity and, if at such time it is ever petitioned to become a Town Road that it first must be brought into compliance with the design and construction standards for a definitive subdivision road required at the time that the petition is submitted.
10. Failure of the applicant to meet the above requirements shall be full and sufficient reason to withhold endorsement. If the applicant fails to submit the required performance guarantees, easements and other documentation and the endorsement of the plan by the Planning Board is delayed more than six months after the expiration of the twenty-day appeal period, the Planning Board, on its own motion, shall exercise its power to modify, amend, or rescind its approval of the subdivision plan or to require a change in the plan as a condition of said plan retaining the status of an approved plan.
11. Recording of plan. The developer shall, within 10 days after the definitive plan has been endorsed, record said plan, required forms and, whenever applicable, the Planning Board's order of conditions, public easements (plans and documents), restrictive covenants, master deeds, etc., at the Southern Essex District Registry of Deeds, and in the case of registered land with the Recorder of the Land Court. Within seven (7) days of said recording the applicant shall provide the Board with a copy of the Registry's receipt of said recording including the book, page number, and date of recording. The cost of said recording shall be borne by the developer.
12. Rescinding Approval of the Plan. Failure of the applicant to record the Definitive Plan at the Southern Essex District Registry of Deeds within six (6) months of its endorsement or to comply with the construction schedule of the performance agreement shall constitute sufficient cause for the Board to rescind such approval, in accordance with the requirements of section 81-W of Chapter 41 of the General Laws as amended.

#### 6.10. Construction Cost Estimate

1. With all performance guarantees the applicant shall also submit a detailed Construction Cost Estimate for all construction within the proposed roadway layout and/or public utility easements, certified by the project's registered professional engineer. Said estimate shall be based on the "Standard Specifications for Highways and Bridges," 1988 Edition, as amended, of the Commonwealth of Massachusetts, and shall include:
2. Schedule of Values for Subdivision Construction (see Form F: Definitive Subdivision Construction Cost Estimate)
3. Total amount for cost of completion of project.
4. Costs adjusted to account for municipal prevailing wage rates. Costs adjusted to add an inflation/safety factor of 20%.

#### 6.11. Performance Guarantee

Before endorsement of the Planning Board's approval of a Definitive Plan of a subdivision, the applicant shall agree to complete the required improvements specified in the approved Definitive Subdivision Plan for all lots in the subdivision, such construction and installation to be secured in accordance with Chapter 41, Section 81-U, M.G.L., as amended, by one, or in part by the other, of the following methods which may from time to time be varied with the applicant. While the applicant chooses the initial form of the Performance Guarantee, the Planning Board shall determine/approve the actual dollar amount (where applicable). The Planning Board may require a change in the form/method and amount of the Performance Guarantee when a partial release is requested by the applicant.

The applicant shall either file a surety company performance bond or provide a deposit of money or negotiable securities in an amount determined by the Planning Board in consultation with the appropriate Town departments, to be sufficient to cover the cost of all or any part of the improvements specified in these regulations at state (or, if applicable, federal) prevailing wage rates not covered by a covenant below, and to cover the costs of inspections, record plans, street acceptance plans, and legal work, and a contingency/inflation factor. Such bond, deposit of money or negotiable securities, shall be approved as to form, the surety or financial institution, and manner of execution by the Planning Board.

If financial performance guarantees are used, at least two lots in a subdivision which can be built on must be covered by a covenant to ensure that all work, including legal work, is completed.

Three-party agreement for lender retention of funds, surety bonds and other financial performance guarantees must be drafted so that the only requirement that must be met for the Planning Board to draw on the letter is to notify the financial institution (grantor) that: "We have incurred liability by reason of the failure of the applicant/ developer/owner, within ninety days of the expiration of this letter, to complete the construction of their project (insert name of subdivision and plans) in accordance with the definitive subdivision plans and submittal, the subdivision approval, the Middleton Zoning Bylaw and the Rules and Regulations Governing the Subdivision of Land in Middleton." The amount drawn, which may be more than required to complete the project, will be held in a segregated bank account until the work can be bid competitively and the bid awarded and paid for or until

the contract for the work is otherwise let and the work paid for. Any excess over the cost of completing the work will be returned to the grantor.”

**1. Approval with Money.**

By a deposit of money sufficient in the opinion of the Planning Board to secure performance of the construction of ways and installation of municipal services required for lots in the subdivision shown on the plan, and the Planning Board shall require that the applicant specify the time within such construction shall be completed (See Section 6.12 Completion Time Schedule). Deposits of money shall take the form of one or a combination of the following:

- Savings passbook (with three signed withdrawal slips) account made out to the Town of Middleton and controlled by the Town Treasurer, with agreement from the bank that no withdrawal from the account be made without approval of the Planning Board.
- Certified cashier’s check or bank check.

**2. Approval with surety bond. (see Form H: Performance Bond)**

The surety must agree that any litigation stemming out of the bond will take place in Massachusetts and the bond must include the name and address of the person to be served for any legal action. No expiration date may be allowed in the bond (The bond must be valid until the work is complete.), and the warranty performance period has been completed.

**3. Approval with covenant. (see Form G: Covenant)**

Instead of filing a bond or depositing money, the applicant may fulfill a covenant, that shall be reviewed and approved by Town Counsel, executed and duly recorded concurrent with recording the subdivision approval by the owner of record, running with the land, that no lot in the subdivision shall be sold and no building erected thereon until such ways, services and, whenever applicable, temporary turnarounds are constructed and installed, and until record plans, street acceptance plans, and other required work are accepted by the Planning Board in accordance with these rules and regulations so as to adequately serve the lots.

Such covenant shall be inscribed on the definitive plan or on a separate document referred to on the plan and delivered to the Planning Board. Upon approval of the covenant by the Planning Board, the applicant shall note the Planning Board's action on the definitive plan and the owner shall record the covenant, endorsed definitive plan, and other appropriate documents at the Southern Essex County Registry of Deeds.

## **6.12. Completion Time Schedule.**

All required improvements and legal documents shall be completed within a maximum period of three years from the date of endorsement of the Definitive Plan by the Planning Board.

**1. Time Extension Request.** Upon written request from the applicant and filed with the Planning Board prior to the expiration date, the Planning Board at its discretion, grant an extension of time, and such agreement shall be executed and affixed to the financial performance guarantee or covenant.

In the case of a surety company bond, such an agreement for an extension shall not be effective until the surety delivers to the Planning Board a written statement that the surety

agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the surety company.

2. Automatic Rescission with Covenant. In the case of a covenant, the Board may grant final approval of the Definitive Plan conditional upon the completion of the construction of all ways and installation of utilities within specified time period from date of said covenant. Failure to complete such improvements shall automatically rescind approval of the plan.
3. Failure to Complete. Failure to complete all improvements as required by these rules and regulations within the time allotted shall cause the Planning Board to draw upon the performance guarantee (surety bond, deposit of money, letter of credit) in order to complete said improvements and/or schedule a public hearing in order to rescind approval of the subdivision in accordance with appropriate sections of MGL c. 41, § 81.

If the specified subdivision improvements in accordance with the Rules and Regulations are not completed within two (2) years of the date of the bond, deposit of money, lender's agreement or covenant, the Planning Board may require an estimate of the costs of the remaining work, increase the amount of the performance guarantee proportionately, and establish a new date for completion of said required improvements. Failure of the developer to complete the improvements within said two (2) year period, or any extension thereof, shall not relieve the developer from his/her obligation to pay for increased costs for completing the improvements in excess of his/her performance guarantee and shall be grounds for rescission of the approval of the plan pursuant to G.1., Ch.41, Sec. 81 W.

#### 6.13. Partial Release of Performance Guarantee

1. Procedures for partial release. The developer may, upon partial completion and installation of required improvements in a subdivision, the security for the performance of which was given by bond, deposit of money, letter of credit, or covenant, make formal application, in writing either by hand delivery or certified mail, to the Planning Board for partial release of his/her/their performance guarantee, in accordance with the procedures set forth herein. It is up to the discretion of the Planning Board whether to approve such request. The Planning Board may deny, approve or partially approve such request. The Planning Board shall determine/approve the actual dollar amount (where applicable). The Planning Board may require a change in the form/method and amount of the Performance Guarantee when a partial release is requested by the applicant.
2. Financial performance guarantee. The amount of such a bond, or deposit of money, or letter of credit or three-party agreement for lender fund retention held may, from time to time, be reduced by the Planning Board. The applicant shall present to the Planning Board a list of all construction items performed and/or completed, said list to be based on the subdivision approval, and the subdivision regulations in their entirety. The amount to be reduced by the Planning Board, after consultation with the Highway Superintendent, shall be based upon federal or state prevailing wage construction costs at the time the application for reduction is made. The Planning Board shall withhold adequate funds to complete the project, but shall withhold no less than 20% of the original approved cost estimate. At the completion of the project (based on a written acceptance from the Planning Board that the project has been completed) and a one-year warranty period, the amount withheld shall be released according to Section 6.14.

**3. Covenant.** (see Form I: Certificate of Performance – Release of Lots)

The developer may request a release of conditions for lots where the required improvements have been completed for that section of roadway beginning at any intersection with a Town road and abutting lots up through the last lot to be released. Lots may only be released if they abut the functionally (in the opinion of the Planning Board) completed portion of the road. No partial release from the covenants will be approved if the total length of roadway, including a temporary turnaround, abutting said designated lots, exceeds the Town's maximum allowable length for dead-end streets unless the Planning Board has already approved within the limits of the development a dead-end street exceeding said limits. In the absence of financial performance guarantees, adequate covenants will be held to ensure completion of the project, including record plans, street acceptance plans, site inspections, and legal work. In addition, a covenant on two lots that can be built on will be held until either a) the Planning board has approved submitted As-built Plans of the subdivision and declared all required work complete, or b) said covenant has been exchanged for the cash value (as determined by the Planning Board) of the lot. Covenant shall be inscribed on the Definitive Plan or in a separate document referred to on the Plan, and delivered to the Planning Board.

The subdivider may request a release of lots from covenant, in exchange for a bond, deposit of money or surety provided that:

- A completed Form I: "Certificate of Performance – Release of Lots" has been submitted
  - A revised Construction Cost Estimate (see Section 4.3.8.1.8.1) for all of the work remaining to be completed in accordance with the approved plans has been submitted.
  - Lots will be released in area of the subdivision where all the required improvements have been completed.
  - The lots run consecutively and are released on both sides of the road simultaneously, beginning with the lots nearest any intersection of the subdivision road and a Town road.
  - The amount of the surety of Bond shall be determined by the Planning Board, based on the submitted revised Construction Cost Estimate and their estimates for constructing the road within existing approval. The amount of the Surety or Bond shall be determined on a request-by-request basis, and each request shall be judged on its own merits.
  - The amount of the Surety or bond on existing lots for which prior Surety or Bond has been given may be increased by the Planning Board should the specified Subdivision improvements in accordance with these Rules and Regulations not be completed within the allotted time period as specified and such increase would take into consideration increased construction costs.
  - Proof of recording of the executed Form I Release of Lots will be required by the Building Commissioner before any building permits are issued for any of the newly released lots.
- 4.** All requests for a partial release of the performance guarantee must be accompanied by:
- A revised Construction Cost Estimate (see Section 4.3.8.1.8.1) for all of the work remaining to be completed in accordance with the approved plans.
  - A certification from the project's engineer (see Form K: engineer's Certificate of Performance) that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended.

- Proof that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.

#### 6.14. Full Release of Performance Guarantee

Procedures for full/final release. The developer may, upon completion and installation of required improvements in a subdivision, the completion of record plans and street acceptance plans, as specified in these rules and regulations, and the completion of a one-year labor and materials warranty period make formal application, in writing either by hand delivery or certified mail, to the Planning Board for full release of any outstanding performance guarantee.

Before the Planning Board releases the full interest of the Town in said performance guarantee, the Planning Board shall:

1. Receive a certification from the project's engineer (see Form K) that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended. That the streets and drainage system have functioned as designed and intended and been in use through one full winter. The sanitary sewer and public water systems must be pressure tested and videotaped and comply with the municipality's standards. Documentation of such testing and videotaping must be submitted. In no instance shall bonding or covenants be released for the final road course and sidewalks until said work has withstood one full winter season. Partial or final release for this work may be requested of the Planning Board no sooner than April 1st of the calendar year subsequent to completion of way and walks.
2. Obtain in writing from the DPW Superintendent, or from a registered professional engineer chosen by the Planning Board (and paid for by the applicant), a certificate of statement that all work and systems required by these rules and regulations has been constructed in conformance with the approved construction plans. In the case where roadways will remain under private ownership, the above-mentioned certificate or statement shall be supplied by the project's registered professional engineer.
3. Receive from the applicant written evidence from the electric, telephone, gas and cable TV companies and all other public and private utilities stating that their respective underground systems have been installed and are functioning to their satisfaction.
4. Receive from the applicant written evidence from a Registered Land Surveyor that all permanent bounds and monuments on all street lines and on the lot or lots within the subdivision are in place and are accurately located in accordance with the approved Definitive Plan.
5. Find that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
6. Obtain from the applicant a set of record "as-built" construction plans. bearing the stamp and signature of a registered land surveyor. Approval of said plans by the Planning Board shall take place after review of the former by the DPW Superintendent. Plans shall show the precise location of:
  - (1) The street layout.
  - (2) The pavement, including sidewalks.
  - (3) All easements.
  - (4) Storm drainage system, including all invert elevations.

- (5) Sewerage system, including all invert elevations.
  - (6) Water system, including all gates and hydrants.
  - (7) All other utilities.
  - (8) All granite bounds.
7. Copies of all of the recorded lot deeds showing that the applicant has retained his/her/their rights to the subdivision road(s) right-of-way, or Certification from developer's lawyer that all deeds to lots contained phrasing which retained his rights to the right-of-way(s).

If the Planning Board determines that all improvements as shown on the endorsed definitive plan and all required plans and legal documents have been completed satisfactorily, it shall release all the interest of the Town in such performance guarantee and return the bond to the person who furnished the same, or release the covenant, by appropriate instrument, duly acknowledged, which may be recorded.

If the Planning Board determines after inspection that said construction or installation has not been completed, or wherein said construction or installation fails to comply with these rules and regulations, the Planning Board shall send by registered mail to the applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules.

The applicant shall have 30 days after receipt of such notice to correct all problems mentioned in the above. Failure of the applicant to finish all the necessary work within said 30 days shall cause the Planning Board to draw upon the bond or deposit of money as mentioned below.

Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the Town of Middleton, as provided in MGL c. 41, § 81, upon failure of the performance for which any bond or deposit was given to the extent of the reasonable cost to the Town of completing such construction and installation.

#### 6.15. Preconstruction Conference

Prior to commencement of construction, the developer and the contractor must meet with the DPW Superintendent and other relevant Town officials (preferably at a single meeting) to review the subdivision permit and conditions. The applicant must provide evidence that all required documents have been recorded and all required fees paid. Subsequent to said recording and prior to any building permit being issued, the project applicant shall file within seven calendar days one print of the definitive plan with the Building Commissioner. Further, in accordance with the statute, where approval with covenant is noted thereon, the Building Commissioner shall issue no permit for the construction of a building on any lot within the subdivision, except upon receipt from the Planning Board of a copy of the certificate of performance releasing the lot in question.

#### 6.16. Roadway Acceptance

When a road or way in a subdivision has been completed in a manner fulfilling the requirements of the Planning Board and is not conditioned otherwise, the Applicant may submit a "Roadway Acceptance" petition according to Chapter 383 of Town Code.

## 7. Design Standards

To the fullest extent reasonable and practicable, all subdivisions shall be designed and constructed to incorporate the most recent design standards, best practices, policies and design elements of:

- Complete Streets (see Appendix B)
- Stormwater Management Bylaw (see Appendix C).

### 7.1. Street Location and Alignment

1. All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe and convenient access for all users of all ages and abilities, by all modes of transportation including pedestrians, bicyclists, motorists, public transportation users, and delivery and emergency vehicle operators. Due consideration shall also be given by the subdivider to the attractiveness of the street layout; in order to obtain the maximum livability and amenity of the subdivision as well as connections to existing and planned public ways, vehicular, pedestrian and bicycle facilities, and connections to adjacent ways and properties. Where minimum standards are not herein specified, the latest edition of AASHTO (American Association of State Highway and Transportation Officials) "*A Policy on the Geometric Design of Highways and Streets*" shall apply.
2. The design and construction of the subdivision shall minimize, to the extent practicable, the following:
  - Volume of cut and fill, including blasting;
  - area over which existing vegetation will be disturbed, especially on land within 200 feet of a water body or wetland, on land having a slope greater than 15 percent, or overlying easily eroded soils;
  - number of mature trees removed;
  - visual prominence of man-made elements that are not necessary for safety or orientation; loss of historic resources, including historic buildings and landscape features;
  - removal of existing stone walls.
3. Provision shall be made, which is satisfactory to the Planning Board, for the proper projection of streets and ways for bicycles and pedestrians, or for access to adjoining property which is not yet subdivided or developed. Access easements must be provided for possible future connections.
4. Reserve strips prohibiting access to streets or to adjoining property shall not be permitted without expressed approval of the Board.
5. Dead-end streets (cul-de-sac) are discouraged and developers should make every effort to avoid the creation of dead-end streets and should connect proposed subdivisions to existing dead end streets wherever reasonable and practicable.
  - A developer may demonstrate that a dead-end street is appropriate when they can demonstrate that a future connection to an existing street is not possible or practicable, or when the surrounding property will never need a street connection because of extremely sensitive or permanently protected natural resources. In this situation the project must provide a viable pedestrian and bicycle connection to the surrounding property, as appropriate.
  - Where the Board has approved a proposed development of a dead-end street that ends in a cul-de-sac, the cul-de-sac shall have a circular turning radius of not less than 60 feet or a maximum of 100 feet (measured at the center-line), and a property line radius of at least 85 feet. They shall in all additional ways conform to the same requirements as any other street. The maximum length of a dead-end street is five hundred (500') as



measured along the centerline of construction of the street from the edge of the development's property line nearest the connecting existing public street which is not itself a dead-end street to the middle of the cul-de-sac.

