

Town of Raynham, Massachusetts

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ph: 508.824.2707

SECTION 7.0 DEFINITIVE PLAN

7.1 PRE-APPLICATION CONFERENCE

Prior to investing in extensive professional design costs for preparation of subdivision plans, the applicant is invited to review the proposed development of the parcel of land with the Town Planner. To explore general conditions involving the site and to discuss potential problems. Pencil sketches, which need not be professionally prepared, will assist in this discussion, and should show the critical features of a Preliminary Plan.

7.2 SUBMISSION

- a) **Application.** Any person who submits a Definitive Plan of a Subdivision to the Board for approval shall file with the Board a properly executed application form together with the original drawings and ten (10) print sets thereof, dark line on white background, for each sheet in the set.
- b) **Notice.** The applicant, in accordance with G.L. c. 41, s. 81T, shall file by delivery or registered or certified mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the executed application form.
- c) **Fee.** A fee determined in accordance with the most recent Fee Schedule adopted by the Board shall accompany every application for approval. Costs of advertising and notices shall be charged to the applicant, unless otherwise ordered by the Board.
- d) **Additional Costs.** Should the Board incur additional costs in the review of the Definitive Plan, such costs shall be borne by the applicant unless otherwise ordered by the Board.
- e) **Consultation with Other Boards.** Prior to submission of the Definitive Plan, the applicant shall review with the applicable Town departments, the proposed design, location and installation of all infrastructure, including, but not limited to, water, sanitary sewer, storm drain and fire alarm systems.
- f) **Incomplete Submissions.** The Board reserves the right to disapprove incomplete submissions at any time if, in its opinion, review of the plan is hampered by the absence of required information. In the event that incomplete plans are submitted to the Board, after opening a public hearing, the Board may vote to disapprove the plan and return plans to the applicant as incomplete. The Board shall cite those specific regulations with which the plan is not in compliance in a letter noting the reason for the Board's action, which shall be filed with the Town Clerk. In the event of such disapproval, the Board reserves the right to retain any filing or review fees.
- g) **Change of Engineer and/or Surveyor.** The developer shall choose an engineer or surveyor to provide technical assistance. This engineer's name and address shall be shown on the Definitive Plans. In the event that the developer decides to change the engineer/surveyor before the infrastructure within the development is accepted by the Town, the developer shall notify the Raynham Planning Board in writing and provide to the Board immediately the new engineer/surveyor name and address. The individual or firm name must also appear on the definitive plans. A written affidavit binding this new engineer/surveyor to the subdivision plans as originally presented and currently proposed for geometric exactness and soundness of engineering principles must be provided to the Board before lots may be sold or subdivision infrastructure may be constructed. A developer not able to provide this written commitment from their new engineer/surveyor shall provide cash surety of 15% of the overall cost of the development to the Planning board with in 30 days. The Town will hold this surety for one year past the date of acceptance of the roadway(s) and infrastructure from date of definitive plan or for ten years. In the event that this development has not accepted within those ten years time, the surety amount and interest shall be forfeited to the Town of infrastructure improvements. No additional lots will be made available for building until either professional responsibility is assumed by the new (engineer/surveyor) or the developer provides the cash surety. The Board shall have authorization to use the cash surety to resolve to their satisfaction all design and geometric issues not addressed by the developer or current engineer. Resolution may include the cost of correcting improper design.

7.3 PROCEDURES

a) Review by the Board of Health.

When a Definitive Plan of a subdivision is submitted to the Board, as provided in G.L. c. 41, s. 81O, a copy thereof shall also be filed with the Board of Health. The Board of Health shall report, in writing, to the Board, its approval or disapproval of said plan.

b) Review by Other Town Officials.

The Board will transmit copies of the Definitive Plan to the following: Highway Department (3 copies), Fire Chief, Police Chief, Conservation Commission, Building Commissioner/Zoning Enforcement Officer, and to such other Boards or committees as the Board deems advisable. The Planning Board will request of each official, board and commission written statements with regard to the plan within forty-five (45) days of each submission. Such statements should encompass the layout and design of the proposed subdivision and of the proposed municipal services therein, compliance with the Zoning Bylaw, and the applicability thereto of state and local regulations. The failure of these other boards or officials to respond within said forty-five days shall be deemed a lack of opposition to the proposed development. Before approval of a Definitive Plan is granted, the Planning Board will obtain appropriate checks on the engineering and survey information shown on said plan, and written statements that the proposed improvements shown are laid out to the satisfaction of the municipal agency, as follows:

1. As to the design of the street system, location of easements, and design of sewerage, water, and drainage systems, including appurtenances: the planning consultant or engineer designated by the Board;
2. As to location, size, and species of street trees: the Tree Warden.
3. As to the form of easements, covenants, and performance guarantees: Planning Board designee.
4. As to location of hydrants, fire ponds and cisterns, and with regard to fire safety: the Fire Chief.
5. As to street safety: the Police Chief.

c) Public Hearing.

