



# TOWN OF HINGHAM

## Planning Board

### CERTIFICATE OF ACTION DEFINITIVE SUBDIVISION



#### IN THE MATTER OF:

**Owner:** Allan & Rena Foley      **Applicant:** Joseph Cincotta  
2704 Melwood Drive      1 Nashua Street, Apt. 2102  
Melbourne, FL 32901      Boston, MA 02114

**Agent:** Sullivan & Comerford, P.C.  
80 Washington Street, Bldg. B, Suite 7  
Norwell, MA 02061

**Property:** 261 Gardner Street, Hingham, MA 02043

**Deed Reference:** Plymouth County Registry of Deeds, Deed Book 28374, Page 350

**Plan References:** "Definitive", prepared by J2M Consulting Associates, LLC, 44 Wood Avenue, Mansfield, MA, dated July 8, 2022 and revised through December 7, 2022 (1 Sheet)

"Definitive Subdivision Plan for 261 Gardner Street, Hingham, MA 02043," prepared by Civil Design Group, LLC, 21 High Street, Suite 207, North Andover, MA, dated July 22, 2022 and revised through December 7, 2022 (16 Sheets; sheet 5 revised through December 16, 2022)

"Existing Conditions", prepared by J2M Consulting Associates, LLC, 44 Wood Avenue, Mansfield, MA, dated July 8, 2022 and revised through November 5, 2022 (1 Sheet)

#### SUMMARY OF PROCEEDINGS

This matter came before the Planning Board (the "Board") on the application of Joseph Cincotta (the "Applicant") for Definitive Subdivision Plan Approval under the Subdivision Control Law and the Rules and Regulations of the Hingham Planning Board to create four residential lots to be served by a Limited Residential Street at 261 Gardner Street in the Residence B District.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on September 19, 2022, without the receipt of testimony, via Zoom as an alternate means of public access pursuant to Chapter 107 of the Acts of 2022 temporarily suspending certain provisions of the Open Meeting Law. Subsequent substantive hearings were held on October 17, 2022, November 21, 2022, and December 19, 2022. The Board panel consisted of regular members Kevin Ellis, Chair, Gordon Carr, Rita DaSilva, Judith Sneath, and Gary Tondorf-Dick. Phil Henry, of Civil Design Group, LLC, presented the application to the Board. The Board was assisted in its review by Patrick Brennan, P.E., of Amory Engineers and Jeffrey Dirk, P.E., PTOE, FITE, of Vanasse & Associates, Inc. At the conclusion of the review, the Board voted to approve the Definitive Subdivision Plan with conditions set forth below.

Throughout its deliberations, the Board has been mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

### **BACKGROUND**

The subject property consists of 4.31 acres of land located along the southerly side of upper Gardner Street and easterly of Recreation Park Drive in Residence District B and the Accord Pond Watershed and Hingham Aquifer Protection overlay district. The lot is improved by a single-family dwelling (ca. 1740), a number of outbuildings, two paved driveways, a garden, lawn areas, and wooded area. The Definitive Subdivision Plan proposes the creation of 5 new lots – one proposed to serve as a drainage lot, one to support the existing historic home, and the remaining three to provide for new single-family home construction. Additionally, there is an existing access and utility easement on the property that contains the driveway and utility lines for the dwelling at 265 Gardner Street. Access and utilities will continue to serve 265 Gardner Street via the proposed Vineyard Lane. A 2,404 SF parcel of land to the east of lot 4 and along the southeasterly portion of the proposed cul-de-sac will be combined with the property at 265 Gardner Street.

The proposed subdivision roadway, known as Vineyard Lane, will be a 283± FT long dead-end cul-de-sac off Gardner Street. The Applicant proposes to classify this road as a “Limited Residential Street” with a 22 FT wide travel way, vertical granite curbing and grass strips located within a 40 FT wide right-of-way. A sidewalk is proposed at the entrance of Vineyard Lane along the corner of Lot 2. The proposed stormwater system consists of catch basins, drain manholes, high-density polyethylene (HDPE) pipe, a hydrodynamic separator, and an open basin within the proposed drainage lot. Private roof runoff from future proposed dwellings on Lots 2, 3 and 4 will outlet into subsurface infiltration systems on their respective lots, consisting of plastic chambers surrounded by crushed stone. Additionally, individual onsite septic systems will serve each dwelling. Water service will be provided by new 6-inch ductile iron water main and gas service will be provided by a new gas main – both connecting to existing services in Gardner Street. Further, electric, telephone, and cable utilities will be connected underground from an existing utility pole in front of the property. Nine (9) new ornamental pear trees are proposed along Vineyard Lane and porch lighting is proposed for each dwelling in place of street lighting.

In accordance with MGL c. 41, s. 81U, the Applicant is also required to file a Definitive Subdivision Plan with the Board of Health. The Hingham Board of Health reviewed the plan on August 19,

2022, voting to approve it, pending revisions. Required revisions were subsequently submitted to the Executive Health Officer.

Additionally, the Weir River Water System confirmed sufficient water supply to meet the proposed demand and the Hingham Municipal Lighting Plant provided a cost estimate to the Applicant for the proper installation required.

The Board's civil peer review engineer, Patrick Brennan, P.E., of Amory Engineers, and traffic peer review engineer, Jeffrey Dirk, P.E., PTOE, FITE, of Vanasse and Associates, also reviewed the project for compliance with the Planning Board Rules and Regulations and best civil and traffic engineering practices. Both engineers provided comments and suggested conditions of approval.

During the course of discussion, the Board shared its comments and questions regarding the location of driveways, sight distances, the stormwater system design, street lighting, sidewalks, property history, and access for the existing dwelling at 265 Gardner Street. One abutter to the property provided written public comment in support of the application.