- If a waiver is granted to allow a dead-end street longer than five-hundred feet, the subdivision approval shall be conditioned that the entire length of the roadway shall remain a private way.
  - All cul-de-sac streets shall have turnaround islands that are planted with a minimum of trees and/or other vegetation or left with natural tree growth in lieu of paving the entire area of the cul-de-sac (see Section 8.13.D). The maintenance of the inner circle shall be the responsibility of the developer, their successors and assigns, or a homeowners' association. No Stormwater Management structures shall be located within turnaround islands.
6. Horizontal curves on the street centerline shall not begin or end within one hundred and fifteen (115) feet of the centerline of the intersecting street.
  7. Streets entering on opposite sides of another street shall be laid out directly opposite each other; or with a minimum offset of 200 feet between their respective centerlines.
  8. The centerline of the roadway shall coincide with the centerline of the right-of way unless otherwise approved by the Board. The distance from the edge of pavement to the edge of the right-of-way shall be equidistant from the center-line of the roadway.
  9. Sidewalks shall be located to allow for best pedestrian utility, not necessarily parallel to both sides of the street.

## 7.2.Road Design Standards.

Street standards shall be provided in accordance with the following tables.

LOCATION AND ALIGNMENT			
		Type I Subd. & Minor/Sec. Streets*	Type II & III Major/Collector Streets*
Minimum Right-of-Way width (in feet)		Minor: 40 Secondary: 60	70
Horizontal Alignment Minimum radius of center line (in feet)		250	500
Vertical Alignment Minimum stopping sight distance at three and one-half (3.5) feet above pavement (feet)		200	275
Grade	Maximum	8	5
	Minimum	1	1
Intersection	Intersection angles (degrees)	90	90
	Minimum sight distance (in feet)(at stop-controlled or obstructed-view intersection)	300	550
	Minimum Distance center line of road shall be straight when approaching an intersection	115	115
	Maximum grade for 30' approaching an intersection	2%	2%
	Minimum radius at edge of roadway pavement (in feet)	25	55
	Minimum Radius at edge of right-of-way	25	55
* See Section 2 for Definitions of Street types			

ROADWAY CONSTRUCTION			
Bituminous Concrete	Type I Subdivision (residential)	Type II Subdivision (commercial)	Type III Subdivision (industrial)
Top Course*	1.5"	2"	1.5"
Binder Course*	2.5"	3"	1.5"
Base Course*	-	-	3"
Type I, II & III	Subgrade Soil type (as defined by the USDA/NRCS Soil Survey and determined by soil borings)		
Gravel Sub-Base	Severe/Poor	Moderate/Medium	Good/Excellent

Processed gravel*	Top 4"	Top 4"	Top 4"
Gravel base*	25"	14"	14"
Geotextile Road Fabric shall be placed under the gravel sub-base when the subgrade soil contains clay			
*Shall comply with Massachusetts Department of Transportation Specifications for Highways, Bridges and Waterways (latest edition)			

PAVEMENT WIDTH (Face of Berm-to-Face of Berm)		
	Type I Subdivision	Type II & III Subdivisions
Proposed street with MDTVP** of not greater than 100 ADT*	22'	32'
Proposed street with MDTVP** of not greater than 200 ADT*	24'	32'
Proposed street with MDTVP** of not greater than 500 ADT*	26'	32'
Proposed street with MDTVP** of not greater than 2,000 ADT*	28'	32'
Proposed street with MDTVP** exceeding 2,000 ADT*	32'	32'
Pavement width within 30' of each intersection***	24'	32'
<p>*Projected traffic volume anticipated to utilize the proposed subdivision developments roadway(s) based on ten (10) average daily trips (ADT) per dwelling unit (i.e. a two-family house will generate 20 ADT).</p> <p>**The Maximum Daily Traffic Volume Projected (MDTVP) shall be based on the above-mentioned ADT per dwelling unit, and shall include all traffic and all traffic types expected to utilize said street, whether generated within the development (as in the case of a dead-end street) or outside of said development (as in the case of a through street) and passing any section of a roadway, and shall determine the width of the entire length of said roadway. In establishing the proposed road width, the developer shall also consider the future growth of the surrounding area, and its utilization of these streets.</p> <p>***Roads less than 24' shall widen and roads more than 24' shall narrow to 24'.</p>		

### 7.3. Adequate Access from Public Way

When the physical condition or width of a public way from which a Subdivision has its access is considered by the Board to be inadequate to carry the traffic expected to be generated by such Subdivision, the Board may require the Applicant to dedicate a strip of land for the purpose of widening the abutting public way to a width at least as great as that required within the Subdivision, and to make physical improvements to and within such public way to the same standards required within the Subdivision. Any such dedication of land for purpose of the way and any such work performed within such public way shall be made only with permission of the

governmental agency having jurisdiction over such way, and all costs of any such widening of construction shall be borne by the Applicant.

The Board may disapprove of a subdivision plan where, in the opinion of the Board, the existing surrounding municipal infrastructure (e.g., street width and construction and necessary utilities) are insufficient and/or incapable of handling the anticipated additional volumes (e.g., traffic, storm water) to be generated by the project. Board may accept or require off-site improvements to mitigate any of these impacts.

#### 7.4.Easements

1. Easements for utilities shall be located around the individual lot's perimeter wherever possible. They shall be contiguous from lot to lot. Easements shall be at least 20 feet in width.
2. Where a subdivision is bisected by or adjacent to a watercourse either natural or manmade, the Board may require that there be a storm-water or drainage easement of at least 20 feet in width to conform to the path of the watercourse, and to provide for any construction related to that watercourse.
3. Easements for water lines proposed for private ways shall be granted to the Town.
4. The Board may also require an easement at any place it deems necessary to protect the health and safety of the inhabitants of the Town of Middleton.
5. All easements, including their purpose, shall be shown on the Definitive Subdivision Plan and placed on the parcel(s) deed.

#### 7.5.Protection of Natural Features.

All significant natural features such as: large trees, watercourse and wetlands, as well as scenic and historic areas shall be preserved where possible and practicable. Development shall be located to preserve the natural features and environmental resources of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts that alter or degrade natural features such as watercourses and waterbodies, unique and/or fragile areas, including wetlands and endangered wildlife habitat areas, significant trees or stands of trees, historic structures and landmarks, scenic views, vistas and view-sheds, and similar community assets. These features add to both the attractiveness, and economic value of the subdivision and the Town.

#### 7.6.Open Spaces.

Before approving a Definitive Plan for a subdivision, the Board may require that a section of that land be set aside for possible use as a park or a playground. The Board may require that no building be erected upon such area until the land is either purchased by the Town, or is deeded in gift to the Town or to a neighborhood civic association. This land may be held in said status for a period of 3 years, at which time if the land is not deeded or purchased it may be included in a new subdivision proposal.

## 7.7. Stormwater Management & Erosion and Sediment Control.

The storm water management system shall be designed to incorporate and address the stormwater management for the entire proposed development, including anticipated buildout of individual lots. All subdivision designs must comply with the Town of Middleton Stormwater Management Bylaw & Regulations (Chapters 204 & 248 of the Middleton Town Code) and these Subdivision Rules & Regulations, including Appendix C of these regulations.

Low Impact Development (LID) techniques and environmental sensitive site design in the overall design of the subdivision shall be incorporated into the design to the extent practicable.

Applicants shall complete and submit with the Definitive Subdivision filing the LID Site Planning and Design Checklist (see Appendix G).

Apart from the area for roads and the storm water system, there shall be no exposed and unstable soil, unless specifically authorized by the Board upon recommendation from the Conservation Commission and Department of Public Works Superintendent (or his designee).

Storm water shall not be permitted to sheet flow across the surface of the roadway. It must be piped underneath.

All permanent storm water control structures (including but not limited to detention/retention ponds, oil/water separators, weirs, etc.) should be located on separate parcels placed under the ownership, control, responsibility and liability of a Homeowner's Association comprised of the property owners of this subdivision, or another entity that the Planning Board deems acceptable. An easement shall be granted to the entity owning the street (including its successors and assigns) authorizing the discharge of storm water into said stormwater retention area. Sufficient draft legal documentation creating said Association, and its rules and regulations, including the aforementioned and following responsibilities, shall be submitted to and approved by the Planning Board prior to their endorsing the approved definitive plan. Final legal documents must be submitted to and approved by the Planning Board prior to recording and prior to the sale of any lots. Said Association shall be responsible for:

1. the maintenance, repair, and improvement of the storm water drainage structure ensuring its continued functioning capability as designed and constructed
2. maintaining a bank account at all times, with a balance of no less than an amount determined by the Department of Public Works Director as being sufficient, for the purpose of paying for said maintenance and improvements
3. maintaining an insurance policy in an amount of at least one million dollars (\$1,000,000.00)
4. having said structure inspected, and maintained, repaired and improved as needed, at least once a year by a qualified person/firm (i.e. engineer, landscaper as appropriate)
5. having said qualified person/firm forward a written report, at least once each calendar year, certifying said inspection and any maintenance, repairs, and improvements that were required and undertaken to the Department of Public Works Director
6. maintaining any planted cul-de-sac islands or boulevards

The Homeowner's Association documents shall also include wording providing that, should said association fail in any of its aforementioned responsibilities as listed above, granting the town the right to intercede and conduct any of the maintenance, repairs and improvements that it feels are necessary to ensure the proper functioning of the structure, and assess the association and/or the association's individual members, the cost of said maintenance, repairs and improvements, plus a 20% administrative fee. In addition, an easement permitting such access and activities by the town shall be included on the definitive subdivision plan and the deeds to the Homeowner's Association's properties and its individual member's properties which are part of the development.

#### 7.8. Catch basins

Catch basins shall be placed on both sides of the street. They shall be placed at street intersections to intercept stormwater runoff.

1. The maximum distance between catch basins shall be 300 feet unless country drainage is proposed in addition to catch basins.
2. The minimum diameter of storm drainage pipes shall be 12 inches.
3. The method of construction and the materials used in construction shall conform to the most recent Massachusetts Department of Transportation, Standards and Specifications for Highways, Bridges and Waterways.

#### 7.9. Water & Sewer

To ensure the health and safety of inhabitants, the developer shall, at their cost, connect all proposed subdivisions to the public sewer and/or water supply system, if available. Private on-lot water systems shall be constructed in accordance with the Title V Regulations of the Commonwealth of Massachusetts. It shall be subject to the approval of the Town of Middleton and Board of Health.

All connections to the public water supply shall be built in accordance with the standards and specifications set forth by the Town of Middleton and/or Town of Danvers. Conformance of standards adhering to either Middleton or Danvers specifications shall be set forth by the Superintendent of Public Works for the Town of Middleton.

There shall be no use of water hydrants for construction purposes without the prior written approval of the Water Department. Easements for water lines proposed for private ways shall be granted to the Town.

#### 7.10. Streetlights

Streetlights shall be installed as required by the Middleton Electric Light Department. Street lighting shall be provided by the applicant before the first house is occupied. Streetlights shall be at the ratio of one light per every four house lots but not less than 600 feet. Light fixtures shall be approved by the Middleton Electric Light Department and installed on lot lines in the grass area between the sidewalk and the curb.

**7.11. Access Through Another Municipality.**

At least one point of access to a subdivision must be within the Town of Middleton. In the case where additional access to a subdivision crosses land in another municipality, the Board may require certification from appropriate authorities that such access is in accordance with the subdivision requirements of such municipality, that a legally adequate performance bond has been duly posted, and/or that adequate provision has been made to handle prospective traffic.

**7.12. Reserve strips.**

Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the Board's opinion, in the public interest.

**7.13. Further subdivision.**

In the event that a tract of land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the logical and economic extension of streets, utility easements, drainage ways and public areas into such parcels.

**7.14. Resubdivision.**

The resubdivision of all or part of land covered by an existing plan shall show clearly that area or areas which are being re-divided and shall show the file number of all previous plans of these same areas with dates of filing. All areas last subdivided more than seven years previous to the date of the application shall be subdivided in accordance with the Zoning Bylaws in effect.

**7.15. Relationship to Town Plans.**

The design and layout of a proposed subdivision should be guided by the goals and objectives of the most recent version of the Town's Master Plan and the Town's Complete Streets Policy.

**7.16. Multiple Subdivision Phases.**

For subdivisions that are to be constructed in two or more phases, the following apply:

- a. All phases must be recorded at the South Essex Registry of Deeds within 6 months following the date of endorsement;
- b. A phasing plan shall be submitted showing the roadway and lots contained within each proposed phase;
- c. Plans shall show both a regular road layout and a cul-de-sac on the terminus of each phase in order to ensure adequate turn-a-round areas if subsequent phases are left undeveloped. Temporary cul-de-sacs shall be constructed with a 2.5" binder course before building permits are issued for lots within the particular subdivision phase.

## 8. Required Improvements for An Approved Subdivision

### 8.1. General Requirements.

The applicant shall provide all of the improvements required herein and installed at his/her own expense. All work done under this section shall be done under the direction of the Board, including registered engineer(s) and any other consultants appointed by the Board. The applicant shall promptly reimburse the Town for the full amount of the cost of such engineer(s) and other consultants. Performance guarantees under Section 6.11 shall be released in accordance with Section 6.13 & Section 6.14.

### 8.2. Clearing and Grubbing of Right of Way.

No perishable matter such as stump, trunks, or limbs of trees or brush shall be buried within the limits of the right-of-way lines. Trees to be preserved shall be protected from bruises and other abuses satisfactory to the Superintendent of Public Works.

### 8.3. Required Improvements Prior to Road Construction

1. A temporary mud tracking bed (construction entrance) shall be put in place at each site entrance. This tracking bed shall consist of a four (4) inch minimum layer of 2 1/2"– 4" crushed stone and shall be fifty (50) feet in length and fifteen (15) feet wide. Construction traffic shall be directed over tracking bed via fencing or other methods acceptable to the Superintendent of Public Works. This bed shall be maintained during construction to prevent tracking or flowing of sediment onto the public right-of-way and shall be removed prior to placement of gravel base and pavement.
2. All detention ponds, drainage swales, level spreaders, and drainage outflows shall be constructed and stabilized with vegetation or erosion control matting prior to the construction of approved roads. Inspections during and after the construction of these facilities by the Board or its Agent shall take place to ensure conformance to Town regulations.
3. It shall be the responsibility of the contractor to control blowing dust and soil. A functional water truck or any other Town accepted dust control measure must be available on site at all times.
4. No paving will be allowed between November 15 and April 1. The ground temperature for base course paving shall be forty (40) degrees F and rising. The ground temperature for wearing course pavement shall be fifty (50) degrees F and rising. Base course pavement will not be accepted until it has been in place for a minimum of one (1) winter season at which time the wearing course can be placed.

### 8.4. Foundation of Roadway (see Appendix A: Typical Street Cross Sections)

1. Sub-base  
Within the roadway area including driveway aprons, sidewalks, and grass strips, all material shall be removed to subgrade and any unsuitable material, in the opinion of the Town DPW Superintendent or Consulting Engineer, below subgrade shall be removed and shall be



replaced with proper bank-run gravel and brought to proper compaction. The depth of the subgrade will be governed by existing conditions and shall be as specified by the DPW Superintendent (or his designee).

Ground water. Wherever ground water is encountered within four (4) feet of the proposed roadway surface or wherever the soil type indicates the possibility of a capillary rise of water in the sub-grade soil, sub-drains shall be installed under both shoulders of the roadway. The design and depth of the sub-drains shall be in accordance with the specifications of the DPW Superintendent (or his/her designee).

Rock excavations. Wherever rock is encountered, it shall be excavated to a depth of two (2) feet below the sub-base of the roadway for the full width of the street layout. The excavated rock shall be replaced with a granular material satisfactory to the DPW Superintendent (or his designee) and the Planning Board.

Where fill is required, it shall be placed in layers not deeper than eight (8) inches and shall be spread uniformly with the large stones at the bottom.

Any gravel used as fill in the subbase shall be composed of hard, durable stone and coarse sand, practically free from loam and clay containing no stone having a dimension greater than six (6) inches, and when spread and compacted shall present a stable foundation.

Each layer shall be thoroughly compacted with a roller weighing not less than ten (10) tons and rolling shall continue until a firm, even surface true to line and grade is achieved. Any depressions shall be filled and rerolled, and any soft or unsuitable areas shall be removed and replaced with suitable material and rolled. All fill shall be placed in eight (8) inch layers compacted to not less than ninety-five percent (95%) of maximum dry density as specified in the Massachusetts Department of Transportation Standards. The developer shall be responsible for the costs of all soil testing and analysis required by the Town.

The subgrade shall be shaped and finish graded at the required depth below and parallel to the proposed pavement surface, in conformance with the Typical Street Cross-Section.

Inspections shall be required after completion of the subgrade (see § 9.1).

## **2. Gravel Base**

The gravel base courses shall consist of well compacted gravel placed upon the subgrade, the entire width of the roadway in layers not greater than six (6) inches deep.

When spreading the gravel, care should be taken to rake forward and distribute the largest stones so they will be at the bottom of the gravel base course and evenly distributed.

Each layer shall be thoroughly compacted with a roller weighing not less than ten (10) tons, and rolling shall continue until a firm, even surface true to line and grade is achieved. Any depression that appears during or after rolling shall be filled with gravel and re-rolled. All fill shall be placed in six (6) inch layers compacted to not less than ninety-five percent (95%) of maximum dry density as specified in the Massachusetts Department of Transportation Standards. The developer shall be responsible for the costs of all soil testing and analysis required by the Town.