Upon receipt of a properly executed application (Form C) together with the Definitive Plan, the Board will set a date for the required public hearing. Notice of the public hearing shall be given in accordance with the requirements of G.L. c. 41, s. 81T. Before approval of the Definitive Plan is given, a public hearing shall be held by the Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given by the Board by advertisement in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication being not less than fourteen days before the day of the hearing. The Board shall mail a copy of said notice to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list.

d) Revisions.

Any revision to the originally filed definitive plan must be submitted 7 days prior to any continuation of the hearing.

e) Time Extension

If the need for additional time is indicated, the Applicant may request in writing an extension of time to a given date. The Planning Board may deny such requests at its sole discretion.

7.4 PREPARATION OF PLAN

7.4.1 Preparation.

The Definitive Plan shall be prepared by a Registered Professional Engineer or a Registered Land Surveyor and shall be clearly and legibly drawn with waterproof ink upon linen, mylar or other media acceptable to Land Court such that the copies provided the Town agencies shall be of the highest quality and easy to read. The plan shall be at a scale of one-inch (1") equals forty feet (40') in plan and one inch (1") in 4 feet in profile sections unless the Board approves another scale. Sheet sizes shall be twenty-four inches (24") by thirty-six (36") or a scale acceptable to the

Board and comply with the Registry of Deeds standards. A margin of two and one-half inches (2.5") clear shall be allowed on the left hand side for binding and one inch (1") margin on the remaining three sides. Multiple sheets shall be accompanied by an index sheet at a scale of 1"=100', showing the entire subdivision and all sheets shall be appropriately numbered and referenced thereto.

7.4.2 Contents.

Definitive Plan shall show the following information. Should the plan be submitted on more than one sheet, each sheet shall be of the same size, each containing the required title block indicating the sheet number of each sheet.

1. Title block as shown in the Appendix, containing the following information:
 - a. Title (subdivision name), date of survey and scale, and a bar scale, as required by the Registry of Deeds.
 - b. Name and address of owner of record and of applicant if other than owners of record. Plans must be updated to reflect current information.
 - c. Name and address of Registered Land Surveyor or Registered Professional Engineer.
 - d. The plan sheets adjacent to the title block shall be a block, measuring three and one-half inches (3.5") by three and one-half inches (3.5"), which shall be reserved for use by the Registry of Deeds.
 - e. Each plan and cover sheet shall also have the following statements, together with a location suitable for the preparer's signature, placed upon it: "This plan has been prepared in conformance with the rules and regulations of the Registry of Deeds."
 - f. Name of Subdivision. The main road shall have the same name as the subdivision.
2. North Arrow depicting whether magnetic or true.
3. Existing and proposed infrastructure such as but not limited to; streets, ways, curbs, drainage systems, utilities, lines of streets, ways, easements, and any public or common areas within the subdivision (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Board).
4. All boundary lines shall be shown with bearings and distances depicting mathematical closure of the boundary lines of each lot, roadway layout, easement and subdivision. All boundaries included in the subdivision shall be geometrically tied to field monumentation boundaries with associated bearings and distances. The error of the closure on the perimeter shall be 1:15,000 or better. Closure calculations shall be submitted on a separate sheet.
5. Where the applicant also owns or controls un-subdivided land adjacent to the land shown on the Definitive Plan, a possible or prospective street layout for such adjacent land shall be included.
6. Location, names, present widths and status as accepted or unaccepted, of adjacent streets and those streets approaching or within reasonable (reasonable to be defined as 200 feet from the nearest property of the subdivision) proximity of the proposed subdivision. All existing street layouts must be established by survey and shown on the plans with bearings and distances, which tie to the land to be subdivided. All plan information including subdivision data, must be conveyed to the Town for its use, as it deems necessary.
7. Names of all current abutters as they appear on the most recent local tax list.
8. A locus plan at a scale of one inch (1") equals eight hundred feet (800') or other scale acceptable to the Board showing the relationship of the subdivision to adjoining property within a radius of a quarter of a mile of the proposed subdivision.
9. Zoning classification of the land shown on the Plan and the location of any zoning district boundaries, and including the boundaries, if any, of the Flood Plain and Flood Insurance Rate Map Floodplain Hazard Zones and Water Resource Protection Overlay District that may lie within the locus or within 300' of the locus.
10. The location of the General Soils Classifications identified by the Soil Conservation Service, United States Department of Agriculture as depicted on maps available at the Board Office. Plans must show not only soil classification but also sieve analysis demonstrating gradation, drainability of material and load bearing characteristics at sub grade elevation and two feet below sub grade of the road. These test areas shall be of sufficient quantity and quality that a determination may be made by the Highway Superintendent that the standard