### **WAIVERS**

Pursuant to Section 2.E of the Rules and Regulations of the Planning Board, strict compliance with the requirements of the Rules and Regulations may be waived when, in the judgement of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

Based upon the Board's traffic peer review engineer's review and suggestions, and upon a motion made by Gordon Carr and seconded by Kevin Ellis, the Board voted to GRANT a waiver of a requirement under Section 4.B(2)(a) of the Rules and Regulations of the Planning Board, as amended through September 11, 2018, to allow adequate access to be provided to Lot 1 via Gardner Street instead of the subdivision road.

### **DECISION**

Upon a motion made by Gordon Carr and seconded by Kevin Ellis, the Board voted GRANT the application of Joseph Cincotta for a Definitive Subdivision Plan Approval under the Subdivision Control Law and the Rules and Regulations of the Hingham Planning Board to create four residential lots to be served by a Limited Residential Street at 261 Gardner Street in the Residence B District, subject to the following conditions:

**1. Conditions to be met Prior to Endorsement:**

- a. The Applicant shall modify the approved Definitive Plan to include the following:
  - i. A note referencing all conditions under Sections 2 – 4 of this Approval;
  - ii. All grades converted to NAVD88;

- iii. The calculated level of total land disturbance and land disturbance in areas with slopes greater than 10%;
  - iv. Geometry for all of the 265 Gardner Street property lines on Sheet 10;
  - v. Radii for the property lines at the street intersection;
  - vi. Extension of the sidewalk along the easterly portion of Vineyard Lane to the driveway at Lot 4;
  - vii. Connection between all downspouts and the individual subsurface infiltration systems for each lot; and
  - viii. Marked bounds for Lot 2 along the property line shared with the Kress Field right-of-way.
- b. The Applicant shall establish with the Planning Department a consultant fee account pursuant to MGL c. 44, s. 53G to fund the cost of construction inspections and plan review required by this Decision. The initial deposit to the account shall be \$6,000.00 and replenishment of the account shall occur when the account balance falls below \$1,000.00 after notice from the Planning Department.
  - c. The Applicant shall submit a security or combination of securities to guarantee performance of the construction of ways and the installation of municipal services shown on the approved Definitive Plan.

**2. Conditions to be met Prior to Commencement of Construction:**

- a. In the event that the common plan of development results in 1 acre or more of land disturbance, the Applicant shall obtain Site Plan Approval from the Planning Board.
- b. Results of the hydrant flow test shall be provided to the Community Planning Department and Fire Marshal prior to the start of construction.
- c. Confirmatory test pits shall be performed within the open basin footprint prior to commencement of construction.
- d. Limits of clearing as depicted on the subdivision plan, including the “no clearing zones”, shall be clearly marked in the field with the installation of a staked mulch log, silt fence, or orange construction fence and shall be inspected prior to the start of work.

- e. All permanent bounds shall be installed set at the start of the project as possible (outer areas of work) and be surveyed to provide a frame of reference as the work proceeds.
- f. No work on the Subdivision shall commence without an approved Storm Water Pollution Protection Plan (SWPPP) in place. The SWPPP must be submitted to the Community Planning Department a minimum of one month prior to the start of construction for review and is subject to third party peer review pursuant to MGL c. 44, s. 53G, to fund the cost of SWPPP inspections and review. The SWPPP must be phased consistent with any proposed phasing of the project and shall identify the detailed Erosion & Sedimentation Controls during the different phases of the work.
- g. Prior to the start of construction or site clearing there shall be a preconstruction meeting attended by the applicant team, representatives of the Planning Department, and the consulting engineer for the Planning Board, to review the installation of the erosion control measures.
- h. A pre and post video inspection of the drainage pipes in front of the property to the outfall including the catch basin(s) shall be conducted and provided to the Community Planning Department and DPW Superintendent.
- i. A Street Opening Permit shall be obtained from the DPW for any work in the Town's layout and the Applicant shall notify to the DPW Superintendent prior to any work within the right-of-way.

**3. Conditions in Effect During Construction:**

- a. **Parking During Construction.** All construction vehicles shall be parked onsite. No construction vehicles shall enter the premises before 7 AM on any given construction day.

**4. General Conditions:**

- a. All work shall be performed in accordance with the approved Plan, this Approval, and in conformity with the Rules and Regulations of the Hingham Planning Board in effect as of the date of the application.
- b. The Applicant shall complete all work shown on the approved Plan, including all ways, drainage facilities, and utilities, within two years of this Approval, unless, at the request of the Applicant, the Planning Board extends the time for performance of such work.

- c. At the completion of work and prior to final release of the final lot or all surety, as applicable, the Applicant shall submit an As-Built plan showing substantial conformance with the approved plans.
- d. The driveway for Lot 1 shall:
  - i. be limited to one (1) driveway and the existing driveway to the existing detached garage shall be removed and consolidated with the driveway adjacent to the existing single-family home;
  - ii. be limited to the use of the consolidated driveway for the existing single-family home; and
  - iii. maintain a clear line of sight between the consolidated driveway and Vineyard Lane.

For the Planning Board,



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Judith Sneath, Chair  
January 19, 2023

**In Favor:** Judith Sneath, Gordon Carr, Rita DaSilva, and Kevin Ellis

**Opposed:** Gary Tondorf-Dick

This decision shall not take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since 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, is recorded with the Plymouth County Registry of Deeds and/or the Plymouth County Land Court Registry, and indexed in the grantor index under the name of the record owner or is recorded and noted on the owner's certificate of title.