The gravel used in the base course shall conform to the specifications of the sub-base (§ 6.4.1), except that it shall contain no stones having a dimension that complies with Massachusetts Department of Transportation Standards.

The gravel base surface shall be shaped and finish graded at the required depth below and parallel to the proposed pavement surface, in conformance with the Typical Street Cross-Section.

Inspections shall be required before commencement and after completion of the gravel base (see § 9.1).

### 8.5. Surfacing of Roadway

The roadway shall be paved the entire width, including under the berms, and the surface treatment shall be compacted bituminous concrete placed in two (2) layers.

The first layer or binder course shall be Class I bituminous concrete pavement, Type I-1, binder course mix, laid at a thickness in accordance with Section 7.2 and in accordance with Section 460 of the Massachusetts Department of Transportation Standards Specifications for Highways, Bridges and Waterways. (Latest Edition)

The second layer of surface course shall be Class I bituminous concrete pavement, Type I-1, top course mix, laid at a thickness in accordance with Section 7.2 and in accordance with Section 460 of the Massachusetts Department of Transportation Standard Specifications for Highways, Bridges, and Waterways (Latest Edition).

The plant mix material shall be delivered to the site in a hot and easily workable condition, when weather conditions are satisfactory, so that it can be properly placed on the appropriate base. Job mix formula must be approved by applicant's engineer in writing prior to installation.

All bituminous concrete shall be spread by an approved mechanical spreader in a uniformly loose layer to the full width required and to such thickness that each course when compacted shall have the required thickness and shall conform to grade and the Typical Street Cross-Section. Hand spreading of bituminous concrete material will be allowed only for special areas which do not permit mechanical spreading and finishing.

Each course of bituminous material shall be rolled with a self-propelled, equally balanced, tandem roller weighing not less than five (5) nor more than ten (10) tons. Places inaccessible to the power roller, shall be compacted by means of hand or vibratory tampers. Any displacement caused by the roller shall be corrected by raking and adding fresh mixture where required. Compaction shall be in accordance with Massachusetts Department of Transportation Standards

Traverse joints shall be formed by laying and rolling against a form of the thickness of the compacted mixture placed across the entire width of the pavement. When the laying of the mixture is resumed, the exposed edge of the joint shall be painted with a thin coat of bituminous tack coat. The fresh mixture shall be raked against the joint and thoroughly tamped with hot tampers and rolled.

The final bituminous surface shall show no deviation greater than one-quarter (1/4) inch when tested with a sixteen (16) foot straight edge placed parallel to the centerline of the surface course.

Finished roadway and driveway apron surfaces less than the required thickness or containing any soft or imperfect places will not be approved.

All roadways shall be brought up to the finish grade as shown on the Definitive Plan, and all manhole covers, gate boxes, gas drips and other access to underground utilities shall be set flush with the surface of the road, grass strip or sidewalk. Inspections shall be required upon

completion of the binder and surface courses (see § 9.1). Once completed, no steel tracked vehicles are permitted on the roadway's pavement

### 8.6. Curbs.

Proposed curbs shall be constructed along both sides of major, secondary and minor streets. Where country drainage has been approved by the Planning Board, curbs shall be located only where necessary for drainage. Construction shall meet requirements set forth by Massachusetts Department of Transportation in their latest volume of Standard Specifications for Highways and Bridges utilizing curbs, berms, catch basins, stormwater drains, oil/water separator (i.e. stormceptor, vortex, etc.) and detention/retention basins. Where possible, curbs shall not be cut out at driveway aprons.

1. Granite Curb. Unless otherwise specified by the Planning Board, granite curbs of the dimensions given for "Granite Edging Type SA" (sloped face granite curbing) shall be provided in the following locations:
  - a. Type II & III Major/Collector Streets (includes all commercial and industrial streets): along each edge for the full length of the street;
  - b. Type I Subdivision & Minor/Secondary Streets: Along all radii, at all catch basins, at all wheelchair ramps, and at all cul-de-sacs.
2. Bituminous Curb. Except where granite curbing has been required, the proposed curb shall be a bituminous concrete low profile "Cape Cod" berm along both edges of the roadway for the full length of the roadway (see Appendix A "Typical Cross Sections"). The installation of bituminous berm shall conform to the relevant provisions of the Massachusetts Department of Transportation Standard Specifications.

### 8.7. Drainage

The design capacity of the drains shall be determined by the rational method, unless the engineer exhibits satisfactory evidence that another approach is more appropriate for the specific case. The engineer shall design the drainage collection and piping system in accordance with the zoning regulations and the natural drainage boundaries of the total contributing drainage area, using a minimum 10-year design storm frequency for all subdivisions. Where, in the opinion of the Board, flooding would produce damage or a safety hazard, the design frequency storm shall be increased to 25-year. A 100-year design frequency storm shall be used for all bridge openings or major culverts. Detention/retention systems shall be designed as per the Town's Stormwater Regulations and Appendix C.

Drainage pipe within the roadway shall be reinforced concrete (or other Planning Board approved equal based on supportive engineering data submitted by the development's engineer) and have a minimum diameter of 12 inches. Joints shall be rubber gasket type. HDPE (double walled) pipes may be used for drainage outside of the roadway or for culverts under the roadway.

Where open stream channels exist within a subdivision, adequate provision shall be made for properly maintaining them. It is the Town's intent to preserve and maintain the natural features of such streams and any development should be planned accordingly.

Drainage pipe shall be bedded in accordance with the most recent Massachusetts Department of Public Works, Standards and Specifications for Highways, Bridges and Waterways or manufacturer's conditions.

Manholes and catch basins shall be precast (outlets shall contain debris hoods) and a typical detail of such noting materials, dimension and construction details shall be submitted to the DPW Superintendent for approval.

Drain manholes shall be located at every change in grade or direction of the drainage line, at catch basin connections and shall not exceed 300 feet apart in a continuous system.

Iron castings for manhole frames and covers and catch basin frames and grates shall be in accordance with the most recent Massachusetts Department of Transportation, Standards and Specifications for Highways, Bridges and Waterways. (1) Manhole cover shall have 3-inch lettering to read "DRAIN". (2) Catch basin grates shall be Massachusetts Department of Transportation compliant. (3) Stormwater treatment units shall be installed prior to discharge into stormwater basins

## 8.8.Sidewalks

Sidewalks must meet ADA and Massachusetts AAB standards and must be at least five (5) feet in width and shall be constructed on both sides of the street starting at the property line. Their construction shall be of bituminous concrete with a 1" top coat, 2" binder course and 10" of gravel base that meet the requirements set forth by Massachusetts Department of Transportation in their latest volume of Standard Specifications for Highways and Bridges. Sidewalks shall be crosspitched 1%-2% (see diagram in Appendix A).

Driveways shall be constructed at the level of the sidewalk wherever possible to avoid the need for ramps on either side of a driveway, and shall provide a consistent 1%-2% crosspitch where the sidewalk continues across the driveway. Where it is not possible to construct driveways at the level of the sidewalk, such sidewalk and driveway shall be graded in accordance with ADA/MA-AAB standards as most recently amended. All crosswalks and sidewalks shall have wheelchair ramps installed at the time of construction in accordance with ADA/MA-AAB standards as most recently amended. The developer shall be responsible for all costs associated with changes that are necessary to meet the current laws before the Town has fully accepted ownership of the property or ways. Painted crosswalks are required at adjoining ADA/MA-AAB ramps. Their construction shall meet the requirements set forth by Massachusetts Department of Transportation in their latest volume of Standard Specifications for Highways and Bridges.

The sidewalk binder course must be installed prior to the issuance of any Building Permits.

#### 8.9. Grass Strips.

All cleared areas of a right-of-way not to be planted with groundcover plantings, including all disturbed area over all culverts in drainage easements, shall be loamed with not less than four (4) inches compacted depth of good quality loam, seeded with a conservation grass seed and/or wildflower seedmix. Seeding shall be done at appropriate times of the year and in a manner to ensure growth of grass. No utility poles, signs or similar items shall be placed within the grass plot within three (3) feet of the edge of the pavement.

#### 8.10. Street Signs.

Street name signs of a design conforming to the type specified by the Manual on Uniform Traffic Control Devices shall be furnished and installed by the subdivider, of break-away design in accordance with the Massachusetts Department of Transportation latest Standards, and erected at all street intersections prior to the occupancy of any house on the street. All newly erected street signs shall initially have white backgrounds. If the road remains a private way, the sign will remain white. However, if the roadway is accepted by the Town as a public way, the developer shall pay for a street sign with a green background, which signifies public ways.

#### 8.11. Street Lighting.

Street lights shall be located to provide sufficient light for pedestrian safety and guidance, and guidance for vehicles traveling on the street, with due consideration given for costs of maintenance and electric power.

Streetlighting shall be provided by the applicant before the first house is occupied. Streetlights shall be no closer than 600 feet and shall be located on lot lines between lots within the roadway layout. Street lights shall be installed under the direction of the Middleton Electric Department. The applicant shall bear the operating costs of said lights for a period of one year from completion of the subdivision. The applicant shall deposit with the Middleton Electric Light Department the estimated operating costs for one year prior to the streetlights being connected.

#### 8.12. Monuments and Markers

Monuments shall be installed at all street intersections, at all points of change in direction, or curvature of streets and at other points where, in the opinion of the Board, permanent monuments are necessary. Such monuments shall conform to the standard specifications of the Department of Public Works Director and shall be set according to such specifications.

Markers, the type of which shall be determined by the Planning Board, shall be installed at every corner of each lot within the subdivision. Their locations shall be noted on the Definitive Plan.

All monuments and markers shall be installed before bond or covenant is released.

### 8.13. Trees and Planting

#### A. Street Trees

Shade trees of a species to be determined by the DPW Superintendent shall be planted outside of the right of way and be no closer than five (5) feet nor more than twenty (20) feet from said right of way line and no more than 30 feet apart along the way, unless otherwise approved by the Board.

The applicant shall be responsible for obtaining the full growing season for these trees or shall be responsible for replacing the tree with one at least equal in size to the tree being replaced and, again, guarantee for at least two full growing seasons.

Large and medium height growing trees shall have a minimum 2 ½" trunk diameter, caliper measured at 4' above the ground. All trees shall be planted in ½ cubic yard of loam. It shall be mulched with four inches of mulch (wood chips or equal). It shall be properly wrapped and guyed in a manner to ensure its survival.

#### B. Bank Plantings

All cut or fill bankings that tend to wash or erode shall be planted with suitable, well-rooted, and low-growing plantings. All plants shall be the equivalent of nursery grown stock in good health, free from injury, harmful insects, and diseases.

Use of invasive species is prohibited. Please refer to the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources for the latest list of invasive species. Acceptable planting includes very low-growing (4" to 12"), low growing (12" to 30"), and herbaceous plantings. Perennial grass turf installed as sod is an acceptable alternative for the planting of banks.

If bank plantings are of a type which are properly spaced at close intervals, eight (8) to twelve (12) inches of loam shall be spread over the entire bank. If the plantings are to be widely spaced, they may be planted in loam pits.

Mulch (wood chips or equal) shall be spread heavily among plantings for weed and erosion control. Softwood wood chips should not be used in areas where they will be subject to flotation and washing away.

The subdivider shall be responsible for maintenance of bank plantings and replacement of those which have died or become diseased from the time of planting through one full growing season.

#### C. Corner Planting.

Requirements for plantings adjacent to street intersections shall be the same as those for Bank Plantings with the following exceptions:

- Turf may be provided by seeding as well as by planting sod.
- Bushy shrubs and herbaceous plantings that would tend to obscure visibility are not permitted within one hundred (100) feet of the intersection of the curbs adjacent to the corner lot.

D. Cul-de-Sac Plantings.

The central portion of a permanent dead-end street should be landscaped. The following options are permitted:

- Planting with ground cover using an eight (8) to twelve (12) inch base of loam, and spreading mulch between plants for weed control.
- Planting perennial conservation grass by seed or sod and/or wildflower by seed.
- Planting ornamental shrubs of a type acceptable to the Board.
- Retaining existing vegetation, with approval of the Board.

E. Standards and Specifications.

The standards of the American Nurserymen Association and the specifications of the Associated Landscape Contractors of Massachusetts shall apply to landscaping subject to these regulations. At least 75% of all plantings must be native drought tolerant plantings and the use of invasive species of plants is prohibited. The DPW Superintendent will have final authority for the approval of trees concerning their health, species, size and location.

#### 8.14. Fire Protection

Fire protection shall be provided in the form of a water source approved by and for use by the Fire Department.

#### 8.15. Guard Rails.

Guard rails shall be installed as required by the Board or its engineering consultant, based on State Construction Standards or the publications of the American Association of State Highway and Transportation Officials (AASHTO).

#### 8.16. Utilities.

All electrical, telephone, fire alarm and other wires and cables shall be installed underground, unless in the opinion of the Board and the appropriate utility company, such installation is impractical or not in the best interest of the Town. If located within a flood prone area (determined by the Board), transformers, switching equipment, or other vital components shall be flood-proofed and approved by the Board or a Board appointed engineer at the subdivider's expense.

**8.17. Final Clean Up.**

After completion of construction and before release of the performance guarantee, the subdivider shall remove all temporary structures, debris, surplus materials, and rubbish, and shall otherwise leave the area in a neat and orderly appearance and shall clean the entire drainage system. Burning of the rubbish and waste material is prohibited.



## 9. Administration

### 9.1. Inspections

Developer shall submit a Form J "Request for Inspection Services" for the initial inspection request and keep a copy of this form for his/her own records. This form shall be used by both parties to keep track of required subdivision inspections. Inspections shall be carried out by the DPW Superintendent (if no project engineer consultant hired) or the hired project engineer consultant (to be paid for by the applicant) at appropriate times during the development of the subdivision when the following stages of progress have been reached:

1. Prior to the commencement of any work required and authorized by the approval of the Definitive Subdivision Plan, inspection of the erosion/sedimentation control facilities installed.
2. Before clearing and grubbing, the Tree Warden shall designate those trees which are to be preserved in the tree belt;
3. The roadway shall be inspected at the stages of sub-base, gravel base, binder course, surface course;
4. The sanitary and storm drainage systems before the backfilling of utility trenches and underground drainage or stormwater conveyance structures;
5. Inspections required in accordance with Stormwater Management Bylaw;
6. The water system and related accessories shall be inspected by the Middleton Water Department for lines that tie into water mains owned by the Town of Middleton and shall be inspected by the Town of Danvers Water Department for lines that tie into water mains owned by the Town of Danvers.;
7. Sidewalks shall be inspected upon completion of the sub-base, permanent binder and finish courses;
8. Curbs, loaming, and seeding operations may shall be inspected.
9. Inspections shall be made prior to backfilling of joints, bonds, couplings, etc.
10. Final Inspection when all work, including construction of stormwater management facilities and landscaping have been completed. Final inspection shall include a full, dated TV inspection of all stormwater pipes installed.
11. Requests for inspections shall be made at least 48 hours in advance.
12. Right of entry for inspection. When any new stormwater control or other facility is installed on private property, or when any new connection is made between private property and a public drainage control system or sanitary sewer, the filing of an application shall be deemed as the property owner's permission to the permit granting authority, or its agent, for the right to enter the property at reasonable times and in a reasonable manner for the purpose of the inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Bylaw is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Bylaw.

The applicant shall provide the Planning Board with an inspection consultant bond in an amount approved by the Planning Board sufficient to cover the municipality's expenses for their designated engineering professional to undertake the required inspection process.

The Applicant shall provide the municipality's designated engineering professional with an anticipated construction/inspection schedule.

The Board may make arrangements with a professional person or firm to carry out such inspections on behalf of the Town (See Chapter 4 of Planning Board's General Rules). The subdivider shall notify the proper inspector at least 48 hours before carrying out the above-mentioned stages.

Construction of streets and installation of utilities may be phased provided that each section shall not be less than 500 feet

Inspection (full-time during utility installation, at strategic times during overall construction) costs shall be computed by the DPW Superintendent, paid by the subdivider, and deposited into a 53G Consultant Fund Account (see Chapter 4 of the Planning Board's General Rules).

Each specified construction stage should be completed to the satisfaction of the Inspector in writing before further work shall be done. Further work performed without this approval will result in returning the construction to the status necessary to perform the required inspection.

The developer has the responsibility to ensure that the approved construction plans are implemented and construction qualities are met. Surveillance and field revisions by Town officials and inspectors cannot be construed as fulfilling this responsibility.

## 9.2. Waiver of Compliance.

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Laws. Please refer to Appendix E for full waiver requirements. Waiver requests must be submitted in writing as part of the Definitive Subdivision Plan Submission.

## 9.3. Fees.

The Board shall adopt reasonable fees to cover all administrative and review costs. The fee schedule may be amended by the Select Board when deemed necessary (See Chapter 2 of the Planning Board's General Rules for most current fee schedule). The Board has the right to hire "outside consultants" at the expense of the applicant in accordance with MGL Chapter 44, Section 53G (see Chapter 4 of the Planning Board's General Rules).

## 9.4. Validity.

The invalidity of any of the foregoing rules, regulations, and requirements shall not affect the validity of the remainder. Any part of these Regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law, and shall be deemed to be effective immediately. Corrections to inadvertent errors within these regulations that do not constitute a material change in these regulations can be done at a regular Planning Board meeting.

#### 9.5. Interpretation.

Whenever these Rules and Regulations made under the authority hereof differ from those prescribed by any local bylaw or other local regulation, the provision which imposes the greater restriction or the higher standard shall govern. The Town of Middleton shall not be held responsible for any individual interpretation of these rules and regulations.

#### 9.6. Administrative Forms.

The attached appendices, administrative forms, applications, and other documents associated with subdivisions are not included in the approved Subdivision Rules & Regulations and may be changed from time to time at a regular Planning Board meeting.