cross section can be utilized. In the event that unsuitable materials are encountered outside the test site but within the roadway, more stringent standards will be imposed at the direction of the Board or its agent.

11. Existing (broken line) and proposed (solid line) topography of the land at two-foot (2') contour intervals for gentle slopes and five-foot (5') intervals for steep slopes. Elevations shown shall Massachusetts State Plane (Mainland) Coordinates, North American Datum of 1983. Such datum shall be stated on the plan.
12. Proposed systems of storm drainage, water and sewage disposal including adjacent existing natural waterways.
13. Profiles of existing grades and approximate finished grades of proposed roadways centerlines, and drain, sewer water systems at a scale of 1" = 40' horizontally and 1" = 4' vertically.
14. Limits (perimeter) of all contiguous land under the ownership or control of the applicant.
15. Location(s) of any easements or rights of way traversing or adjacent to the locus.
16. Boundary lines, dimensions and areas of all proposed lots, including all bearings and distances of the property lines, with all lots designated numerically and in sequence. The applicable dimensional requirements, front, side and rear, geometric square at the front yard setback. Illustration, by broken line, of all setback lines established by the Zoning By-law.
17. Sufficient permanent physical control points on the perimeter shall be set in the field and identified on the Plan to facilitate the reproduction of the subdivision survey.
18. In order to assess the effect of clearing and changes in elevation on existing drainage patterns, the topographic plan shall include proposed maximum areas of clearing associated with construction of roads, utilities, drainage systems and new homes.
19. During construction and until the final monumentation is set, the developer must keep the roadway layouts staked and adequately marked in the field so that the corners, points of curvature and layout line of a minimum of three-hundred (300) feet long can be identified by Town officials at any time.
20. During construction the developer shall keep the back of sidewalk located and adequately labeled for each lot that is under development.
21. Any proposed retaining walls, including the location, height and length of the wall with detail showing the proposed treatment of the exposed surface.
22. The location of all permanent existing or proposed monuments and property features such as but not limited to existing walls, fences, monuments, buildings, large trees (18" or larger diameter tree measured 3 feet up from stump) or wooded areas, large boulders, rock edges or ledge outcroppings, wetlands, water bodies, and natural and man made water courses, including drainage ditches, subsurface sewage disposal systems, wetland resources areas, one-hundred (100) year floodplain boundaries and flood elevations, natural drainage courses, waterways and bodies of water. Groundwater elevation and the bottom elevation of all streams and water bodies within the subdivision shall be given and ground surfaces identified as to type and spot elevations of high and low points shall be shown and identified. Said contours shall be shown in two (2) foot intervals using dashed lines for existing and solid lines for proposed contours, except that one foot contours and spot elevations shall be shown on slopes of 2% or less. Spot grades shall be provided at high points and low points. The contours must correspond to the existing and proposed grades of street shown on profile drawings.
23. The location and boundaries of any land subject to the protections of the Wetlands Protection Act, c.131, Section 40, as amended by the Rivers Protection Act, St. 1996, c.258, or the Watershed Protection Act, St. 1992, c.36, codified at M.G.L. c.92, section 104,107A, 108, 113 and 113A.
24. The volume of earth to be removed shall be provided.
25. Existing, under construction and proposed drainage systems within or near the proposed subdivision, including all public and private flowage rights, accompanied by drainage calculations prepared, stamped and signed by registered professional engineer, which shall include design criteria, drainage area and other information sufficient for the Planning Board to verify the adequacy of any proposed drain,

drain field, culvert, catch basin, detention or retention basin, other storm water management facility, or bridge, and to verify compliance with Department of Environmental Protection Storm water Guidelines.

7.5 Layout Plan and Profile:

1. The Layout Plan shall be drawn at a scale of 1"=40' horizontally and 1"=4' vertically, and shall contain the following:
 2. Length, widths, sidelines, centerlines, points of tangency, lengths of tangents, lengths of curves, radii, and intersection angles of all curves for all streets, ways and/or easements. Centerlines, points of tangency, lengths of tangents, lengths of curves, and radii shall be red; other data shall be in black.
 3. The proposed layout of the storm drainage, sanitary sewer, water supply, and underground utility systems, showing the sizes thereof, together with their appurtenances extended to the sideline of each street and showing all easements necessary therefore.
 4. The Typical Cross Section (see Appendix) and any proposed deviations there from, and typical cross sections of all catch basins, manholes, and other utility installations.
 5. Location of hydrants, walks, trees, curbing and similar detail for all proposed streets and for all existing streets for two hundred feet (200') to each side of each intersection with a proposed street.
6. Immediately above or below the layout of each street, a profile showing the following:
 - a. Existing centerline and sideline grades and proposed centerline grades.
 - b. Ground elevations, on the Town base datum, at the centerline and each sideline at the top and bottom of all even grades and at twenty-five foot (25) intervals along all vertical grades.
 - c. The size, location and grade of storm drain, sanitary sewer and water supply systems, whether within a roadway or an easement.
 - d. Invert elevations at all manholes, pipe ends, catch basins, and change in slope.
 - e. Street gradients shown by figures expressed in percent.
7. Landscape Plan, if necessary: A landscape plan prepared and stamped by a Registered Landscape Architect shall be submitted with all applications for a Definitive Plan.
 - a. All landscaping proposed by the developer including plantings at the entrance, planted cul-de-sac islands, screening for detention/retention devices, and other landscaped areas.
 - b. Buffer areas and areas proposed to be maintained in an undisturbed natural state.
 - c. Existing stonewalls, existing and proposed fencing, trees with diameters greater than 18", wooded areas and other significant vegetation.
 - d. The number, size, species and cultivated variety of proposed plantings shall be shown on the Landscape Plan. Plant names shall include both botanical and common names.
 - e. Detail of the proposed method for planting trees shall be shown.
 - f. Construction details of proposed retaining wall(s), including location, length, height, and detail of stone facing or other surface treatment.

7.6 Erosion and Sedimentation Control Plan, If Required.

- a) Proposed method of construction for roads and amenities and, where known, for new homes showing the extent of all areas that will be disturbed.
- b) Scheduling (including any necessary or proposed phasing of work.)
- c) Stabilization measures such as revegetation of exposed areas or structural stabilization, and method of protection of disturbed areas from erosion by storm water runoff.
- d) Temporary staging areas.
- e) Location of temporary storage for stumps or spoil materials. Such storage shall be in accordance with state and local regulations.
- f) Location of any additional erosion control and/or water pollution control devices or methods.
- g) Proof that at no time during construction shall storm water flows off site exceed those that existed prior to development.

7.7 PLANNING BOARD ACTION

7.7.1 Powers.

After the public hearing, the Board, by a vote of the majority of its members, shall approve, modify and approve, or disapprove the Definitive Plan submitted. Criteria for action by the Board shall be the following:

- a) Completeness and technical adequacy of all submissions;
- b) Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others;
- c) Conformity with the requirements of Sections 6.0 and 7.0 herein, and the Zoning By-Law;
- d) Determination that the subdivision as designed will not cause substantial or detrimental damage to the environment, which could be avoided or ameliorated through an alternative development plan.

7.7.2 Decision.

The action of the Board with respect to any Definitive Plan shall be by vote, copies of which shall be filed with the Town Clerk and sent by mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its action and shall rescind such disapproval when the plan has been amended to conform to these Rules and Regulations and to the recommendations of the Board of Health.

- Any vote of approval shall incorporate the recommendations of the Board of Health and, unless the Planning Board shall specifically vote otherwise, shall be subject to compliance with all provisions of the Rules and Regulations.