#### 9.7. Appeals.

Appeals of plans under Section 81-P and 81-T may be taken to the Superior Court in accordance with MGL c. 41, s.81-BB.

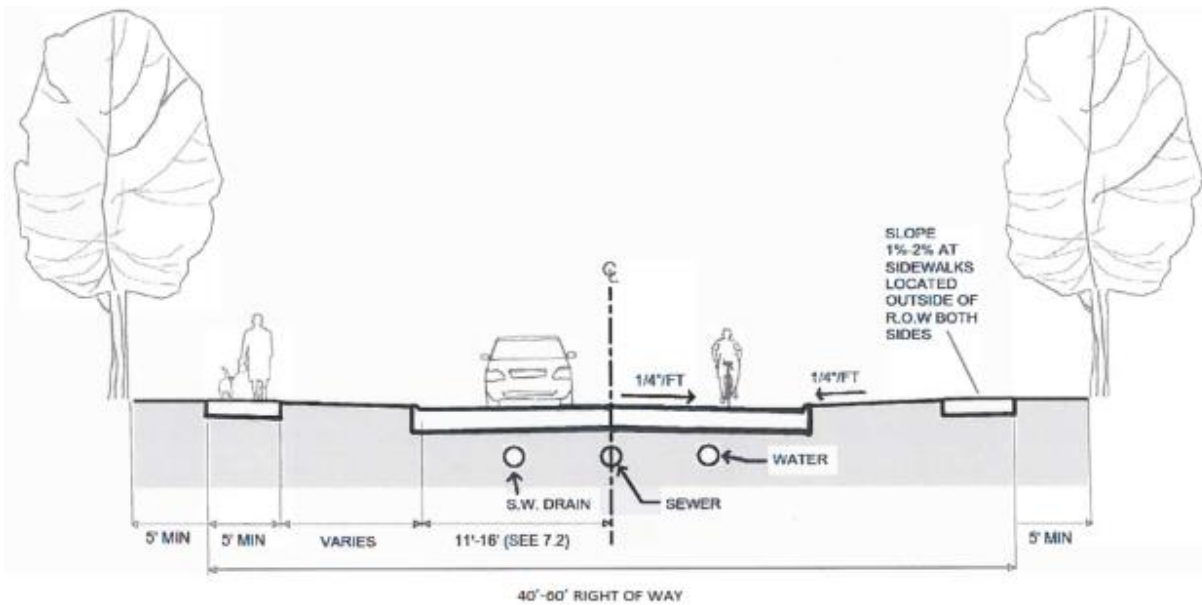
## Appendices

Appendix A:	Typical Street Cross Sections
Appendix B:	Complete Streets
Appendix C:	Stormwater Management Requirements
Appendix D:	Sample Development Impact Statement
Appendix E:	Authority of the Board to Allow Exceptions and Waive Requirements
Appendix F:	Online Permitting Instructions
Appendix G:	LID Site Planning & Design Checklist

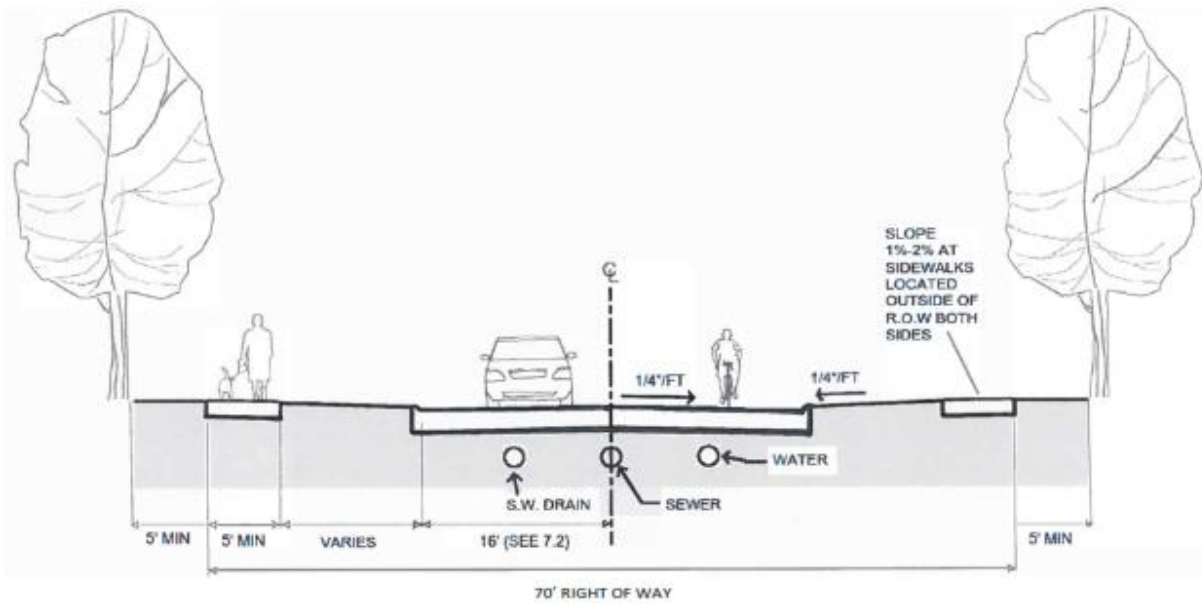
## Forms

Form A:	Application for Endorsement of Plan Believed Not to Require Endorsement
Form B:	Application for Approval of a Preliminary Plan
Form C:	Application for Approval of a Definitive Subdivision Plan
Form D:	Application for Approval of a Modified Definitive Subdivision Plan
Form E:	Definitive Subdivision Plan Approval Decision/Conditions Template
Form F:	Definitive Subdivision Construction Cost Estimate
Form G:	Covenant Agreement
Form H:	Performance Bond Agreement
Form I:	Certificate of Performance – Release of Lots
Form J:	Request for Inspection Services
Form K:	Engineer’s Certification of Performance
Form L:	Definitive Subdivision Extension Request
Form M:	Application for Roadway Improvement Plan

## APPENDIX A TYPICAL STREET CROSS SECTION, PAVEMENT DETAILS & INTERSECTION DIAGRAMS

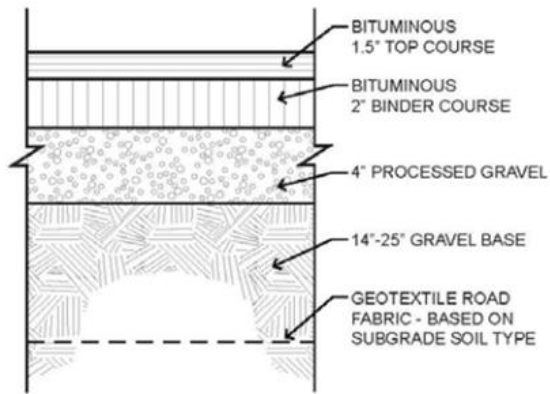


**TYPE I SUBDIVISION & MINOR/SECONDARY STREETS (NOT TO SCALE)**

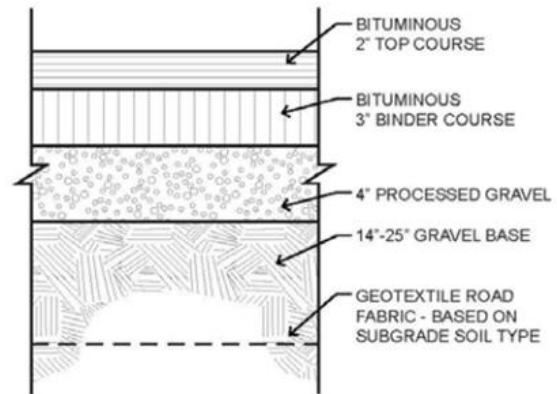


**TYPE II&III SUBDIVISION & MAJOR/COLLECTOR STREETS (NOT TO SCALE)**

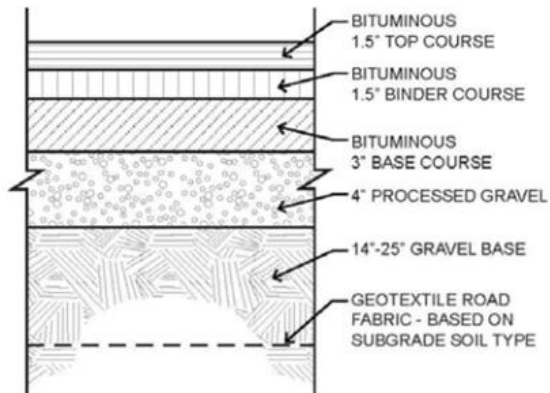
## Pavement Details



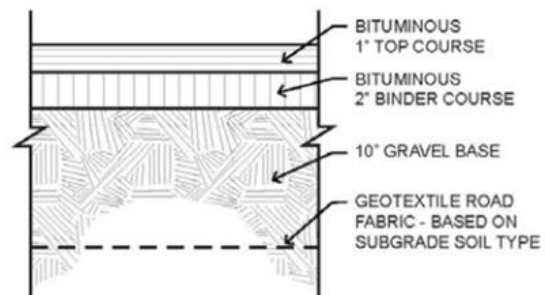
**TYPE I SUBDIVISION**  
NOT TO SCALE



**TYPE II SUBDIVISION**  
NOT TO SCALE

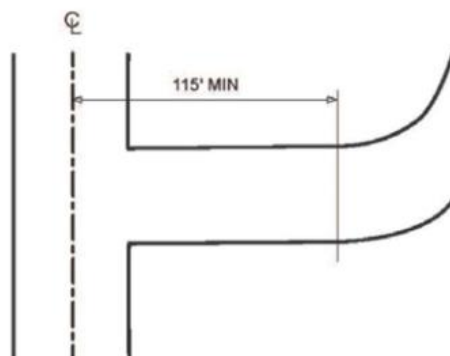


**TYPE III SUBDIVISION**  
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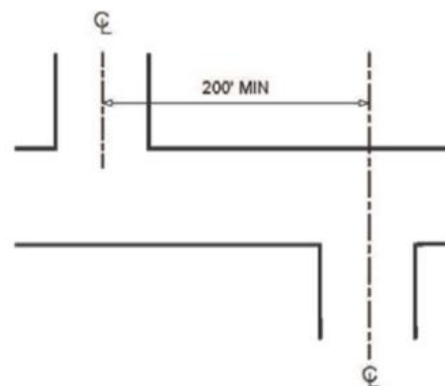


**SIDEWALKS**  
NOT TO SCALE

## Intersection Diagrams



**HORIZONTAL CURVES (7.1.6)**  
NOT TO SCALE



**OFFSET OPPOSING STREETS (7.1.7)**  
NOT TO SCALE

## APPENDIX B

### COMPLETE STREETS

The town of Middleton adopted a Complete Streets Policy in 2014 and revised in 2020 – it can be found in the Middleton Town Code under Chapter 355: Complete Streets Policy.

<https://ecode360.com/30329607>

Excerpt from Middleton's Complete Streets Policy:

*"Vision and Purpose. Complete streets are designed and operated to provide safety, comfort, and accessibility for all the users of our streets, including pedestrians, bicyclists, transit riders, motorists, commercial vehicles, and emergency vehicles and for people of all ages, abilities, and income levels. Furthermore, complete streets principles contribute toward the safety, health, economic viability, and quality of life in a community by improving the pedestrian and vehicular environments in order to provide, safe, accessible, and comfortable means of travel between home, school, work, recreation, and retail destinations..... The purpose of the Town of Middleton's Complete Streets Policy, therefore, is to accommodate all road users by creating a roadway network that meets the needs of individuals utilizing a variety of transportation modes. It is the intent of the Town of Middleton to formalize the plan, design, operation, and maintenance of streets so that they are safe for users of all ages, all abilities and all income levels as a matter of routine."*

#### **Most Recent Design Standards**

All roadways shall be designed and constructed in compliance with Middleton's Complete Streets policy. Design considerations may include: bike or bus lanes, road narrowing, sidewalks, crosswalks, and facilities such as bicycle parking. Accessibility laws, implementing regulations, and standards require that, where pedestrian facilities are newly provided or altered, they be accessible to and usable by people with disabilities. All pedestrian amenities must adhere to *Americans with Disabilities Act (ADA) Standards for Accessible Design (28 CFR Part 36), 1994*

#### **Best Practices & Policies**

**Provide a Variety of Travel Routes** Those walking or biking are more likely to do so when they feel safe and comfortable. Therefore, a variety of routes should be provided so non-motorized facilities are planned along streets with travel conditions that would naturally attract such activity. This involves providing connections to adjacent neighborhoods, re-routing bike traffic to secondary roads, or designing roadside facilities that include buffers and other elements to improve comfort levels.

**Provide for Safe Travel Along the Street** A variety of options may be considered to facilitate non-motorized and transit travel. Depending on the context, bike lanes, cycle tracks, sidewalks and pathways can all assist in moving pedestrian and bicycle traffic.

**Provide for Safe Travel Across the Street** Where travel along the street is often considered in non-motorized planning, it is often the travel across the street that can deter non-motorized activity.

**Encourage walking and bicycling** In addition to the obvious transportation, energy and environmental benefits of walking and bicycling as an alternative to motorized travel, public health experts are encouraging walking and bicycling as a way of improving health, including a response to the obesity “epidemic.” Literature shows that states with higher levels of bicycling and walking also have a greater percentage of adults who meet the recommended 30-plus minutes of daily physical activity

**Improve economic health** A balanced transportation system that includes complete streets can bolster economic growth and stability by providing accessible and efficient connections between residences, schools, parks, public transportation, offices, and retail destinations

**Improve Safety** Attention to travel speed and facilities for all modes can help improve safety. Separated lanes, crosswalks, pedestrian refuge medians, and pedestrian walk signals are all measures that may help improve safety. Depending on the type of measure implemented and speed reductions achieved, traffic calming has reduced collisions by 20 to 70 percent

**Expand the efficiency of transportation modes** Streets that provide travel choices can increase the overall capacity of the transportation network and move people more efficiently. On a project-by-project level, a holistic approach to incorporating all modes can reduce the need to retrofit streets at a later date, which saves valuable time and resources

**Enhance safety for children and the elderly** Complete streets are beneficial for all segments of the population, but particularly for children and the elderly Youth under age 16 ride bicycles more than any other segment of the population. Thus, it is important to provide a safe and well-connected network for children to get to school by walking and bicycling. Mobility for the elderly is an increasing need, particularly for those without access to a vehicle or for those who feel less safe driving.

**Design Elements** It is key for private developers to follow our community’s Complete Streets vision. To ensure a shared vision, Middleton will review all proposed developments to determine if they adequately incorporate Complete Streets design. Requiring sidewalks and shade trees helps create a safe and comfortable pedestrian environment that promotes walking. Requiring narrower roads and traffic calming measures creates safer streets for pedestrians and enables children to travel safely and to be more active. This is especially true if a subdivision sets aside land for a playground or community park. Connecting sidewalks and bike lanes to larger networks creates additional opportunities for physical activity and allows people to access the larger community without having to rely on an automobile. For example, connections to sidewalk networks can allow children to walk or bike to school.

### **Subdivision Regulations Checklist**

- Require sidewalks
  - In rural environments or other locations where sidewalks on both sides of the street may not make sense, a sidewalk on one side of the street may be acceptable
- Require interconnecting street and sidewalk networks



- If a dead-end is created, require the subdivision design to allow for streets to be connectable in the future
  - Where applicable, require multi-use paths at the end of dead-end streets that connect to a larger network of pathways
  - Require bicycle and pedestrian linkages to nearby public ways
- Design driveways to minimize pedestrian impacts
  - Encourage shared/common driveways to reduce the number of automobile curb cuts
  - Require driveways to rise up to the level of the sidewalk instead of designing the sidewalk to descend to the level of the driveway
- Narrow road widths and the turning radius at intersections to reduce traffic speeds and the crossing distance at intersections (Reducing the total amount of pavement also decreases stormwater runoff pollution impacts on waterways as well as urban heat island effects)
- Require roads to be designed to “Complete Streets” standards, with equal attention to the needs of automobiles, cyclists and pedestrians Require shade trees along pedestrian and bicycle pathways
- Require traffic and environmental impact studies for larger subdivisions
- Require an analysis of pedestrian circulation for subdivisions

## **APPENDIX C**

### **STORMWATER MANAGEMENT REQUIREMENTS**

#### **1. STORMWATER MANAGEMENT PLAN**

An Application for a Stormwater Management Permit, in accordance with the subdivision Rules & Regulations and Chapters 204 and 248 of the Middleton Town Code, along with all required plans and supportive information and documentation, must be submitted as part of the Definitive Subdivision Plan submission approval.

No work shall commence on the construction of an approved Definitive Subdivision Plan until a Stormwater Management Permit has been approved and issued. Wherever possible, the proposed drainage system shall be designed to utilize, and be compatible with, the existing drainage patterns and existing natural features of the site.

The stormwater management plan shall be designed to incorporate and address the stormwater management for the entire proposed development, including anticipated buildout of individual lots.

#### **2. INSPECTIONS**

In addition to the inspections described under Section 8 (Required Improvements for An Approved Subdivision) of these Subdivision Rules and Regulations, the storm drainage systems shall be inspected at intervals in accordance with the Chapter 204-4 [Stormwater Management Bylaw] and Chapter 248-11 [Stormwater Management] of the Middleton Town Code.

The Stormwater Authority or its agent will join the Project Design Engineer for inspections. The Stormwater Authority or its agent may inspect the work and either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan.

Any portion of the work that does not comply shall be promptly corrected by the applicant or the applicant will be subject to the penalty provisions of Chapter 248-14 [Enforcement] of the Middleton Town Code. The Town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.

## **APPENDIX D**

### **SAMPLE DEVELOPMENT IMPACT STATEMENT**

A Development Impact Statement (DIS) is a documented, written analysis of a proposed development which provides the Planning Board and Town Officials with information necessary for plan review.