7.8 Endorsement.

Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board but not until the statutory twenty (20) day appeal period has elapsed following the filing of the certificate of approval or disapproval of the Board with the Town Clerk and said Town Clerk has notified the Board that no appeal has been filed. Endorsement shall be subject to compliance with the construction specifications contained herein and the decision, compliance with the Rules and Regulations and the Zoning By-law, and compliance with the recommendations of the Board of Health.

- Prior to endorsement of the Definitive Plan, the applicant shall submit a CD or diskette containing the contents of the layout plan, subdivision plan and topographic plan sheets of the final version of Definitive Plans, produced by an AutoCAD or similar computerized drafting system, in

either AutoCAD Drawing Format (.dwg), Data Exchange Format (.dxf) or ESRI Interchange Format (.e00), registered to Massachusetts State Plane (Mainland) Coordinates, North American Datum 1983. Orthophotos available from Mass GIS may be used in registering data.

7.9 Recording. Following endorsement, the Developer shall, within six (6) months of such approval, file such plan with the Bristol County Registry of Deeds, and shall transmit prints of the endorsed plan to the Board of Health, Conservation Commission, Highway Department, Building Department and Planning Board.

7.10 MANDATORY CONDITIONS

7.10.1 Failure to Obtain Endorsement. The applicant shall obtain the endorsement of the Planning Board upon the Definitive Plan within 180 days of the date of approval; provided, however, that if the Definitive Plan is the subject of an appeal, then the applicant shall obtain the endorsement of the Board upon the Definitive Plan within 60 days of the date on which judgement enters from which no appeal is taken. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.

7.11 Failure to Complete Construction. The sub divider shall complete the construction of all ways and municipal services within three years of the date of endorsement of the Definitive Plan. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.

7.11.1 Timely Completion. A schedule of completion shall be submitted to the Board for approval before beginning construction. The developer shall adhere to the schedule provided. Development projects shall not extend over three winter seasons without complete infrastructure unless otherwise approved by the Board. Any development exceeding this limit without the installation and functioning of all infrastructure must provide additional bonding. In the alternative, the Board may restrict the sale of remaining uncommitted lots and/or the issuance of building permits on those lots without foundations in place.

7.12 Grant Perpetual Rights and Easements. As a condition of approval of a subdivision, the applicant shall grant to the Town, a right and easement to construct, repair, replace, extended, operate, use and forever maintain all streets, water mains, sewer mains, and all surface and subsurface storm water drains in, through or under the streets and easements as indicated on the Definitive Plan. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision, nor diminish in any way, his responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition until they are accepted by the Town.

7.13 Right of Entry and Cooperation By and With Town Officials. As a condition of approval of a subdivision, the applicant shall consent to allow members and employees of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. As a condition of subdivision approval by the Planning Board, an applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in their subdivision are satisfactory and conform to the Town specifications and the requirements of the Planning Board.

7.14 Maintenance of Streets and Utilities. As a condition of approval of a subdivision, the applicant shall maintain all infrastructure, including, but not limited to, streets and utilities within a subdivision until such time, if ever, that the Town accepts the infrastructure. The Town may assess betterments for any work needed to make such streets conform to Town standards prior to acceptance thereof as Town ways.

7.15 Inscription. If the Planning Board approves the plan subject to certain conditions, those conditions shall be inscribed upon the approved definitive plan and the plan, with such conditions, shall be recorded.

7.16 Streets. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets shown on the Plan. Acceptance of roadways and infrastructure as Town streets requires a vote of Town Meeting.

7.17 SECURITY

7.17.1 Bond or Surety. Prior to the endorsement of the Definitive Plan, the subdivider may elect to file a performance bond, or deposit money or negotiable securities in an amount determined by the Board as set forth below. Letters of credit are not acceptable. A form assigning it to the Town of placeCityRaynham shall accompany passbooks. The Town Treasurer shall deposit said bond or security and Town Counsel shall approve such bond or security form. Such bond or security shall be contingent on the completion of such improvements not later than three years from the date of the endorsement of the definitive plan. Failure to so complete shall result in the automatic rescission of the approval of the Definitive Plan by the Board, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.

1. Amount. In determining the amount of the bond or surety, the Board shall be guided by the following formula in setting the sum of the security:

- a. the Board's estimate of the cost to complete the work; plus
- b. a twenty percent margin of error; plus
- c. an appropriate rate of inflation over a five-year period.

2. Required Terms. All performance bonds shall contain the following provision:

If the Principal shall fully and satisfactorily observe and perform in accordance with the qualifications and time schedule set forth herein specified all the covenants, agreements, terms and provisions set forth in the following:

- a. The application for definitive plan approval (Form C);
- b. The subdivision control law and the rules and regulations of the Raynham Planning Board, which govern this subdivision;
- c. The Decision of the Planning Board dated _____ and attached hereto as Exhibit A; and
- d. The definitive plan, as approved by the Planning Board in the Decision;

then this obligation shall be void; otherwise, it shall remain in full force and effect and the aforesaid security sum shall be paid to the Town of CityplaceRaynham as liquidated damages.

7.17.2 Statutory Covenant. Prior to the endorsement of the Definitive Plan, the sub divider may elect to submit a covenant for review by the Planning Board stating that no lot in the subdivision shall be sold and no building shall be erected thereon until the improvements specified in the decision and on the Definitive Plan are constructed and installed so as to adequately serve said lot or lots. Such covenant shall be approved as to form by Town Counsel or the Planning Board's designee. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. Such covenant shall state that the improvements shown on the definitive plan shall be completed not later than three years from the date of the endorsement of the Definitive Plan. Failure to so complete the improvements shall result in the automatic rescission of the approval of the Definitive Plan by the Board, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period. The covenant shall be referenced on the Definitive Plan prior to recordation in the Registry of Deeds. The developer shall promptly, after recording, send a copy of the covenant, showing book and page number, to the Board.

7.17.3 Supplemental Covenant. The Planning Board may require, prior to the endorsement of the Definitive Plan, supplemental covenant containing those conditions of approval that are intended to survive the release of the Statutory Covenant. Such covenant shall be approved as to form by the Planning Board's designee. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. The covenant shall be referenced on the Definitive Plan prior to recordation in the Registry of Deeds. The sub divider shall promptly, after recording, send a copy of the covenant, showing book and page number, to the Board.

7.17.4 Converting Covenant to Another Performance Guarantee. If the applicant desires that lots be released from a covenant and that the improvements remaining to be constructed or installed be secured by another form of performance guarantee, a formal written request shall be sent to the Planning Board by registered mail which sets forth and includes:

- a) Extent. The extent and scope of remaining work to be completed to satisfy the requirements for the construction or installation of all required ways and municipal services.
- b) Estimate. An estimate, pursuant to these Rules and Regulations, which reflects all remaining costs related to the construction of all required ways and installation of all required municipal services. The amount of the surety shall be guided by the following formula in setting the sum of the surety:

- 1. The Board's estimate of the cost to complete the work; plus,
- 2. A 30% inflation factor. (amended 4/17/14)

- c) **Form and Type.** The form and type of guarantee being given to the Planning Board to secure all remaining improvements.
- d) **Planning Board Action.** The Planning Board or its agent will make a determination as to the sufficiency of the submitted estimate, and, if such estimate is accepted, a new performance guarantee will be given to the Planning Board. Upon acceptance by the Planning Board of the new performance guarantee, all applicable lots shall be released from the covenant.

7.17.5 Converting Bond, Deposit, or Agreement to Covenant. If the applicant desires to secure by means of a covenant the construction of ways and the installation of municipal services in a portion of a subdivision for which no building permits have been granted nor any lots have been sold, and to have the Board release the bond, deposit of money or negotiable security, or agreement and mortgage previously furnished to secure such construction and installation, the applicant shall submit to the Planning Board a reproducible tracing and three (3) contact prints of the reproducible tracing of the Definitive Plan, limited to that part of the plan which is to be subject to such covenant. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed on such section of the plan the recording information, and it shall be endorsed by the Planning Board and recorded with the covenant at the expense of the applicant. The new covenant should also be the subject of a margin reference or original subdivision plan, which was recorded. Certified copies of all documents, which the applicant records at the Registry of Deeds shall be provided to the Board as set forth in these Regulations.

7.17.6 Maintenance Guarantee. A maintenance guarantee providing surety equal to (10%) of the total value of work within the subdivision, which has been subject to either a bond and/or covenant, to be held in same manner as the performance guarantee required herein. Such maintenance guarantee shall be held by the Town for the maintenance of streets and municipal services for eighteen (18) months after completion of construction and installation or until the streets are accepted by the Town, whichever comes first, after which date the Town shall return the remainder of the maintenance guarantee to the person or persons who furnished same. Approximately sixty (60) days before the expiration of the eighteen (18) month period specified above, the Board shall request its engineer to make an inspection of said street or ways or portion thereof to determine whether or not it should recommend to the Board of Selectmen the laying out of said streets or ways or portion thereof as public ways. If the recommendation is in the affirmative, the Planning Board shall so advise the Board of Selectmen forthwith, including in such recommendation notification that the eighteen (18) months for which the applicant is responsible for maintenance of said ways or portion thereof will expire on a certain date and said way may be laid out as public ways.

Upon the expiration of the period for which the applicant is responsible for maintenance of said ways, if said applicant has complied with all the requirements of the Board then surety held by said Board for the maintenance of said way shall be returned forthwith to the applicant.

7.17.7 Failure to Perform. Upon failure of the developer to satisfactorily complete all required work secured by a bond or other security within the time specified and in accordance with these Rules and Regulations, the Planning Board shall have the right to enforce the bond or realize upon the security to the extent of the reasonable cost to the Town of completing the required construction and installation including any portion of such security necessary to cover the expenses incurred in conjunction therewith and return any amounts left after such completion to the developer. The Board shall have the right to rescind any and all releases from covenant as well as any other statutory or equitable rights. An individual, two or more individuals, a partnership, limited partnership, trust, limited dividend organization, association, corporation limited liability company, limited liability partnership or the like having a common interest in a tract of land who failed to perform under paragraph 7.17.7 shall not be allowed to participate in another development within the Town of Raynham until they have reimbursed the Town for any cost that the Town has absorbed to complete their previous project and make it ready for acceptance.

7.17.8 Phasing of Bond Requirements. When setting bond or other security requirements or executing covenants, it shall be the policy of the Planning Board to consider the feasibility of developing the subdivision in a phased manner. If, because the number of planned lots the Board deems that the development could be done in phases, the Board shall consider the option in the setting, reduction and timing of bond or other security requirements and/or the drawing up of covenants to cover the construction of ways, utilities and other required improvements.

7.17.9 Construction Certification For special construction situations or where extraordinary construction practices are proposed, the Planning Board may require as one of its conditions to approve that a registered professional engineer certify the construction.

7.18 AMENDMENT, MODIFICATION OR RESCISSION OF APPROVAL The Planning Board may, upon its own motion, the request of the applicant or the petition of any interested person, amend, modify or rescind the approval of a Definitive Plan, after due notice and opportunity to the owner to be heard in accordance with G.L. c. 41, s. 81W, as amended. Failure to comply with these Rules and Regulations and with the specifications and conditions set forth in the approval of the Definitive Plan shall constitute a basis for such action by the Planning Board. Such action may include the realization upon any security posted by the applicant, the rescission of subdivision approval and all other measures provided by law. No changes or alterations shall be made to any aspect of an approved Definitive Plan without resubmission for approval of the Planning Board in accordance with General Laws, Chapter 41, Sections 810 and 81W.

7.18.1 Procedure. The procedure for the modification of a Definitive Plan, pursuant to G.L. c. 41, s. 81W, shall conform to the requirements for approval of an original Definitive Plan as set forth herein.

7.18.2 Change of placeLot Lines. Pursuant to G.L. c. 41, s. 81O, the Planning Board without a public hearing may approve certain changes of lot lines.

7.18.3 Effect. The modification of a Definitive Plan shall not affect lots sold or mortgaged by the applicant in accordance with G. L. c. 41, s. 81W.

7.19 RELEASE OF PERFORMANCE GUARANTEE

7.19.1 General. Upon completion of required improvements, security for the performance of which was given by the bond, deposit, lender agreement or covenant, or upon the performance of any covenant with respect to any lot, the applicant, at his expense, shall send by Registered or Certified Mail to the Town Clerk and the Planning Board a written statement that the said construction or installation which has been secured in connection with such bond, deposit, covenant or agreement, has been completed in accordance with the requirements contained within these Rules and Regulations. Such statement shall contain:

- a) Name and address of applicant.
- b) A Compliance Certificate signed by the applicant and signed and sealed by his Engineer stating that the development has been completed according to the Rules and Regulations of the Planning Board, the approved Definitive Plan, Board of Health requirements, Conservation Commission requirements, and the By-laws of the Town of Raynham.
- c) Copies of or reference to the requisite number of Inspection Forms and Reports.
- d) An As-built Plan (see below).
- e) A written certification by the Planning Board's engineer that construction of all ways and sidewalks, installation of monuments, street signs, pavement, lighting, gutters and curbs, required grading and drainage, water mains, hydrants and appurtenances, all sewer mains and appurtenances and planting and seeding has been completed in accordance with the Definitive Plan.
- f) Copies of or reference to the necessary instruments, executed by the applicant, transferring to the Town and appropriate Water District all utilities and easements as shown on the Definitive Plan (see below).