It is a developer's responsibility to prepare and document the DIS in sufficient detail to permit an adequate evaluation by the Planning Board; however, additional data may be requested in writing by the Board. It is necessary to respond to all sections of the DIS form except when a written exemption is granted by the Planning Board.

NAME OF PROJECT:

ACREAGE:

TYPE OF PROJECT:

OWNER(S):

LOCATION:

DEVELOPMENT PLANNER:

PARCEL NUMBER(S):

ENGINEER:

ZONING DISTRICT(S):

ARCHITECT:

#### **A. PROJECT DESCRIPTION**

1. Number of Units: Low-Income\_\_ Single-Family\_\_ Age Restricted 55+\_\_  
Total \_\_\_\_
2. Row-House\_\_ Two-Family \_\_\_\_ Apt. \_\_\_\_ Other \_\_\_\_
3. Condominium Ownership Rental \_\_\_\_ Private \_\_\_\_
4. Number of Bedrooms: Row Houses \_\_\_\_ Apartments \_\_\_\_
5. Approximate Price/Unit: Private \_\_\_\_\_ Condominiums \_\_\_\_\_  
Rental \_\_\_\_\_

#### **B. CIRCULATION SYSTEMS**

1. Street Design – Explain reasons for location of streets, stubs, and intersections. Project the number of motor vehicles to enter or depart the site per average day and peak hour.

2. Parking & Bus Stops – Discuss the number, opportunities for multiple use, and screening of parking spaces. With respect to bus stops, if any, explain the location, shelter design and orientation to any path systems.

C. SUPPORT SYSTEMS

1. Water Distribution

- a. Public – Discuss the project's water distribution system, including projected demand, ability to serve all lots, use of water for air conditioning, and any special problems such as check valves or booster pumps which must be dealt with.
- b. Private – Discuss the type of system, level of treatment, suitability of soils and results of percolation tests.

2. Sewage Disposal

- a. Public – Discuss the project's sewage disposal system, including projected flow, size of pumping stations including auxiliary power, and any special problems such as check valves, etc. which must be dealt with, and the effects on the waste water treatment facility.
- b. Private – Discuss the type of system, level of treatment, suitability of soils and results of percolation tests.

3. Storm Drainage – Discuss the storm drainage system including the projected flow from 10 year and a 100 year storm, name of the receptor stream, and any flow constriction between the site and the receptor stream.

4. Refuse Disposal – Discuss the location and type of facilities, hazardous materials requiring special precautions, and screening.

5. Lighting – Discuss the location and size of lights, and methods used to screen adjoining properties from glare.

6. Fire Protection – Discuss the type and capacity of fuel storage facilities, location of storage areas for hazardous substances, special requirements, and distance to fire station.

7. Recreation

- a. Public – Indicate the distance to and type of public facilities.
- b. Private – Discuss the type of private recreation facilities to be provided within the development.

8. Schools – Project the student population of the project for the nursery, elementary, middle school and senior high school levels and indicate the distance, capacity, and present enrollment of the nearest elementary and secondary schools.

D. NATURAL CONDITIONS – Describe briefly the following natural conditions:

1. Topography – Indicate datum, source, date, slopes greater than 25%

2. Soils – Indicate prime agricultural land, depth to bedrock, extent of land which has been filled.
  3. Mineral Resources – Indicate extent and economic importance of resource, extent and means of proposed extraction, rehabilitation measures.
  4. Surficial geology
  5. Depth to water table
  6. Aquifer recharge areas
  7. Wetlands
  8. Watercourses
  9. Flood prone areas
  10. Vegetative cover
  11. Unique wildlife habitats
  12. Unique flora
  13. Environmental constraints
- E. DESIGN FACTORS – Describe briefly the following features. Photographs are helpful.
1. Present visual quality of the area
  2. Location of significant viewpoints
  3. Historic structures
  4. Architecturally significant structures
  5. Type of architecture for development
- F. ENVIRONMENTAL IMPACT - Describe briefly the following features.
1. Measures taken to prevent surface water contamination
  2. Measures taken to prevent ground water contamination
  3. Measures taken to maximize ground water recharge
  4. Measures taken to prevent air pollution
  5. Measures taken to prevent erosion and sedimentation
  6. Measures taken to maintain slope stability
  7. Measures taken to reduce noise levels
  8. Measures taken to preserve significant views
  9. Measures taken to project design to conserve energy
  10. Measures taken to preserve wildlife habitats
  11. Measures taken to ensure compatibility with surrounding land uses

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G. PLANS & POLICIES – Describe briefly how your project is consistent/inconsistent with the following:

1. Master Plan
2. Complete Streets Policy
3. Open Space Plan

H. PHASING – If the development of the site will take place over more than one year, supply a schedule showing how the development will be phased. A flow chart is helpful. This time table shall include the following elements

1. Stripping and/or clearing of site
2. Rough grading and construction
3. Construction of grade stabilization and sedimentation control structures
4. Final grading and vegetative establishment
5. Landscaping
6. The construction of any public improvement shall be specified explaining how these improvements are to be integrated with the development.

The number of housing units and the square footage of nonresidential uses to be constructed each year and their estimated value shall be specified

## APPENDIX E

### AUTHORITY OF THE PLANNING BOARD TO WAIVE REQUIREMENTS UNDER THE SUBDIVISION CONTROL LAW

**NOTE:** *The granting of waivers should be few and far between and scrutinized carefully. The granting of a waiver should be when it is in the town's best interests, not as a way for the developer to reduce costs. Typically, there is a quid-pro-quo with waivers in that the municipality gets something for giving something up. The granting of a waiver should provide something advantageous to the community in exchange for the developer not complying with the standard requirements. Waivers are not typically intended to be used as a way to circumvent a regulation just because the applicant can't or doesn't want to comply with it or a way for an applicant to save money. In considering a waiver request, the Board should consider and identify the public benefit that the municipality would be receiving from the approval of it. If the board begins to grant the same waiver over and over, the board should consider why the item was required in the first place.*

*Waivers should not be approved at the Preliminary Plan stage, or if they are it should be made clear that they are only preliminary and subject to change when the more detailed Definitive Plans are submitted and considered. The fact is that at the Preliminary Plan stage the Board will not have enough detailed information to make an informed and correct decision.*

#### **Requirements Which Can Be Waived:**

The authority given to the Planning Board to make exceptions and waive compliance with the Subdivision Rules and Regulations is found in Sections 81-M and 81-R.

Section 81-M states, in part, as follows: "... such board (Planning Board) may, when appropriate, waive, as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable." It is up to the applicant to provide the Planning Board with sufficient information to justify a waiver and convince the Planning Board of its appropriateness.

Section 81-R authorizes the Planning Board, "... in any particular case where such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law, ..." to waive requirements regarding the following:

- A.** Strict compliance with the Subdivision Rules and Regulations may be waived. Such waivers are commonly confined to specific land development standards such as road construction details, in accordance with the provisions of Section 81-Q which states, in part, as follows: "In establishing such requirement regarding ways, due regard shall be paid (by the Planning Board) to the prospective character of different subdivision, ... and the prospective amount of travel upon the various ways therein, and to adjustment of the requirements accordingly."

- B. The Planning Board may, "... where roads are not otherwise deemed adequate, approve a plan conditional on limiting the number of lots upon which buildings may be erected and the number of buildings that may be erected on particular lots. The Planning Board shall endorse such conditions on the plan to which they relate, or set them forth in a separate instrument attached thereto, to which reference is made on such plan and which shall for the purpose of the Subdivision Control Law be deemed to be a part of the plan."
- C. Frontage or access requirements specified in the Subdivision Control Law may be waived. (Cannot be waived, if required by Zoning [Bylaw/Ordinance])

**Requirements Which Cannot Be Waived:**

With the above exceptions, all other statutory requirements contained in the Subdivision Control Law, though frequently included in the Planning Board's Subdivision Rules and Regulations, cannot be waived or modified but must be carefully followed.

**Summary**

Although a rather broad authority has been delegated to the Planning Board, to waive the various requirements under the Subdivision Control Law, it is in the public interest to bear always in mind the purposes of the Subdivision Control as set forth in Section 81-M. Among those the most basic requirement is the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel.



## **APPENDIX F**

### **PLANNING BOARD ONLINE PORTAL INSTRUCTIONS**

#### **ALL PLANNING BOARD APPLICATIONS**

##### **To begin:**

1. Click on "Licenses & Permits" on the Town of Middleton homepage.
2. Click on "Online Permitting Portal"
3. Click on "Apply for a Permit" under "Board of Appeals/Planning Department"
4. If you are a new user, register by clicking "Register Now"
5. If you are already registered, enter your user name and password and click "Login"
6. Click on "Project Type" and choose the type of Planning Board application you are filing.

##### **After application is submitted:**

1. TO SAVE APPLICATION BEFORE SUBMITTING: Click "save for later", then "My Account" at top of page, then "My pending application".
2. TO VIEW COPY OF SUBMITTED APPLICATION: Click "My Account" at top of page, then "View my Requests".

#### **APPROVAL NOT REQUIRED**

1. Click on "Project Type" and select "Planning Board – Approval Not Required Plan".
2. Click on "Sub Type" and select "Endorsement of Plan Approval Not Required".
3. Under "Project Description" enter address and year.
4. Enter address, parcel #, and property owner (or enter address # and first word of address name and click on "Find Address." The next information will self-populate if address is found in system.
5. Check the appropriate box indicating why the proposed plan does not constitute a Subdivision within the meaning of the Subdivision Control Law.
6. Enter Deed, Title, Map and Lot number as indicated.
7. Enter the number of new lots that will be created and describe the proposed plan (fee is based on the # of new lots created by the plan).
8. Click for PDF of blank ANR application and print out.
9. Upload PDF copy of completed ANR application and plan.

*Two full-size paper plans and two applications (one original signature) and required fee must be delivered to the planning board office at 195 No. Main Street within 2 days of filing application online. Additionally, a mylar copy of the plan must be brought to the Planning Board meeting for their endorsement.*

10. Enter Owner, Applicant, Surveyor and Representative information as indicated.
11. Click "Submit"

*By clicking submit you are authorizing your application to be filed with the Planning Board and also the Town Clerk per M.G.L. Chapter 41, Section 81-T.*

### **PRELIMINARY PLAN**

1. Click on "Project Type" and select "Planning Board – Preliminary Plan".
2. Click on "Sub Type" and select "Approval of a Preliminary Plan".
3. Under "Project Description" enter address and year.
4. Enter address, parcel #, and property owner (or enter address # and first word of address name and click on "Find Address." The next information will self-populate if address is found in system.
5. Click for PDF of blank Preliminary Plan application and print out.
6. Upload PDF copy of completed Preliminary Plan application, plan, and any supporting documents using "Select File" button.
7. Enter number of building lots in Preliminary Plan.

*See Planning Board's Subdivision Rules & Regulations (Section 250 of Town Code) for all requirements. Three full sets of application, including full-size plans and any supporting documents, and check made out to the Town of Middleton for the required fee must be delivered to the planning board office at 195 No. Main Street within 2 days of filing application online.*

8. Review all information entered before clicking "Submit"  
*By clicking "submit", you will file your application with the Planning Board and also provide notification to the Board of Health and Town Clerk per M.G.L. Chapter 41, Section 81-S.*

### **DEFINITIVE PLAN**

1. Click on "Project Type" and select "Planning Board – Definitive Plan".
2. Click on "Sub Type" and select "Approval of a Definitive Plan".
3. Under "Project Description" enter Name of Subdivision.
4. Enter address, parcel #, and property owner (or enter address # and first word of address name and click on "Find Address." The next information will self-populate if address is found in system.
5. Enter the number of building lots shown on definitive plan (Fee is calculated as \$2,000 plus \$500 per lot shown on previously approved preliminary plan and/or \$1,000 per lot not shown on a previously approved preliminary plan).
6. Check if a Preliminary plan for the address was acted upon by the planning board within the prior 2 year period.
7. If a Preliminary Plan was acted upon within the prior 2 year period, enter the number of building lots shown on the plan.
8. Click for PDF of blank Definitive Plan application and print out.
9. Upload PDF copy of completed Definitive Plan application, plan, and supporting documents using "Select File" button.

*See Planning Board's Subdivision Rules & Regulations (Section 250 of Town Code) for all requirements. Three full sets of application, including full-size plans and any supporting documents, and check made out to the Town of Middleton for the required fee must be delivered to the planning board office at 195 No. Main Street within 2 days of filing application online.*

10. Upload PDF copy of Assessors Certified Abutters List.  
*It is the responsibility of the applicant to apply to the Board of Assessors for a certified list of abutters for the subject parcel. The Board of Assessors may take up to 10 days to provide a certified list of abutters. Applications will not be deemed complete without the*

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*required copy of the abutter's list (See Chapter 240, Section 3, "Providing Parties-In-Interest Notification & Decision Materials").*

11. Review all information entered before clicking "Submit".

*By clicking submit you are authorizing that your application be filed with the Planning Board and also the Town Clerk per M.G.L. Chapter 41, Section 81-T.*

### **SPECIAL PERMIT**

1. Click on "Project Type" and select "Planning Board – Special Permit".
2. Click on "Sub Type" and select the type of Special Permit needed.
3. Under "Project Description" enter address and year.
4. Enter address, parcel #, and property owner (or enter address # and first word of address name and click on "Find Address." The next information will self-populate if address is found in system.
5. Enter a description of the project and how the specified criteria are being met.
6. Enter under which section(s) of Zoning Bylaw relief is sought.
7. Enter billing information.
8. Under Submittal Documents, provide the required documents by clicking "Select file" and upload.
9. TO SAVE APPLICATION BEFORE OFFICIALLY SUBMITTING: Click "save for later", then "My Account" at top of page, then "My pending application".
10. TO VIEW COPY OF SUBMITTED APPLICATION: Click "My Account" at top of page, then "View my Requests".
11. Click "Submit".
12. Submittal will be complete when the applicant delivers the following number of collated paper copies of the executed Special Permit application, including all plans and supporting documents, and check made out to the Town of Middleton for the required fee to the Planning office (195 No. Main St.):

<b>Multi-family Projects:</b>	<b>Six (6) copies.</b>
<b>Residential Projects:</b>	<b>Two (2) copies.</b>

After application is received, the Planning office will bring it to be filed with the Town Clerk's office. A Town Clerk stamped copy of the application will be uploaded to the online portal by the Planning office.

## APPENDIX G

### LID SITE PLANNING & DESIGN CHECKLIST

The applicant must document specific LID site planning and design strategies applied for the project. If a particular strategy was not used, a justification and description of proposed alternatives must be provided. If a strategy is not applicable (N/A), applicants must describe why a certain method is not applicable at their site. For example, preserving wetland buffers may be not applicable for sites located outside any jurisdictional wetland buffers.

#### I. Strategies to Avoid Impacts

##### A. Preservation of Undisturbed Areas

<input type="checkbox"/>	Limits of disturbance clearly marked on all construction plans
<input type="checkbox"/>	Mapped soils by Hydrologic Soil Group (HSG)
<input type="checkbox"/>	Building envelopes avoid steep slopes, forest stands, riparian corridors, and floodplains
<input type="checkbox"/>	New lots, to the extent practicable, have been kept out of jurisdictional wetland areas
<input type="checkbox"/>	Important natural areas (i.e.; undisturbed forest, riparian corridors, and wetlands) identified and protected with permanent conservation easement
<input type="checkbox"/>	Percent of natural open space calculation is provided
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

##### B. Preservation of Buffers and Floodplains

<input type="checkbox"/>	Applicable vegetated buffers of wetlands and perennial and intermittent streams have been preserved, where possible
<input type="checkbox"/>	Limits of disturbance included on all construction plans that protect applicable buffers
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

##### C. Minimized Clearing and Grading

<input type="checkbox"/>	Site fingerprinting to extent needed for building footprints, construction access and safety (i.e., clearing and grading limited to 15 feet beyond building pad or 5 feet beyond road bed/shoulder)
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

## D. Locating Sites in Less Sensitive Areas

<input type="checkbox"/>	A site design process, such as conservation development, used to avoid or minimize impacts to sensitive resources such as floodplains, steep slopes, erodible soils, wetlands, hydric soils, surface waters, and their riparian buffers
<input type="checkbox"/>	Development located in areas with most appropriate soils
<input type="checkbox"/>	Development on steep slopes, grading and flattening of ridges has been avoided to the maximum extent practicable
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

## E. Compact Development

<input type="checkbox"/>	A site design technique (e.g., Flexible Development) used to concentrate development to preserve as much undisturbed open space as practicable and reduce impervious cover
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

## F. Work with the Natural Landscape Conditions, Hydrology, and Soils

<input type="checkbox"/>	Stormwater management system mimics pre-development hydrology to retain and attenuate runoff in upland areas (e.g., cuts and fills limited and BMPs distributed throughout site: trees used for interception and uptake)
<input type="checkbox"/>	The post-development time of concentration ( $t_c$ ) should approximate pre-development $t_c$ .
<input type="checkbox"/>	Flow velocity in graded areas as low as practicable to avoid soil erosion (i.e., slope grade minimized)
<input type="checkbox"/>	Site designed to locate buildings, roadways and parking to minimize grading (cut and fill quantities)
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

## II. Strategies to Reduce Impacts

### A. Reduce Impervious Cover

<input type="checkbox"/>	Reduced roadway widths
<input type="checkbox"/>	Reduced building footprint
<input type="checkbox"/>	Reduced dead-ends
<input type="checkbox"/>	Reduced driveway areas
<input type="checkbox"/>	Reduced sidewalk area
<input type="checkbox"/>	Reduced parking lot area
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

## III. Strategies to Manage Impacts

### A. Disconnecting Impervious Area

<input type="checkbox"/>	Impervious surfaces have been disconnected to the extent possible
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

### B. Mitigation of Runoff at the point of generation

<input type="checkbox"/>	A green roof has been designed to reduce runoff
<input type="checkbox"/>	Small-scale BMPs applied at source
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

### C. Stream/Wetland Restoration

<input type="checkbox"/>	Historic drainage patterns have been restored by removing closed drainage systems and/or restoring degraded stream channels and/or wetlands
<input type="checkbox"/>	Removal of invasive species

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<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

D. Reforestation

<input type="checkbox"/>	Low maintenance, native vegetation has been proposed
<input type="checkbox"/>	Trees are proposed to be planted or conserved to reduce runoff volume, increase nutrient uptake, and provide shading and habitat
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

E. Source Control

<input type="checkbox"/>	Source control techniques such as street sweeping or pet waste management have been proposed
<input type="checkbox"/>	Other (describe)
Explain constraints and/or proposed alternatives here:	

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**FORM A**  
**APPLICATION FOR ENDORSEMENT OF PLAN APPROVAL NOT REQUIRED**

Application Filing Date: _____ Received by: _____ <div style="text-align: center; font-size: small;">(To be filled out by town clerk office only)</div>
--

Applicant(s): \_\_\_\_\_

Subject Land Address: \_\_\_\_\_ Map/Parcel #: \_\_\_\_\_

Describe the proposed plan: \_\_\_\_\_

**Please refer to Sections 250 of Town Code for Approval Not Required Plan requirements**

The undersigned, believing that the accompanying plan of property in the Town of Middleton does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required. (Check appropriate box below)

<input type="checkbox"/>	1. The accompanying plan is not a subdivision because the plan does not show a division of land; if there is a division of land shown, it is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by the Middleton Zoning Bylaw for erection of a building on such lot AND every lot shown on the plan has such frontage on a public way, private way, or way shown on plan is either certified by the Town Clerk as maintained and used as a public way or a way endorsed in accordance with the subdivision control law or a private way.
<input type="checkbox"/>	2. The division of the tract of land shown on the accompanying plan is not a subdivision because it shows a proposed conveyance/other instrument, which adds to/takes away from/changes the size and shape of lots in such a manner so that no lot affected is left without frontage as required by the Town of Middleton Zoning Bylaw.
<input type="checkbox"/>	3. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings were standing on the plan prior to the date when the subdivision control law went into effect and one of such building remains standing on each of the lots/said building as shown and located on the accompanying plan.
<input type="checkbox"/>	4. Other (describe): _____

Registry of Deeds Book/Page: \_\_\_\_\_

(Or) Land Court, Certificate of Title: \_\_\_\_\_

Zoning District: \_\_\_\_\_ Required frontage: \_\_\_\_\_

Proposed Frontage: \_\_\_\_\_

How many new lots will be created?: \_\_\_\_\_

Describe the plan: \_\_\_\_\_



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Owner:

Owner Address:

Owner Telephone:

Owner Email:

Applicant:

Applicant Address:

Applicant Telephone:

Applicant Email:

Is the applicant the owner of the land on the plan? Choose an item.

Applicant Representative:

Representative Address:

Representative Telephone:

Representative Email:

Five paper plans and two hard copies of the signed application and check made out to the Town of Middleton for the required fee must be delivered to the planning board office at 195 No. Main Street within 2 days of filing application online. Fee is \$50 plus \$100 per new lot created. Additionally, a mylar copy of the plan must be brought to the Planning Board meeting for their endorsement.

When the application is deemed complete, the planning office will forward a copy of the application to be filed with the Town Clerk per M.G.L. Chapter 41, Section 81-T.

Applicant(s) signature:

Date:

If applicant is not owner(s)

Owner(s) signature:

Date:

9/6/2023

**FORM B**  
**APPLICATION FOR PRELIMINARY SUBDIVISION PLAN**  
Town of Middleton Planning Board

Application Filing Date: \_\_\_\_\_ Received by: \_\_\_\_\_

(To be filled out by town clerk office only)

**Please refer to Sections 250 of Town Code for Preliminary Subdivision Plan requirements**

<b>APPLICANT INFORMATION</b>	<b>PROPERTY INFORMATION</b>
<b>APPLICANT</b> Name: Address: Telephone: Email:	Property Address/Location/Description:  Essex South Register of Deeds Book/Page:  Assessors Map/Lot #:
<b>OWNER</b> Name: Address: Telephone: Email:	Zoning District:  Proposed Frontage:
<b>SURVEYOR</b> Surveyor: Reg. Number: Address: Telephone: Email:	Number of existing parcels/lots:  Number of Proposed Parcels/Lots:  Number and Length of Proposed Streets:
<b>REPRESENTATIVE</b> Name: Address: Telephone: Email:	

9/6/2023

**SIGNATURES**

To the Middleton Planning Board, the undersigned herewith submits the accompanying Preliminary Plan of a subdivision of property located in the Town of Middleton for study, discussion and approval under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in Middleton, as amended.

Applicant signature:

Date:

Owner signature (if other than Owner):

Date:

9/6/2023

**FORM C**  
**APPLICATION FOR DEFINITIVE SUBDIVISION PLAN**  
Town of Middleton Planning Board

Application Filing Date: \_\_\_\_\_ Received by: \_\_\_\_\_

(To be filled out by town clerk office only)

**Please refer to Sections 250 of Town Code for Definitive Subdivision Plan requirements**

<b>APPLICANT INFORMATION</b>	<b>PROPERTY INFORMATION</b>
<b>APPLICANT</b> Name: Address: Telephone: Email:	Property Address/Location/Description: Essex South Register of Deeds Book/Page: Assessors Map/Lot #: Zoning District: Plan Title:
<b>OWNER</b> Name: Address: Telephone: Email:	Plan Date: Number of existing parcels/lots: Number of Proposed Parcels/Lots: Number and Length of Proposed Streets:
<b>SURVEYOR</b> Surveyor: Reg. Number: Address: Telephone: Email:	Was a Preliminary Plan for this development reviewed by the Planning Board in the past 2 years? Choose an item. If yes, how many lots were approved?
<b>REPRESENTATIVE</b> Name: Address: Telephone: Email:	

9/6/2023

**SIGNATURES**

To the Middleton Planning Board, the undersigned herewith submits the accompanying Definitive Plan of a subdivision of property located in the Town of Middleton for study, discussion and approval under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in Middleton, as amended.

Applicant signature: \_\_\_\_\_ Date: \_\_\_\_\_

Owner signature (if other than Owner): \_\_\_\_\_ Date: \_\_\_\_\_

9/6/2023

**FORM D**  
**MODIFICATION OF DEFINITIVE SUBDIVISION APPLICATION**  
Town of Middleton Planning Board

Application Filing Date: \_\_\_\_\_ Received by: \_\_\_\_\_

(To be filled out by town clerk office only)

**Please refer to Sections 250 of Town Code for Definitive Subdivision Modification requirements**

APPLICANT INFORMATION	PROPERTY INFORMATION
<b>APPLICANT</b> Name: Address: Telephone: Email:	Property Address/Location/Description: Essex South Register of Deeds Book/Page of lot: Assessors Map/Lot #: Zoning District: Plan Title:
<b>OWNER</b> Name: Address: Telephone: Email:	Plan Date: Number of existing parcels/lots: Number of Proposed Parcels/Lots: Number and Length of Proposed Streets: Describe Modification being requested:
<b>SURVEYOR</b> Surveyor: Reg. Number: Address: Telephone: Email:	
<b>REPRESENTATIVE</b> Name: Address: Telephone: Email:	

9/6/2023

**SIGNATURES**

To the Middleton Planning Board, the undersigned herewith submits the proposed Modification of a Definitive Subdivision Plan for property located in the Town of Middleton for study, discussion and approval under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in Middleton, as amended.

Applicant signature: \_\_\_\_\_ Date: \_\_\_\_\_

Owner signature (if other than Owner): \_\_\_\_\_ Date: \_\_\_\_\_

9/6/2023

**FORM E**  
**CERTIFICATE OF DECISION FOR DEFINITIVE SUBDIVISION PLAN**

Town of Middleton Planning Board

DATE:

SENT BY CERTIFIED MAIL: #

To: Ilene Twiss

APPLICANT:

Town Clerk

Memorial Hall, 48 So. Main St.

Middleton, MA 01949

<b>TITLE OF PLAN:</b>	
<b>DATE OF PLAN:</b>	
<b>DRAWN BY:</b>	
<b>LOCATION OF LAND SUBDIVIDED:</b>	
<b>NUMBER OF PROPOSED LOTS:</b>	
<b>PROPERTY OWNER:</b>	
<b>ASSESSOR'S MAP/LOT #:</b>	
<b>FILING DATE:</b>	
<b>LEGAL NOTICES PUBLISHED:</b>	
<b>PUBLIC HEARING OPENED:</b>	
<b>PUBLIC HEARING CONTINUATIONS:</b>	
<b>PUBLIC HEARING CLOSED:</b>	
<b>DECISION MEETING DATE:</b>	

The Applicant requested that the Planning Board approve a Definitive Subdivision Plan under the Massachusetts Subdivision Control Law, Massachusetts General Laws Chapter 41, Section 18K through 81GG (the "Subdivision Control Law"), and under the Town of Middleton Subdivision Rules and Regulations to allow for a subdivision with \_\_\_\_\_ ( ) single family home building lots.

**DECISION**

After conducting a Public Hearing, and at a regularly scheduled meeting, the (Town/City) Planning Board voted \_\_\_\_\_ ( ) in favor, \_\_\_\_\_ ( ) opposed and \_\_\_\_\_ ( ) absent/recused on a motion to approve the Definitive Subdivision Plan Application. On a motion to approve the Definitive Subdivision Plan Application: Roll Call Vote:



NAME		VOTE

### CONDITIONS

In an effort to ensure and protect the health, safety, and well being of all abutters, area residents, and users of this subdivision, this Definitive Subdivision Plan approval is contingent upon the satisfactory compliance with and completion of the following the conditions:

#### GENERAL

1. This subdivision shall not have more than \_\_\_\_ single family building lots.
2. When selling lots, the developer shall retain his rights and ownership of the right-of-way, and such shall be stated and included in all deeds to lots in the development.
3. A proforma or sample of the individual property deeds to the individual homeowners to be used shall be submitted to and approved by the Planning Board prior to their endorsement of the definitive subdivision plan.
4. The stormwater retention/detention system located outside of the street right of way on lot(s) \_\_\_\_\_ as well as the underground water cisterns on lot(s) \_\_\_\_\_, shall be placed under the control, responsibility and liability of a Homeowner's Association comprised of the property owners of this subdivision, or another entity that the Planning Board deems acceptable. An easement shall be granted to the entity owning the street (including its successors and assigns) authorizing the discharge of storm water into said stormwater retention area. Sufficient draft legal documentation creating said Association, and its rules and regulations, including the aforementioned and following responsibilities, shall be submitted to and approved by the Planning Board prior to their endorsing the approved definitive plan. Final legal documents must be submitted to and approved by the Planning Board prior to recording and prior to the sale of any lots. Said association shall be responsible for:
  - a. the maintenance, repair, and improvement of the storm water drainage structure ensuring its continued functioning capability as designed and constructed
  - b. the maintenance, repair and improvement of the underground water cisterns, including keeping them filled, ensuring their continued functioning firefighting capability as designed and constructed
  - c. maintaining a bank account at all times, with a balance of no less than an amount determined by the Planning Board as being sufficient, for the purpose of paying for said maintenance and improvements
  - d. maintaining an insurance policy in an amount of at least one million dollar (\$1,000,000.00)

- e. having said structure inspected, and maintained, repaired and improved as needed, at least once a year by a qualified person/firm (i.e., engineer, landscaper, fire department as appropriate)
- f. having said qualified person/firm forward a written report, at least once each calendar year, certifying said inspection and any maintenance, repairs, and improvements that were required and undertaken to the Planning Board, Public Works Superintendent and Fire Department.

Said stormwater drainage and underground water cistern easements and Homeowner's Association documents shall also include wording specifying that should said association fail in any of its aforementioned responsibilities as listed above, the town has the right to intercede, enter the property and conduct any of the maintenance, repairs and improvements that it feels are necessary to ensure the proper functioning of the stormwater and cistern systems, and assess the association the cost of said maintenance, repairs and improvements, plus a 20% administrative fee.

- 5. The petitioner and/or developer of this subdivision must provide each first-time buyer of all/any lots within the subdivision, a copy of all conditions and restrictions imposed by the Planning Board
- 6. The applicant shall comply with all other laws and regulations including the Middleton Zoning Bylaw and Subdivision Rules and Regulations, unless specifically waived by the Planning Board
- 7. The Planning Board specifically grants only the following requested waivers to the Subdivision Rules and Regulations:
  - a. ...
  - b. ...
  - c. ....etc.
- 8. The Planning Board retains its jurisdiction and the right to, on its own motion, modify, amend, rescind or revoke its approval of this Definitive Subdivision Plan, after holding a Public Hearing in accordance with Chapter 41, Section 81T, when it believes that there is material noncompliance with the terms of this decision.

THE FOLLOWING MUST BE SUBMITTED/COMPLETED WITHIN 60 DAYS OF THE EXPIRATION OF THE APPEALS PERIOD, PRIOR TO ENDORSEMENT OF THE PLANS, AND PRIOR TO THE COMMENCEMENT OF CONSTRUCTION

- 9. The applicant shall provide the Town with a Performance Guarantee, subject to approval of the Planning Board, prior to the Planning Board's endorsement of the Definitive Plan. Said Performance Guarantee may take the form of either 1) a covenant, 2) a bond, deposit of money or negotiable security in conformance with the provisions of Section 81-U of Chapter 41, M.G.L. Should the developers choose 2), then the developers shall complete all public roads and utilities twelve (12) months prior to the expiration date of said performance Guarantee to enable the Town to draw upon said Guarantee if necessary. The monetary value of the Guarantee shall be determined by the Town DPW Superintendent, and shall be 100% of the cost of completion of the development as of the date the Guarantee expires. Said Performance Guarantee must be received and approved by the Planning Board prior to their endorsing the approved definitive plan.
- 10. No release of the Performance Guarantee, partial or otherwise, will be considered by the Planning Board, without certification by the petitioner's Professional Engineer, and concurred to

by the municipal Engineer/DPW Superintendent or his/her designee, as to the achievement of design and construction standards in accordance with the approved plans.

- 11.** Documents (deeds) for all easements and other required legal documents shall be presented to, and approved by the Planning Board prior to their endorsing the approved definitive plan.
- 12.** Within 21 days of the expiration of the 20 day appeal period with no appeal being filed, or if any appeal has been filed within 21 days of the final dismissal or denial of said appeal, the applicant shall present the Planning Board with two (2) complete set of Mylars of the Definitive Plans, with all of the required changes and these Conditions of Approval contained thereon, suitable for the Planning Board's endorsement. Said mylars must bear the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied. One (1) complete set of Mylars of the Definitive Plans, with all of the required changes and these Conditions of Approval contained thereon, containing the Planning Board's endorsement, shall be retained by the Planning Board. The fee for recording or registering shall be paid by the owner or applicant.
- 13.** The developer shall, within 60 days after the definitive plan has been endorsed, record said plan, required forms and, whenever applicable, the Planning Board's order of conditions, public easements (plans and documents), restrictive covenants, master deeds, etc., at the \_\_\_\_\_ County Registry of Deeds, and in the case of registered land with the Recorder of the Land Court. Within seven (7) days of said recording the applicant shall provide the Planning Board with a copy of the Registry's receipt of said recording including the book, page number, and date of recording. The cost of said recording shall be borne by the developer.
- 14.** Within 30 days of their recording, the applicant shall submit to the Planning Board copies of all plans and documents as recorded, complete with the Registry's Book and Page number. No work which is related to and/or authorized under this approved definitive subdivision plan may commence until, among other things, the applicant has delivered these to the Planning Board.
- 15.** Definitive Subdivision Plan information pertaining to the creation of the lots (including annotation of frontage, dimensions, acreage, etc.) shall also be submitted in a digital format approved by the Planning Board, using drawing interchange files (AutoCAD compatible DWG or DXF files), in either ASCII or binary format. Horizontal and vertical controls shall be in accordance with the requirements of the (Town/City) Engineer/DPW Superintendent. All records of control shall be delivered to and reviewed by the (Town/City) Engineer/DPW Superintendent.
- 16.** Approved Definitive Subdivision Plan information shall also be submitted in a pdf digital format approved by the Planning Board.
- 17.** No Building Permits may be applied for, and the Building Inspector shall issue no permits for, any of the lots in this development, unless he is notified in writing by the Planning Board that all of the necessary plans and related documents have been recorded at the Registry of Deeds and, if necessary, any release of Performance Guarantees.

#### CONSTRUCTION

- 18.** The applicant shall provide an "outside consultant" fee to the Planning Board, in an amount determined by the Planning Board, to retain the services of the peer review engineer to conduct periodic on-going inspections of the project to review its compliance with the approved plans.