7.19.2 Failure to Perform. If the Planning Board determines that said construction or installation has not been completed, it shall specify to the Town Clerk and to the applicant, in writing by certified mail, return receipt requested, the details wherein said construction and installation shall have failed to comply with the requirements contained within these Rules and Regulations and the approved Definitive Plan. The Planning Board shall have the right to enforce the bond or execute upon the security to the extent of the reasonable cost to the Town of completing the required construction and installation including any portion of such security necessary to cover the expenses incurred in conjunction therewith and return any amounts left after such completion to the developer. The Board shall have the right to rescind any and all releases from covenant (Form J) as well as any other statutory or equitable rights.

7.19.3 Constructive Release. Upon failure of the Planning Board to act on such application within forty-five (45) days after receipt thereof by the Town Clerk and the Planning Board, all obligations under the bond shall cease and terminate by operation of law, and any deposit shall be returned and any covenant shall become void. In the event that said forty-five (45) day period expires without such specification, or without the return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded. The Board shall provide the developer a written description why said work is not satisfactorily completed.

7.19.4 Conveyance of Utilities and Easements to the Town. Prior to the release by the Planning Board of a surety bond or deposit, or, in the case of a covenant, the issuance of a Release Form, the applicant shall execute an instrument, on a Form approved by the Planning Board, transferring to the Town, without cost, valid unencumbered title to all common sewers, storm drains and water mains, and appurtenances thereto, constructed and installed in the subdivision or portion thereof to be approved, and conveying to the Town without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain the aforesaid underground utilities, with any manholes, pipes, conduits and other appurtenances, and to do all acts incidental thereto, in, through and under the whole of all streets in the subdivision or portion thereof to be approved, and if any such utilities have been constructed and installed in land not within such streets, then in, through and under an easement as shown on the Definitive Plan. Further, prior to the release by the Planning Board of any lot, the developer shall grant the town an easement to repair, and/or complete the roads in accordance with the Definitive Plan. All easements shall be free of any encumbrances

7.20 As-Built Plans. Prior to any lot release, the following as-built plans and profiles, prepared by a Registered Professional Engineer or Registered Land Surveyor, shall be submitted to the Planning Board following the completion of construction and, in addition, at any time during the course of construction as may required by the Highway Department. Prior to preparation, the following aspects of the subdivision shall be completed:

- a) Infrastructure (water, sewer, storm drain, gas main crossing, electrical/telephone/cable television conduit crossing) shall be constructed;
- b) Sanitary sewer, water main, and storm drain must be fully functional;
- c) Roadway shall be constructed to binder course with a dribble berm;
- d) Drainage basins must be completed, stabilized, and functional;
- e) Construction of the catch basins and drain manholes must be completed, including inverts and oil traps. The catch basin frame and grates shall be set to binder course. The manholes frame and covers shall be adjusted to top course grade no sooner than seven days before installation of the top course.
- f) At a minimum, the interim as-built drawing shall provide the following information:
- g) Certification from a Massachusetts Registered Land Surveyor or Professional Engineer stating that the infrastructure improvements are completed in substantial conformance with the endorsed Definitive Subdivision Plan.
- h) The Plan shall indicate the layout and grades of the drainage system, the sewer system, and the water main and services. The edge of the pavement shall also be indicated.
- i) The utilities shall also be indicated on a profile drawing. This drawing shall indicate the centerline grade (at fifty foot stations), the water main, the sewer line, and the drainage.
- j) The constructed storm water basins shall be indicated at two-foot contours or less. Spot grades shall be provided on the basin floor and along the top of berm.
- k) The plan shall indicate the storage volume of the basins.
- l) Easement corners shall be staked with iron rods or concrete bounds until permanent markings are put in. The easement metes and bounds layout and monuments shall be indicated on the drawings.