- 19.** Prior to the commencement of construction, the applicant shall submit to the (Town/City) Engineer/DPW Superintendent, for his/her approval, a written schedule for regular inspections and notification procedures (ongoing throughout the construction of the project).
- 20.** No work shall commence until a pre-construction conference (a single meeting) has been held between the applicant, the contractor, the project engineer, and appropriate town officials (i.e. Planner, DPW, Police Department, Fire Department, Building Inspector, etc.). The applicant is responsible for contacting the (Town/City) Departments to make arrangements for such conference.
- 21.** The developer shall notify the Planning Board, DPW, Police Department, Fire Department, Building Inspector, in writing, five working days in advance of the date of commencement of construction.
- 22.** The construction of all ways and the installation of all municipal services shall commence within twelve months of the expiration of the appeal period. Failure to so comply may be reason for the Planning Board to rescind approval of the subdivision. The Planning Board may grant extensions for good cause, upon written request by the applicant provided:
  - a. said request is submitted prior to the expiration of this Approval, and
  - b. said approval requires the affirmative vote of a majority of the full Planning Board taken at a Public Meeting (no Public Hearing required).
- 23.** From the commencement of construction, all work shall continue in an uninterrupted and timely fashion, excepting weather related delays, until the project is completed. Failure to so comply may be reason for the Planning Board to rescind approval of the subdivisions.
- 24.** All work shall be completed in conformance with the approved plans within three (3) years from the expiration of the appeals period. Failure to so comply may be reason for the Planning Board to rescind approval of the subdivision. The Planning Board may grant extensions for good cause, upon written request by the applicant provided:
  - a. said request is submitted prior to the expiration of this Approval, and
  - b. said approval requires the affirmative vote of a majority of the full Planning Board taken at a Public Meeting (no Public Hearing required).
- 25.** All work shall be done in accordance with:
  - a. Middleton Department of Public Works
  - b. Middleton Board of Health
  - c. Middleton Water Department
  - d. Middleton Conservation Commission
  - e. Middleton Fire Department
  - f. Middleton Electric Light Department
  - g. Middleton Planning Board
  - h. Massachusetts Dept. of Transportation
- 26.** Where applicable, all lots are subject to approval by the appropriate agencies for on-site water supplies and on-site septic systems
- 27.** When applicable, after the installation of the complete storm water sewer system, the developer shall present a plan, compatible with the municipal Engineering/DPW's GPS/CAD software, which must be submitted to and approved by the Town Engineer/DPW Superintendent, showing ties to fixed and easily identifiable objects and elevations (whenever applicable) of all appropriate components of said systems, so that

they may be physically located in the future.

- 28.** During construction, adequate provisions shall be made on-site for the parking, storing, stacking of construction and contractor vehicles and materials, as well as delivery vehicles/trucks, including offhours, sufficient to prevent said vehicles from parking, storing, stacking on the public way.
- 29.** During construction, adequate and effective measures shall be taken to prevent erosion/siltation from leaving the site, or impacting the on or off-site drainage systems.
- 30.** All existing topsoil for areas to be disturbed shall be stockpiled on site and shall be surrounded with silt fence and hay bales or shall be covered with a solid woven fabric or tarp to prevent erosion or loss of usable top soil materials. Earthen materials shall only be removed where duly permitted by the town.
- 31.** During Construction adequate and effective measure shall be undertaken to prevent trucks and construction vehicles from dragging/depositing soil, mud and other debris onto the public way. Sediment tracked onto public roads from construction activities shall be swept at the conclusion of each construction day, until all work areas have been properly stabilized.
- 32.** The site shall be kept reasonably clear of construction debris and trash, and said debris and trash shall be removed periodically from the site. Debris or trash which becomes a nuisance to abutters or which blows onto the adjacent roadway shall be removed immediately upon notification by the City/Town or its representative.
- 33.** Each lot within the approved subdivision must be stabilized with permanent plantings and perennial grass cover within twenty-one (21) days after the completion of construction. If construction takes place during winter months (December 1 ) this condition will not become effective until April 1 st th to March 30 st . During winter months other erosion control methods shall be utilized (i.e. hay bales).
- 34.** Should any problems become apparent to the Planning Board during construction, it may vote to attach additional appropriate conditions.
- 35.** No occupancy permits may be applied for nor shall any occupancy permits be issued by the Building Inspector for any lot in this development until the Planning Board notifies the latter that the following have been constructed by the developers and approved by the Town/City Engineer/DPW Superintendent:
  - a. all required utilities to and servicing said lot
  - b. a driveway
  - c. at least the binder course of the road has been installed
- 36.** The roadway's asphalt concrete surface course shall not be installed until the roadway's asphalt concrete base course and gravel base course, and any utilities underlying the roadway, have been installed for one full winter (see Town/City Engineer/DPW Superintendent for specific dates).
- 37.** At the conclusion of construction the applicant is responsible for removing, patching and

repairing any damage to the town roads resulting from this project, if determined necessary by the municipal Engineering/DPW Superintendent to the extent required by the municipal Engineer/DPW Superintendent. POST CONSTRUCTION

- 38.** At the completion of the subdivision's construction, and prior to the town accepting said street as a town street, the street, right-of-way, all easements and the entire storm water system shall be cleaned of silt and debris by the developer.
- 39.** Upon completion of construction, the developer shall present the Planning Board with:
  - a. Two (2) copies of a plan of the road or way "as built," at a scale of the originally approved plans at size 24" x 36". Said plan to show a center line profile (4 feet per inch on the vertical scale and 40 feet per inch on a horizontal scale) taken at fifty (50) foot intervals along the road or way as it has been completed. All utilities, public and private, above and below grade shall be shown on the plan as they exist. Said plan shall also be submitted in an electronic format acceptable to the Planning Board.
  - b. All "as-built" Definitive Subdivision Plan information pertaining to the creation of the lots (including annotation of frontage, dimensions, acreage, etc.) shall also be submitted in a digital format, using drawing interchange files (AutoCAD compatible DWG or DXF files), as required by the municipal Engineer/DPW Superintendent.
  - c. All "as-built" Definitive Subdivision Plan, Record and Street Acceptance Plan information in pdf and AutoCAD compatible format such as dwg or dxf as required by the Planning Board.
  - d. A written statement from the project's engineer certifying that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended and been in use for through one full winter.
  - e. A video of the interior of the sanitary and stormwater sewer systems.
  - f. A written statement from the Town/City Engineer/DPW Superintendent, and from a registered professional engineer chosen by the Planning Board (and paid for by the applicant), and all other applicable municipal Boards/Commissions/Departments certifying that all work and systems required by these rules and regulations has been constructed in conformance with the approved construction plans. In the case where roadways will remain under private ownership, the above-mentioned certificate or statement shall be supplied by the project's registered professional engineer.
  - g. Written evidence from the electric, telephone, gas and cable TV companies and all other public and private utilities stating that their respective underground systems have been installed and are functioning to their satisfaction, or documentation that efforts to obtain such written evidence failed and were not responded to.

- h. A written statement from a Registered Land Surveyor certifying that all permanent bounds and monuments on all street lines and on the lot or lots within the subdivision are in place and are accurately located in accordance with the approved Definitive Plan.
- i. A written statement certifying that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
- j. A written plan, approved by the municipal Engineer/DPW Superintendent, for maintenance of the subdivision right-of-ways, easements and roads from the time after acceptance by the Town/City and continuing for 20 years. The maintenance plan should include provision for the maintenance of road pavement, soil settling problems, street sweeping, snowplowing, maintaining vegetative stabilization of all rights-of way and easements, erosion controls, fall leaf cleanup, catch basin and drainage system cleaning and maintenance, and other provisions as determined to be necessary by the municipal Engineer/DPW Superintendent.
- k. Copies of all of the recorded lot deeds showing that the applicant has retained his/her/their rights to the subdivision road(s) right-of-way, or Certification from developer's lawyer that all deeds to lots contained phrasing which retained his/her/their rights to the right-ofway(s).
- l. A formal petition, accompanied by said plans, requesting that the street be accepted by the Town/City as a Town/City Street.
- m. A Roadway Conveyance Plan showing the overall boundary of the proposed roadway to be conveyed to the Town/City. This plan must include the bearing and distance descriptions of the roadway right-of-way.
- n. Two (2) copies of the description by metes and bounds of each road and easement considered for acceptance by the Town/City.
- o. A Roadway Conveyance Instrument prepared by an attorney and in a form approved by the Town Counsel/City Solicitor suitable for execution by the Board of Selectmen/City Council after acceptance of the roadway. This instrument must include a legal description of the right-of-way and include reference to any easement documents.
- p. An Easement Conveyance Plan showing overall boundary of any proposed easements to be conveyed to the Town/City. This plan must include the bearing and distance description of the easement tied to the roadway right-of-way.
- q. An Easement Conveyance Instrument prepared by an attorney and in a form suitable for execution by the Board of Selectmen/City Council after formal Town/City acceptance of the easement. This instrument must include a legal description of the easement as well as a description of the Town's/City's rights within the easement.

- 40.** No final release of the Performance guarantee shall be allowed prior to the Planning Board's receiving and approving of all of the items in Condition 39.
- 41.** The total responsibility for the maintenance (including snow and ice removal) repair, reconstruction of the roadway and utilities shall remain with the developers, their successors and assigns, until the Town Meeting has accepted the streets as Town streets.
- 42.** Upon the installation of the first coat of pavement, or the start of construction of the first home, whichever occurs first, the applicant shall install street signs and a stop sign at all intersections of the subdivision roads as shown on the approved plans.
- 43.** Until the Town Meeting/City Council accepts such streets as Town/City Streets, the developer shall install blue "Private Way" signs on all of the development's street signs.
- 44.** The maintenance of the detention/retention ponds and associated appurtenances located outside of the right-of-way, even if and after the street is accepted by the town as a town street, shall remain the responsibility and liability of the individual lot owners or subsequent established homeowner's association.
- 45.** Work on this development shall only take place between the hours of 7 AM - 5 PM Mondays thru Fridays and 8 AM - Noon on Saturdays. No work is permitted on Sundays and town recognized Holidays unless prior written approval is issued by the Town Administrator/Mayor. Such requests must be received by the Town Administrator's/Mayor's Office at least seven (7) calendar days prior to the Holiday.
- 46.** The paved roadway shall be widened at the cistern locations sufficient for access of the cisterns by the Fire Department.
- 47.** Any others....

## ENFORCEMENT

The Building Department will issue no permits for construction until notified, in writing, by the Planning Board that a properly executed performance guarantee on the project is in effect.

## EXPIRATION OF DECISION

Approval of this Definitive Subdivision plan is conditional upon an acceptable performance guarantee agreement between the petitioner and the Middleton Planning Board within 60 days from the vote to approve the plan. The Planning Board will not endorse the approved definitive plan prior to this security agreement being finalized and accepted by a majority vote of the Planning Board. Failure to comply with all conditions and restrictions listed as part of this decision may be cause for the rescinding of this plan as an approved subdivision.

## APPEALS

This decision is subject to appeal in accordance with M.G.L. ch. 41, § 81BB within 20 days after this



9/6/2023

decision is filed with the town clerk. The plans will be endorsed by the Board following certification by the Town Clerk that the Decision has been submitted and 20 days have expired without appeal.

Respectfully,  
The Middleton Planning Board

\_\_\_\_\_  
\_\_\_\_\_, Chairman

cc: Building Inspector  
DPW Superintendent  
Conservation Agent  
Health Director  
Assessors  
File

9/6/2023

**FORM F**  
**CONSTRUCTION COST ESTIMATE**

Town of Middleton Planning Board

**Please refer to Sections 250 of Town Code for Definitive Subdivision requirements.**

<b>APPLICANT INFORMATION</b>	<b>PROPERTY INFORMATION</b>
<p style="text-align: center;"><b>APPLICANT</b></p> <p>Name:</p> <p>Address:</p> <p>Telephone:</p> <p>Email:</p>	<p>Subdivision Name:</p> <p>Property Address/Location/Description:</p>
<p style="text-align: center;"><b>DEVELOPER</b></p> <p>Name:</p> <p>Address:</p> <p>Telephone:</p> <p>Email:</p>	<p style="text-align: center;"><b>SURVEYOR/ENGINEER</b></p> <p>Surveyor:</p> <p>Reg. Number:</p> <p>Address:</p> <p>Telephone:</p> <p>Email:</p>

Item	Item Description	Unit (A)	Quantity (B)	Unit Cost (C)	Total Cost (D)=(A*B*C)	Work Completed To Date (E)	Total Cost of Remaining Work (F)=(D-E)
1.	Site Clearing, Grubbing, Earth Excavation						
2.	Backfill and Grading to Sub-Base						
3.	Drainage Utility System (pipe, structures, basins, etc)						
4.	Water Utility System (pipe, hydrants, services, valves, etc)						
5.	Telecommunication Utility System						
6.	Electrical Power Utility System						
7.	Lighting Utility System						
8.	Gas Utility System						
9.	Other Utility System						

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<b>10.</b>	Gravel Placement and compaction on Sub-Base						
<b>11.</b>	HMA Roadway – Base/Binder Course						
<b>12.</b>	HMA Roadway – Top Course						
<b>13.</b>	HMA Sidewalk – Binder Course						
<b>14.</b>	HMA Sidewalk – Top Course						
<b>15.</b>	HMA Berms/Curbs						
<b>16.</b>	Linestriping						
<b>17.</b>	Signage & USPS Collection Box						
<b>18.</b>	Guardrails & Fencing						
<b>19.</b>	Landscaping						
<b>20.</b>	Loam Placement and Seeding						
<b>21.</b>	Middleton Inspection Fees						
<b>22.</b>	Engineering/Testing/As-Built Fees						
<b>23.</b>	Other						
<b>Total Projected Construction cost</b>							
Cost Adjustment Municipal Prevailing Wage Rates							
Cost Adjustment for a Factor of Safety/Inflation							
<b>Total Adjusted Construction Cost</b>							
Legal and Administrative Cost							

Definitive Subdivision Construction Cost Estimate Certification	
Name	
Title	
Company	
Address	
Phone	
Email	
Certification Date	

FORM G  
COVENANT

Town of Middleton Planning Board

KNOW ALL MEN BY THESE PRESENTS:

That whereas the undersigned (hereinafter the "**Applicants**"), \_\_\_\_\_, with a mailing address of \_\_\_\_\_, have submitted an application dated \_\_\_\_\_ to the Middleton Planning Board (the "**Board**") for approval of a Definitive Plan entitled "\_\_\_\_\_" dated \_\_\_\_\_, revised through \_\_\_\_\_ (the "**Definitive Plan**") and have requested that the Board approve and endorse such Definitive Plan without requiring a performance bond.

NOW, THEREFORE, in consideration of the Board approving and endorsing the Definitive Plan without requiring a performance bond, the Applicants covenant and agree with the Town of Middleton as follows:

1. The undersigned will not convey any or erect or place any structure on any lot on any such street in the subdivision until the construction of ways and the installation of all municipal services necessary to adequately serve all lots on such street(s) has been completed in the manner specified in the aforesaid Definitive Plan and in accordance with the covenants, conditions, agreements, terms and provisions thereof.
2. This agreement shall be binding upon the executors, administrators, devisees, heirs, successors, and assigns of each of the Applicants.
3. This agreement shall constitute a covenant running with the land included in the aforesaid subdivision and shall operate as restrictions upon land. This Covenant shall take effect upon the endorsement of the Definitive Plan and shall be entered upon said plan and shall be recorded when said plan is recorded.
4. It is understood and agreed that lots shown on the Definitive Plan may be released from the foregoing conditions upon the recording of a certificate of performance executed by a majority of the Board and enumerating the specific lots to be so released.
5. The undersigned represent and covenants that they are the undersigned is the owner in fee simple of all land included in the aforesaid subdivision and that there are no mortgages of record or otherwise of any of said land, [except such as are described below and subordinated

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to this contract, and the present holders of said mortgages have assented to this contract prior to its execution by the undersigned.]

7. The construction of all ways and installation of all municipal services shall be completed in accordance with the applicable Rules and Regulations of the Town of Middleton Governing the Subdivision of Land before \_\_\_\_\_ unless an extension of time is granted by the Middleton Planning Board. Failure to so complete shall automatically rescind approval of the Definitive Plan.

8. The undersigned \_\_\_\_\_, spouse of the covenantor, hereby agrees that such interest as I may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

IN WITNESS WHEREOF the undersigned, applicant as aforesaid, does hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_.

Applicants:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
(TITLE)

COMMONWEALTH OF MASSACHUSETTS  
Essex, ss

Then personally appeared before me the above-named \_\_\_\_\_ and acknowledged the foregoing instrument to be his free act and deed.

\_\_\_\_\_  
Notary Public  
My Commission

Expires \_\_\_\_\_

FORM H  
PERFORMANCE BOND  
Town of Middleton Planning Board

This Surety Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the **Town of Middleton**, a Massachusetts municipal corporation, acting through its planning board (hereinafter, the "Board");       developer       with a mailing address of \_\_\_\_\_ (hereinafter "Owner"); and \_\_\_\_\_ a \_\_\_\_\_ duly organized and existing under the laws of the state of \_\_\_\_\_, licensed and registered to do business in the Commonwealth of Massachusetts, and with a usual place of business and address of \_\_\_\_\_, (hereinafter "Surety").

**PREAMBLE**

WHEREAS, on   date of approval  , based on the Owner's application dated \_\_\_\_\_, and after duly noticed public hearing(s), the Board approved a definitive subdivision plan showing \_\_\_\_ lots, which is entitled:

\_\_\_\_\_, prepared by \_\_\_\_\_, dated \_\_\_\_\_, and recorded with the Southern Essex District Registry of Deeds in Plan Book(s) \_\_\_\_\_, Plan(s) \_\_\_\_\_ (the "Plan");

WHEREAS, the approved definitive subdivision plan shows the division of a parcel of land located at \_\_\_\_\_ (hereinafter "subdivision") and further described in a deed or deeds dated \_\_\_\_\_ and recorded at the Southern Essex District Registry of Deeds in Book(s) \_\_\_\_\_, Page(s) \_\_\_\_\_;

WHEREAS, M.G.L., c.41, § 81U requires the Board to secure the construction of ways and the installation of municipal services in an approved subdivision before endorsing its approval on the approved definitive subdivision plan;

WHEREAS, the Owner has decided to secure the construction and installation of ways, project infrastructure (drainage, sidewalks, curbing, utilities, etc.) and other municipal services in the subdivision, as described on Exhibit A hereto (hereinafter, the "Infrastructure") by means of a

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SURETY BOND in the penal sum of \_\_\_\_\_ 00/100 (\$ \_\_\_\_\_) dollars (the "Security");

WHEREAS, the Board has determined that the form of the surety bond is sufficient in form and amount to secure the construction and installation of the Infrastructure in the subdivision and hereby accepts the aforesaid surety bond in the amount specified;

WHEREAS, the Owner's construction and installation of Infrastructure within the subdivision are subject to the requirements of M.G.L., c.41, §§ 81K-81GG (The Subdivision Control Law); the board's Subdivision Rules and Regulations applicable to this subdivision; the application submitted for approval of this subdivision; the certificate of approval and all conditions of approval of this subdivision as set forth in the Board's Certificate of Approval, dated \_\_\_\_\_ (attached hereto as Exhibit B and made an enforceable part of this surety agreement); and the Plan (hereinafter "Approval Instruments");

NOW THEREFORE, for and in consideration of the mutual promises set forth below, and after good and valuable consideration, the parties agree as follows:

#### **SECTION 1. INCORPORATION OF PREAMBLE**

The Preamble shall be incorporated into and become an enforceable part of this surety agreement.

#### **SECTION 2. EFFECTIVE DATE**

This surety agreement shall be effective upon its execution by all parties hereto, subject to endorsement of approval of the definitive subdivision plan by the Board and the recording or registering of the endorsed Definitive plan at the Southern Essex District Registry of Deeds at the expense of the owner.

#### **SECTION 3. OBLIGATIONS, DUTIES, AND RIGHTS OF THE PLANNING BOARD**

- a. The Owners shall complete all of the Infrastructure by no later than \_\_\_\_\_.
- b. Upon completion of the construction and installation of the Infrastructure in accordance with the Approved Instruments, the Owners shall inform the Board in accordance with

G.L. c. 41, §81U, seeking a release from this Agreement and the Board shall review such request in accordance with said statutory requirements.

- c. In the event that the Board determines that the Infrastructure was satisfactorily completed, the Board shall release the owner and surety from this surety agreement and shall issue a certificate of completion and release that shall be executed by a majority of the members of the planning board. A determination that the Infrastructure has been completed shall be in the sole discretion of the Board, which may retain inspectors, consultants and/or engineers, at the Owner's expense, to assist in making such determination. The Owner and its engineers and consultants shall fully comply with all reasonable requests for inspections and information by the Board and its agents, along with the Middleton DPW.
- d. In the event that the Owner submits a request for release from this Agreement and the Board determines that the Infrastructure was not satisfactorily completed, the Board shall inform the Owner accordingly, in writing and the Owner shall have ninety (90) days to complete such work, provided that such time period may be extended by agreement of the parties.
- e. If the Owner fails to cure such defects and/or otherwise fails to satisfactorily complete the Infrastructure by the deadline prescribed herein, as may be extended, the Surety shall release the Security to the Board and the Town, and shall apply said proceeds, for the benefit of the said town to complete the construction and installation of the Infrastructure as provided in the Approval Instruments. Any portion of the Security that is not applied as set forth above, shall be retained by the Town as liquidated damages for failure to perform under this agreement. In the event that the Board elects to obtain such bond proceeds, as described in this paragraph, it shall notify the Surety and the Owner accordingly, in writing and, within fourteen (14) days of such writing, the Security shall be paid to the Town.
- f. Upon construction of a portion of the Infrastructure, in accordance with the Approval Instruments, the Owner may request a partial release of this Agreement and the Board may release the Owner and Surety from a commensurate portion of the Security, so long as the construction and installation of Infrastructure is, in the sole opinion of the Board adequate (in the manner stated in the preceding paragraphs).
- g. The Board shall notify the treasurer for the Town of Middleton of any release of the Security held under the bond that secures this surety agreement in full or in part. Upon receipt of a release, the treasurer shall forthwith notify the Surety accordingly.

#### **SECTION 4. OBLIGATIONS, DUTIES, AND RIGHTS OF THE OWNER AND SURETY**



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- a. The Surety, or Owner on behalf of the surety, shall deliver a surety bond with the treasurer of the Town of Middleton, in the amount of \_\_\_\_\_ **and 00/100 (\$\_\_\_\_\_)** dollars for the purpose of securing construction and installation of the Infrastructure in the subdivision.
- b. The Surety agrees to and is obligated to notify the Board of any lapse in the bond. Failure of the security company to provide such notice or any lapse of the surety bond shall result in automatic rescission of approval of the subdivision. Any issuance of a new bond by the surety shall require execution of a new surety agreement.
- c. As aforesaid, the Owner shall complete construction and installation of the Infrastructure for this subdivision no later than \_\_\_\_\_.
- d. The Owner and Surety agree and understand that the Board will not release this surety bond in full, unless the Infrastructure is completed, as aforesaid, or another method of security is provided and bound by a suitable agreement. No provision of this surety agreement shall prevent the Owner from varying the method of securing the construction of ways and the installation of municipal services from time to time or from securing by one, or in part by one and in part by another of the methods as provided in M.G.L., c.41, § 81U, as long as the Board deems the method and form chosen for securing the construction of ways and the installation of municipal services as sufficient.
- e. The Owner shall at all times provide the Board forthwith (no more than 14 days after transfer of title) with the name of the current owner or owners of this subdivision or portions thereof and the address of the owner or owners . The Owner agrees and understands that failure to comply with this provision could result in rescission of approval of the definitive subdivision plan.
- f. The Owner shall at all times provide the board forthwith (no more than 14 days after transfer of title) with the name of any mortgagee or mortgagees of this subdivision or portions thereof and the address of the mortgagee or mortgagees. At the time of executing this surety agreement, the mortgagee(s) of this subdivision is/are \_\_\_\_\_ whose address is \_\_\_\_\_

## SECTION 5. BINDING EFFECT

This surety agreement, and any amendments thereto, shall be binding on the Owner, the Owner's agents and representatives, and any successors to the Owner's title, interest, and rights in the parcel of land constituting this subdivision, including executors, administrators,

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devisees, heirs, successors and assigns of the Owner. This surety agreement shall also be binding on the Surety, its agents, representatives, successors, and assigns. The liability of the Owner and Surety to the Town of Middleton shall be joint and several.

#### **SECTION 6. USE OF TERMINOLOGY**

Use of the terms "Owner" and "Surety" in this surety agreement is for convenience only and should not be considered as a limitation on those parties who may be subject to and bound by the provisions of this surety agreement and any amendments thereon. Use of the term "planning board or Board" in this covenant is for convenience only and may include agents or representatives of the planning board.

#### **SECTION 7. AMENDMENTS**

This surety agreement may be amended, in writing, by agreement of all of the parties to this agreement.

#### **SECTION 9. GOVERNING LAW**

This surety agreement, and any amendments thereto, shall be governed by the laws of the Commonwealth of Massachusetts and shall be enforceable only in a Massachusetts Court of competent jurisdiction.

#### **SECTION 10. SEVERABILITY**

If a court of competent jurisdiction determines that any provision of this surety agreement is unenforceable, such determination shall not affect the remaining provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, I, the Owner, hereby certify under the pains and penalties of perjury that the information contained in this surety agreement is true and complete; and we, the parties to this surety agreement, set our hands and seals to this agreement on the date(s) written below.

OWNER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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Signature of Owner

Date

Witness

By:

Its:

Duly authorized

COMMONWEALTH OF MASSACHUSETTS

Then personally appeared before me the above-named \_\_\_\_\_, owner, or person duly authorized to execute this surety agreement on behalf of the owner, and acknowledged the execution of the foregoing instrument to be his/her free act and deed for the purposes provided therein.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

SURETY: \_\_\_\_\_

\_\_\_\_\_  
Signature of Surety Company Rep.

Date

\_\_\_\_\_  
Witness

By:

Its:

Duly authorized

COMMONWEALTH OF MASSACHUSETTS

Then personally appeared before me the above-named \_\_\_\_\_, representative of the surety, who is a person duly authorized to execute this surety agreement on behalf of the surety, and acknowledged the execution of the foregoing instrument to be his/her free act and deed for the purposes provided therein.

\_\_\_\_\_

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Notary Public

My commission expires: \_\_\_\_\_

MIDDLETON PLANNING BOARD:

\_\_\_\_\_  
Planning Board Chairperson

\_\_\_\_\_  
Date

### COMMONWEALTH OF MASSACHUSETTS

Then personally appeared before me the above-named Chairperson of the Middleton Planning Board and acknowledged the execution of the foregoing instrument to be their free act and deed for the purposes provided therein.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

### ASSENT OF MORTGAGEE

\_\_\_\_\_, of \_\_\_\_\_,  
\_\_\_\_\_, the mortgagee of the parcel of land, or a portion thereof, constituting this subdivision at the time of execution of this agreement, hereby consents to execution of this agreement by the owner, who is the mortgagor of the parcel of land subject to a certain mortgage deed dated \_\_\_\_\_ and recorded at the \_\_\_\_\_ in Book \_\_\_\_\_, Page \_\_\_\_\_; or registered in \_\_\_\_\_ as Document No. \_\_\_\_\_, and noted on certificate of title No. \_\_\_\_\_, in Registration Book \_\_\_\_\_, Page \_\_\_\_\_. The mortgagee also agrees to hold the mortgage subject to this agreement and agrees that the mortgage shall be subordinate to the agreement, which agreement shall have the same status, force, and effect as through executed and recorded prior to the conveyance of the mortgage deed by the mortgagor-owner to the mortgagee.

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MORTGAGEE

\_\_\_\_\_  
\_\_\_\_\_

Signature of Mortgagee Date Witness

By:

Its:

Duly authorized

COMMONWEALTH OF MASSACHUSETTS

Then personally appeared before me the above-named \_\_\_\_\_,  
person duly authorized to execute this agreement on behalf of the mortgagee, and  
acknowledged the execution of the foregoing instrument to be his/her free act and deed for  
the purposes provided therein.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

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FORM I

CERTIFICATE OF PERFORMANCE – RELEASE OF LOTS

Town of Middleton Planning Board

Please refer to Sections 250 of Town Code for Definitive Subdivision Plan requirements

**Certification and Signatures**

The undersigned being a majority of the Planning Board of the [Town/City] of \_\_\_\_\_, Massachusetts hereby certify that the requirements for work on the ground called for the covenants dated \_\_\_\_\_ and recorded in the Southern Essex County Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_, (or registered in Land Registry District as Book \_\_\_\_\_ Page \_\_\_\_\_) have been completed to the satisfaction of the Planning Board as to the following enumerated lots shown on a plan entitled \_\_\_\_\_ recorded with said Deeds, Plan Book \_\_\_\_\_, Page \_\_\_\_\_ (or registered in Land Registry District as Book \_\_\_\_\_ Page \_\_\_\_\_) and said lots are hereby released from the restrictions as to sale and building specified thereon.

**Lots Designated on said Plan as follows:** \_\_\_\_\_

**Majority of the Middleton Planning Board:**

COMMONWEALTH OF MASSACHUSETTS

Essex, ss

Then personally appeared before me the above-named \_\_\_\_\_ and acknowledged the foregoing instrument to be his free act and deed.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

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FORM J  
REQUEST FOR INSPECTION SERVICES  
Town of Middleton Planning Board

Request Filing Date: \_\_\_\_\_ Received by: \_\_\_\_\_

(To be filled out by Planning Dept. staff)

**Please refer to Sections 250 of Town Code for Subdivision Plan requirements**

**APPLICANT INFORMATION**

<b>APPLICANT</b>	<b>ENGINEER/SURVEYOR</b>
Name: _____	Surveyor: _____
Address: _____	Reg. Number: _____
Telephone: _____	Address: _____
Email: _____	Telephone: _____
	Email: _____

**PROPERTY INFORMATION**

Name of Subdivision: \_\_\_\_\_

Property Address/Location/Description: \_\_\_\_\_

Description of works and/or installations to be inspected: \_\_\_\_\_

**CERTIFICATION and SIGNATURE**

To the Middleton Planning Board, the undersigned hereby certifies that the above described works and/or installations have been made in accordance with the approved plans as designed and laid-out by me.

Engineer Signature: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_

Professional Seal:

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DATE REQUESTED	ITEM	DATE	INSPECTOR	DEPT.	REMARKS
	<b>Roads</b>				
	● Subbase				
	● Base Course				
	● Binder course				
	● Top Course				
	● Berms				
	<b>Sidewalks</b>				
	● Subbase				
	● Base Course				
	● Cement Concrete				
	● Binder course				
	● Top Course				
	<b>Loam &amp; Seed</b>				
	<b>Street Trees</b>				
	<b>Street Name Signs</b>				
	<b>Monuments</b>				
	<b>Fire Alarm</b>				
	<b>Police Call System</b>				
	<b>Drainage System</b>				
	<b>Water System</b>				
	<b>Sewer System</b>				
	<b>Other Improve.</b>				
	<b>Final Acceptance</b>				



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**FORM K**  
**ENGINEER'S CERTIFICATION OF PERFORMANCE**  
Town of Middleton Planning Board

<div style="display: flex; justify-content: space-between;"><div>Filing Date: _____</div><div>Received by: _____</div></div> <p style="text-align: center; font-size: small;">(To be filled out by Planning Dept. staff)</p>	
<b>Please refer to Sections 250 of Town Code for Subdivision Plan requirements</b>	
<b>APPLICANT INFORMATION</b>	
<p style="text-align: center;"><b>DEVELOPER</b></p> <p>Name: _____</p> <p>Address: _____</p> <p>Telephone: _____</p> <p style="text-align: right;">Email: _____</p>	<p style="text-align: center;"><b>ENGINEER/SURVEYOR</b></p> <p>Surveyor: _____</p> <p>Reg. Number: _____</p> <p>Address: _____</p> <p>Telephone: _____</p> <p style="text-align: right;">Email: _____</p>
<b>PROPERTY INFORMATION</b>	
<p>Name of Subdivision: _____</p> <p>Property Address/Location/Description: _____</p> <p>Description of works and/or installations certified to: _____</p>	
<b>CERTIFICATION and SIGNATURE</b>	
<p>To the Middleton Planning Board, the undersigned hereby certifies that the above described works and/or installations have been made in accordance with the approved plans as designed and laid-out by me, and all systems are functioning as designed.</p>	
<p>Engineer Signature: _____</p> <p>Printed Name/Title: _____</p> <p style="text-align: right;">Date: _____</p>	<p style="text-align: center;">Professional Seal:</p>

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**FORM L**  
**EXTENSION OF TIME REQUEST**

Town of Middleton Planning Board

Filing Date: \_\_\_\_\_ Received by: \_\_\_\_\_

THIS SECTION FOR TOWN CLERK ONLY

**Please refer to Sections 250 of Town Code for Subdivision Plan requirements**

<b>APPLICANT</b>	<b>PROPERTY INFORMATION</b>
Name: _____ Address: _____ Telephone: _____ Email: _____	Name of Subdivision: _____ Property Address/Location/Description: _____

**To the Middleton Planning Board, please accept this request for an extension to the time period for the above-named project. I would like to extend the Planning Board's:**

- **Public Hearing Opening Date to:** Click or tap to enter a date.
- **Deadline date for filing a decision with the Town Clerk to:** Click or tap to enter a date.

Applicant's Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED BY MAJORITY OF THE MIDDLETON PLANNING BOARD:**

Chairperson: \_\_\_\_\_

Date: \_\_\_\_\_

FORM M  
APPLICATION FOR ROADWAY IMPROVEMENT PLAN

Application Filing Date: _____ Received by: _____ <div style="text-align: center; font-size: small; margin-top: 5px;">(To be filled out by town clerk office only)</div>
---

Applicant(s): \_\_\_\_\_

Subject Land Address: \_\_\_\_\_

Map/Parcel #: \_\_\_\_\_

**Please refer to Sections 250 of Town Code for Roadway Improvement Plan requirements**

The following evidence must be submitted with each application.

<b>Evidence to prove that the lot existed prior to the adoption of zoning:</b>	
<input type="checkbox"/>	a copy of the recorded deed and plan (if any) as recorded in the Essex County Registry of Deeds, which shows that the lot existed in its current form prior to March 15, 1955.
<b>Evidence to prove that the lot in question has frontage on one of the following types of "ways" (choose one):</b>	
<input type="checkbox"/>	Town Clerk Certification. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way which the Town Clerk certifies is used as and maintained regularly and consistently as a public way by the Town to the same extent to which other public ways are maintained by the Town," then the applicant shall provide a letter from the Town Clerk in which the above-described certification is made.
<input type="checkbox"/>	Previously Approved Plan. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way shown on a plan previously approved and endorsed by the Planning Board and recorded at the Registry of Deeds," then the applicant shall provide a copy of the approved definitive subdivision plan as recorded in the Essex County Registry of Deeds, including the book and page number of said recording.
<input type="checkbox"/>	Existed Prior to Subdivision Control. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way existing prior to the date on which subdivision control was adopted by the Town, then the applicant shall provide deeds, maps, and other documentation which shows that the road in question existed prior to March 15, 1955 and provide evidence that the road has a history of being used as a traveled way.

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Registry of Deeds Book/Page:

(Or) Land Court, Certificate of Title:

Zoning District

Proposed Frontage

Required frontage:

Describe the plan (use separate sheet if necessary):

Owner Name:

Address:

Telephone:

Email:

Applicant Name (if different from owner):

Address:

Telephone:

Email:

Applicant Representative:

Representative Telephone:

Representative Email:

Application shall be filed via the online permitting portal. Five full size plans and two hard copies of the signed application and check made out to the Town of Middleton for the required fee must be delivered to the planning board office at 195 No. Main Street within 2 days of filing application online. Fee is \$300. Additionally, a mylar copy of the plan must be brought to the Planning Board meeting for their signature. See Section 250.4 of Town code for Roadway Improvement Plan requirements.

Applicant(s) signature:

Date:

If applicant is not owner(s)

Owner(s) signature:

Date: