

Town and County of Nantucket

Select Board • County Commissioners

Dawn E. Hill Holdgate, Chair
Thomas M. Dixon
Matt Fee
Malcolm W. MacNab
Brooke Mohr



16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

***AGENDA FOR THE MEETING OF THE
COUNTY COMMISSIONERS
SEPTEMBER 27, 2023 - 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS***

YOU TUBE LINK FOR VIEWING ONLY:
<https://youtu.be/kiRHjjRUUWY>

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:
https://us06web.zoom.us/webinar/register/WN_6WqafPDPTdy--10AI5GVGg

- I. CALL TO ORDER***
- II. ANNOUNCEMENTS***
 1. The County Commission Meeting is Being Audio/Video Recorded.
- III. PUBLIC COMMENT****
- IV. NEW BUSINESS****
- V. APPROVAL OF MINUTES AND WARRANTS***
 1. Approval of Minutes of June 28, 2023 at 5:30 PM.
 2. Approval of Payroll and Treasury Warrants for July, August and September 2023.
- VI. OFFICIAL BUSINESS/CITIZEN REQUESTS***
 1. Planning Board: Request for County to Acquire Clay Street for Future Pedestrian and/or Vehicular Connection to Area Roads as Outlined in Condition 5 of Clay Street Subdivision Approval.
- VII. COMMISSIONERS REPORTS/COMMENTS***
- VIII. ADJOURNMENT***

****Identified on Agenda Protocol Sheet.***

COUNTY COMMISSION AGENDA PROTOCOL:

Roberts Rules: The County Commission follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Commission. At the Commission's discretion, matters raised under Public Comment may be directed to County Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Commission takes action, if any. Except in emergencies, the Commission will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Commission to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with the United States Constitution and the Massachusetts Declaration of Rights.

The agenda for regular County Commission meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Commission to take up first. This time is reserved for speakers to address the Commission on matters that are not related to any other Agenda item. If a speaker wishes to address the Commission on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.

All speakers are encouraged to present their remarks in an orderly and peaceable manner, without disruption to other speakers.

All remarks will be addressed through the Chair of the meeting.

The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not protected under the United States Constitution and the Massachusetts Declaration of Rights because it constitutes true threats, incitement to imminent lawless conduct, or engages in conduct that disrupts other speakers.

Each speaker may not exceed three (3) minutes during any Public Comment portion of the meeting.

Disclaimer: Public Comment is not a time for debate or response to comments by the Commission. Comments made during the Public Comment period do not reflect the views or positions of the Commission. Because of free speech principles, the Commission does not have

authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

New Business: For topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Commission welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at his/her sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Commission Members may have questions on the clarity of the information presented. The Commission will hear any staff input and then deliberate on a course of action.

Commissions Reports and Comments: Individual Commission Members may have matters to bring to the attention of the Commission during a meeting. If the matter contemplates action by the Commission, Commission Members will consult with the Chair and/or County Manager in advance and provide any needed information by the Thursday before the meeting and/or schedule the matter for a future Commission meeting. Otherwise, except in emergencies, the Commission will not normally take action on County Commission Comment.

Approved: April 26, 2023



Agenda Item Summary

Agenda Item #	VI. 1.
Date	09/27/23

Staff

Leslie Snell, AICP, Director of Planning

Subject

Clay Street Acquisition

Executive Summary

Planning Board is requesting that the County Commissioners proceed with the acquisition of Clay Street for future pedestrian and/or vehicular connection to area roads as outlined in Condition 5 of the Clay Street Subdivision approval. No pedestrian or vehicular improvements are requested or needed at this time. Acquisition is the first step toward future action by securing the County's rights in a roadway that has the possibility of connecting subdivisions in the future. For the immediate future, minor costs associated with maintenance of the existing gravel roadway may be needed.

Staff Recommendation

Recommends that the County Commissioners approve the Planning Board's request and proceed with contacting the current property owner for a combination of fee simple and easement conveyance.

Background/Discussion

Acquisition of Clay Street by the County would secure access rights for future pedestrian and/or vehicular connections. Taking action now is important because it was a requirement of the subdivision decision, thereby avoiding a potential taking in the future. Prompt action is necessary due to the pending expiration of the requirement within the Planning Board subdivision approval.

Impact: Environmental ☐ Fiscal ☐ Community ☒ Other ☒

The connection of ways, both vehicular and pedestrian, are basic planning principles for lessening overall congestion and are within the purpose of the Planning Board.

Board/Commission Recommendation

Planning Board recommends that the County Commission proceed with the acquisition.

Public Outreach

None needed at this time.

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)



Pedestrian and vehicular connectivity align with transportation goals in the Select Board's Strategic Plan and the Planning Board's Master Plan.

Attachments

1. Letter from Planning Board
2. Sketch plan showing Clay Street and potential connection to the Meadow's II development via Harvey Road
3. Images of current conditions
4. Clay Street Definitive Subdivision Approval issued by the Planning Board





Nantucket Planning Board

September 18, 2023

Dr. Malcolm McNab, Chair
Nantucket County Commission
16 Broad Street
Nantucket, MA 02554

RE: Acceptance of Clay Street

Dear Chair McNab and Members of the County Commission:

At the Planning Board's July 10, 2023 meeting, the Board unanimously voted to request that the County Commission execute its authority to request the fee simple and easement conveyance of Clay Street as noted in condition number 5 of the Approval Required (AR) Definitive Subdivision decision, approved by the Planning Board on December 6, 2016, which states:

At any time prior to the expiration of the seventh (7th) anniversary of the date of the Planning Board's action (December 6, 2016), the Applicant, its successors or assigns, shall, upon receipt of written request of the Town of Nantucket, submit: (1) a written offer of dedication / gift to the County / Town of Nantucket of the fee simple ownership interest in the right-of-way portion of Clay Street for the public's use, operation, and maintenance thereof as a public road, and (2) an easement in favor of the County / Town of Nantucket of the "Potential / Future Roadway Easement" area running north from the northerly terminus of the Clay Street right-of-way and terminating at the existing southern property lines of the 20 Davkim Lane and 20(R) Davkim Lane properties, for the Town's use, operation, and maintenance thereof, as a portion of a public way. All legal instruments accomplishing the intent of the foregoing condition shall be in a form mutually acceptable to the Applicant, or its successors and assigns, the Board of Selectmen of the Town of Nantucket, and Town Counsel. No additional compensation shall be due from the Applicant, or its successors or assigns, to the Town of Nantucket, or vice versa, in the event that Clay Street is offered, dedicated, conveyed or otherwise acquired for the public benefit.

As noted in Section 1.03 of the Rules and Regulations Governing the Subdivision of Land, the Planning Board's purpose includes:

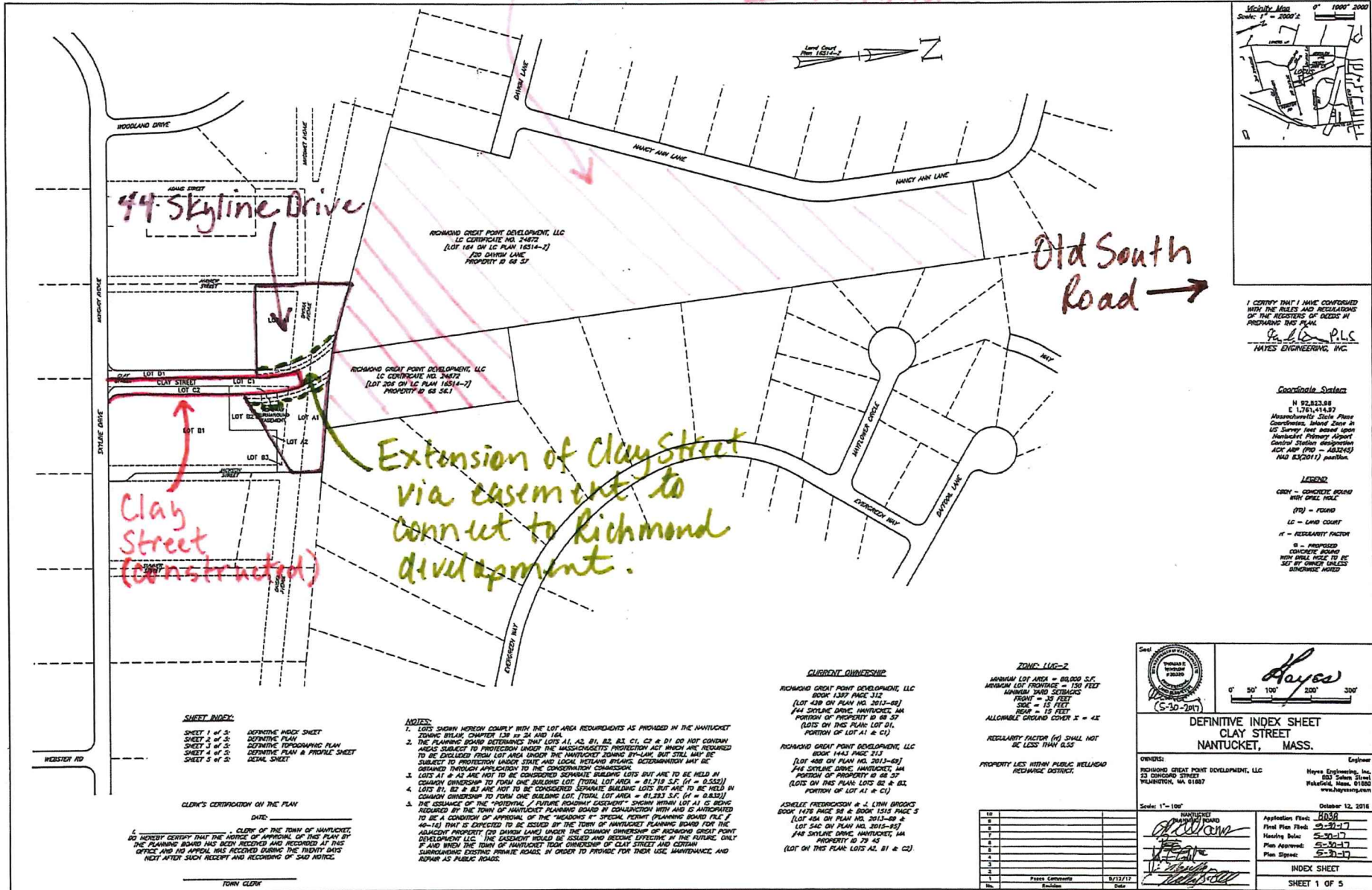
- 1.03b: lessening congestion in the subdivision ways and adjacent public ways.
- 1.03d: securing safety in the case of fire, flood, panic and other emergency.
- 1.03g: coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions.
- 1.03h: to advance the Master Plan,

The Planning Board respectfully requests that this matter be placed on the September 27, 2023 agenda for discussion and possible action. The acceptance of Clay Street by the County will be the first step in a potential future pedestrian, bike, and/or vehicular connection and your cooperation is necessary to assist the Planning Board with achieving their purpose. For your convenience, a plan and a copy of the decision is enclosed.

Sincerely,

David Iverson, Chair
Nantucket Planning Board

Sandpiper N+S - Richmond Meadows II - Richmond





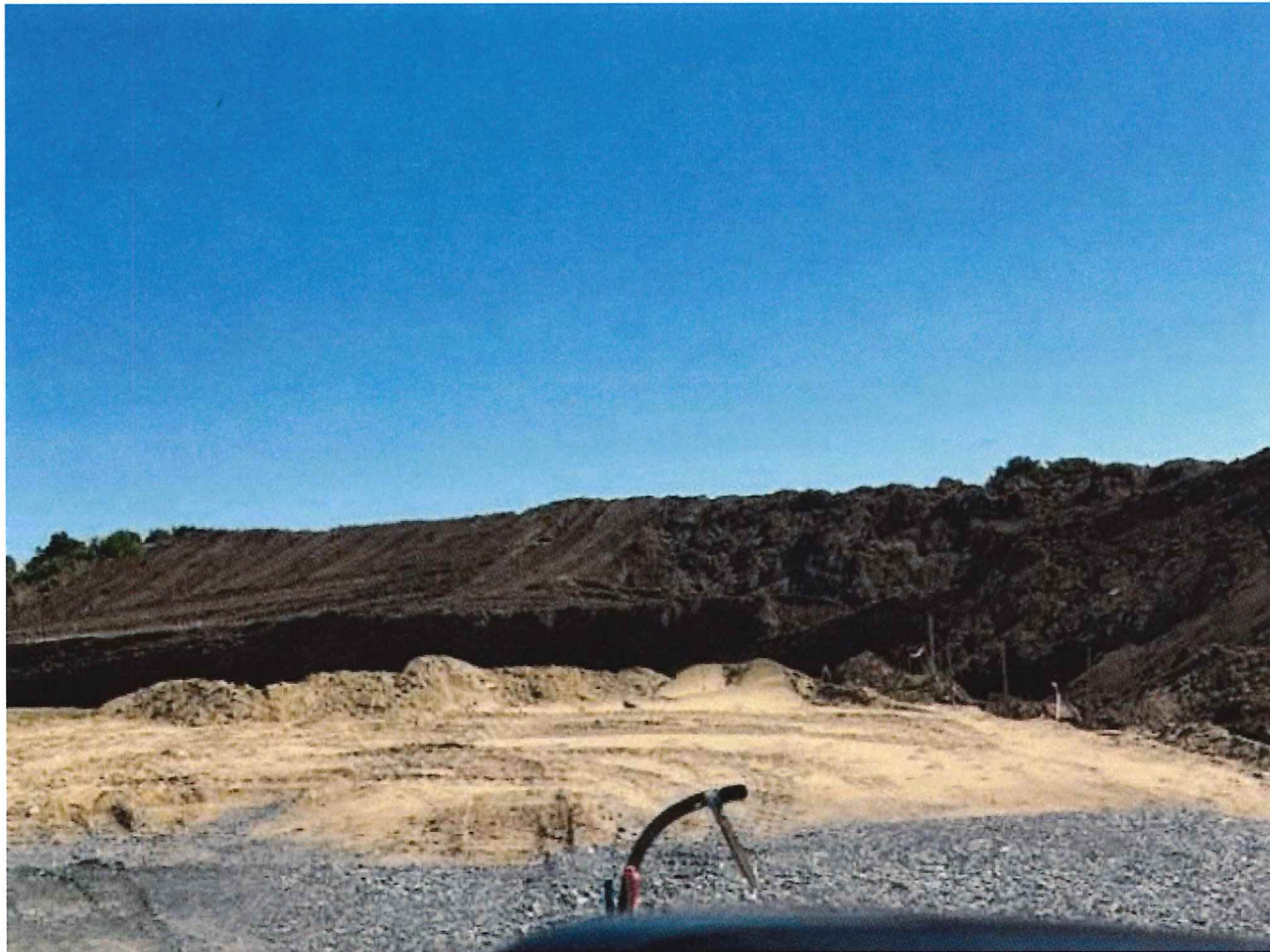
N ↑

Clay Street from Skyline Drive



NT↑

Terminus of Clay Street



N↓

Terminus of Harvey Road



NANTUCKET
TOWN CLERK

2017 JAN 23 PM 3:33

Nantucket Planning Board

APPROVAL OF A DEFINITIVE SUBDIVISION PLAN (AR)

CLAY STREET SUBDIVISION

44, 46, and 48 Skyline Drive and 20 / 20(R) Davkim Lane

Planning Board File # 8038

Owners / Applicants: Richmond Great Point Development LLC and
Ashelee Fredrickson / J. Lynn Brooks

Nantucket Tax Assessors Map and Parcels:

Map 68, Parcel 57 (Portion of) (44 Skyline Drive)
Map 68, Parcel 57 (Portion of) (46 Skyline Drive)
Map 79, Parcel 45 (Portion of) (48 Skyline Drive)
Map 68, Parcel 57 (Portion of) (20 Davkim Lane)
Map 68, Parcel 56.1 (Portion of) (20(R) Davkim Lane)

Nantucket Registry District / Registry of Deeds Title:

Book 202, Page 210 (44 Skyline Drive)
Book 1443, Page 213 (46 Skyline Drive)
Book 1476, Page 98 and Book 1515, Page 5 (48 Skyline Drive)
Lot 184 on Land Court Plan 16514-Z (Certificate of Title 4825) (20 Davkim Lane)
Lot 206 on Land Court Plan 16514-7 (Certificate of Title 9901) (20(R) Davkim Lane)

Limited Use General 2 (LUG-2) Zoning District (Skyline Drive Properties) and
Commercial Neighborhood (CN) Zoning District (Davkim Lane Properties)

December 6, 2016

Approval Action and Review by the Planning Board:

At the conclusion of a public hearing duly convened and held on December 6, 2016, the Planning Board of the Town of Nantucket (the "Planning Board") voted 5 - 0 to approve the application of Richmond Great Point Development LLC and Ashelee Fredrickson / J. Lynn Brooks (as co-Applicants / co-Owners, respectively) seeking endorsement of approval of a Definitive Plan of Subdivision (AR), resulting in the creation of one (new) buildable lot, one (new) non-buildable parcel, and a new (private) road (Clay Street) (which is also shown as a separate (new) non-buildable parcel), as well as the reconfiguration of one (existing) buildable lot.

The proposed plan of subdivision, its layout, components, proposed conditions and requested waivers were considered and reviewed at a public hearing held by the Planning Board on December 6, 2016, which

included, but was not limited to, the receipt of testimony, correspondence and representation of the Applicants and the public generally, all of which were made part of the record in connection with the aforementioned public hearing. The public hearing was closed at the December 6, 2016 meeting of the Planning Board, prior to the deliberation and approval action that was taken by the Planning Board at this meeting.

Proposal and Summary of Requested Action:

The Definitive Subdivision Plan application was filed and received by the Planning Board on October 18, 2016, and comprised of the subdivision and reconfiguration of portions of two adjacent lots consisting of five separately assessed parcels having the Assessor's Map and Parcel numbers listed above. The property which is the subject of the application includes lands previously a portion of the 42 and 48 Skyline Drive properties (now designated as 44 and 46 Skyline Drive) previously incorporated with the 20 Davkim Lane and 20(R) Davkim Lane properties by a plan (File #7753) endorsed by the Planning Board as approval-not-required under the subdivision control law on October 16, 2014. The application proposes to combine 44 and 46 Skyline Drive to form one (1) buildable lot, comprising +/- 81,719 square feet (1.88 acres) of land area, and to remove the foregoing parcels from their present combination with 20 Davkim Lane and 20(R) Davkim Lane.

The new buildable lot will have frontage along and take its access to and from Clay Street, a new private road which, as proposed, will intersect with Skyline Drive, an existing private road, at its southern terminus. To facilitate the creation of Clay Street, the proposed plan of subdivision incorporates a +/- 6,100 square foot portion of the existing 48 Skyline Drive property as a portion thereof, with a similarly sized amount of land to be incorporated into the northern portion of the existing 48 Skyline Drive property from the southern portion of the 46 Skyline Drive property for purposes of meeting the 80,000 square foot minimum lot area requirement applicable in the Limited Use General-2 (LUG-2) zoning district for the reconfigured 48 Skyline Drive lot.

At the current time, and unless and until certain interests in surrounding streets are acquired or otherwise obtained by the Town of Nantucket for public travel, Clay Street will be improved to private driveway standards only, with a travel width of twelve (12) feet. Clay Street is proposed to be surfaced with gravel, and designed to include a turnout at its northern end, extending off the east side of the improved portion of the driveway, to allow for sufficient turning of all vehicles including, but not limited to, police, fire and other emergency vehicles. The subdivision plan designates an area of the new buildable lot as a "Potential / Future Roadway Easement" which may, in the future, provide for inter-neighborhood access and egress from Skyline Drive to Old South Road via Davkim Lane. The Potential/Future Roadway Easement depicted on the plan of subdivision, among other features and specifications, provides for a width of the new right-of-way (Clay Street) of forty (40) feet, which meets current subdivision roadway standards, and the proposed path of Clay Street has been designed in a manner in which Clay Street may be connected through to the 20 Davkim Lane and 20(R) Davkim Lane properties in the event the Board of Selectmen, or in the alternative, the Board of Selectmen sitting as the Board of County of Commissioners (as necessary or appropriate), determine in the future that it would be for the public benefit to acquire an interest in Clay Street and in other private streets in the area to connect such streets to existing public ways.

The current proposal supersedes a prior application made by Richmond Great Point Development LLC (as the sole Applicant / Owner) seeking approval of a subdivision that comprised portions of the properties the subject of the current proposal, but depicting a slightly different combination and configuration of lots, and a slightly different road configuration. The prior application was filed with the Planning Board on January 6, 2016, was considered at public hearings held by the Planning Board on March 3, 2016, April 11, 2016, May 9, 2016, June 13, 2016, July 11, 2016, August 8, 2016, August 25, 2016 (Special Meeting), September 12, 2016, and September 28, 2016 (Special Meeting) and was voluntarily withdrawn by the applicant, with said withdrawal accepted by the Planning Board, without prejudice, at its September 28, 2016 (Special Meeting).

A “*Withdrawal of a Planning Board Application*” Form confirming the withdrawal of the prior application was filed with the Planning Board and the Town Clerk on October 18, 2016.

Summary of Zoning Bylaw and Subdivision Compliance:

The entirety of the +/- 4.37 acres of land area comprising the Clay Street Definitive Subdivision Plan, including the new buildable lot, the reconfigured buildable lot, and the two proposed non-buildable parcels are designated within the Limited Use General 2 (LUG-2) zoning district, as set forth and described in Section 139-3(A) (Districts Enumerated) and Section 139-7 (Use Chart) of the Nantucket Zoning Bylaw. The intensity and dimensional criteria applicable to the subdivision and to any development proposed within the Limited Use General 2 (LUG-2) district are set forth in Section 139-16 (A-E) (Intensity Regulations) of the Nantucket Zoning Bylaw.

As designed, the new buildable lot (44 / 46 Skyline Drive) and the reconfigured / existing buildable lot (48 Skyline Drive) within the subdivision have the following characteristics relative to the major dimensional criteria applicable under local zoning, and, as shown below, comply with or exceed all such applicable criteria.

**Clay Street Definitive Subdivision Plan (Buildable Lots)
Summary of Applicable Dimensional Criteria Under Local Zoning Bylaw**

Applicable Zoning Criteria	Minimum Requirement	Proposed for 44/46 Skyline Drive Lot	Proposed for 48 Skyline Drive Lot
Minimum Lot Area	80,000 Square Feet	81,719	81,293
Minimum Lot Frontage (Linear Feet)	150	151	195
Minimum Lot Regularity Factor	0.550	0.552	0.832

No portion of the proposed subdivision is located within any identified wetland areas or areas with resources that are subject to local environmental protection. No portion of the proposed subdivision is located within a flood plain or areas mapped as prone to flooding. The entirety of the proposed subdivision is located within the Public Wellhead Recharge (PWR) Overlay District and, as such, any future development within the subject property / subdivision must comply with the provisions of Section 139-12(B) of the Nantucket Zoning Bylaw.

The proposed subdivision, with the exception of the waivers that have been granted in conjunction with the approval of the subdivision as listed in "Exhibit A" attached to and hereby incorporated into this decision by reference, presently does, or in the future shall comply with the criteria of the Rules and Regulations Governing the Subdivision of Land Nantucket Island, Massachusetts, Amended Through December 20, 1999, and the conditions of approval set forth herein below.

Documents and Input Considered by the Planning Board in its Review and Action:

The Planning Board based its decision upon consideration of the following documents and input:

- An "Form B - Application for Approval of a Definitive Subdivision" application, as submitted to the Town Clerk, the Department of Health, and the Planning Board, dated October 17, 2016 (delivered and time stamped as received by these entities on October 18, 2016).
- A cover letter including a variety of project description information entitled "Submittal of (Form B) Application for Approval of a Definitive Subdivision Plan – 44, 46, and 48 Skyline Drive and 20 / 20 (R) Dawkin Lane Properties", as submitted to Town Clerk, the Department of Health, and the Planning Board, dated October 17, 2016 (delivered and time stamped as received by these entities on October 18, 2016).
- A plan set entitled Definitive Plan, "Clay Street" Single Family Homeownership Project as prepared by Hayes Engineering, Inc., dated October 12, 2016, depicting the subdivision of the lots along with the applicable / customary notes and design details (totaling seven (7) sheets).
- The Storm Water Management Report (Including customary technical calculations and detail), as prepared by Hayes Engineering, Inc., dated October 7, 2016.
- The Site Analysis Report, Site Analysis Map, and Street Network Plan, all as prepared by Hayes Engineering, Inc., dated October 7, 2016.
- The Requested Waivers, as prepared by Hayes Engineering, Inc., dated October 2016.
- The letter report entitled "UPDATED Engineering Review of the Proposed Clay Street Definitive Subdivision (off Skyline Drive)", as prepared by Pesce Engineering & Associates, Inc., dated July 1, 2016.
- Representation, testimony, and correspondence received and made part of the record in connection with the public hearing held by the Planning Board on December 6, 2016.
- Assorted documents that are on file with the Planning Board, File #8038.

Findings:

Based on its review of the application in accordance with "The Subdivision Control Law" (M.G.L. Chapter 41, Sections 81K-81GG, inclusive), the provisions of "The Rules and Regulations Governing the Subdivision of Land, Nantucket Island, Massachusetts, Amended Through December 20, 1999", The Zoning Act (MGL c. 40A), the Nantucket Zoning Bylaw (c. 139 of the Bylaws of the Town of Nantucket), and the above-referenced documents, plans, and other materials submitted by the Applicant, et al, and the testimony received at the public hearings, the Planning Board finds that:

- a. The Clay Street Definitive Subdivision Plan complies with the provisions of Chapter 41, Sections 81K-81GG (inclusive) of the Massachusetts General Laws.
- b. The application materials and the Clay Street Definitive Subdivision Plan, with the exception of the waivers granted in conjunction with the Planning Board's approval of the definitive subdivision, comply with the provisions of "The Rules and Regulations Governing the Subdivision of Land, Nantucket Island, Massachusetts, Amended Through December 20, 1999";
- c. The Clay Street Definitive Subdivision Plan complies with the applicable provisions of Chapter 40A of the Massachusetts General Laws.
- d. The Clay Street Definitive Subdivision Plan and the lots depicted thereon comply with the applicable area, frontage and other requirements of the Zoning Bylaw of the Town of Nantucket;
- e. Lot A1, as appears on the Clay Street Definitive Subdivision Plan, has frontage along a single line of Clay Street's easterly bound (Lot C2 thereupon) for a distance of one hundred fifty-one (151) feet affording legal and practical access to Lot A1 for the required distance in accordance with the Nantucket Zoning Bylaw, exclusive of the lineal distance or extent of the area entitled Roadway Turnaround Easement as shown in greater detail on the plan. The Roadway Turnaround Easement is provided for the convenience and safety of operators of motor vehicles traveling to and from Lot A1 and its lineal distance is not considered for purposes of frontage under this application;
- f. Those waivers granted from strict compliance with the requirements of "The Rules and Regulations Governing the Subdivision of Land, Nantucket Island, Massachusetts, Amended Through December 20, 1999" are in the public interest and are not inconsistent with the Subdivision Control Law. The waivers associated with the Rural Road Alternative allowing the improvement of Clay Street only to driveway standards as proposed by the applicant and as approved by the Planning Board in accordance with this decision, and the condition imposed restricting further improvement (but not the usual and customary maintenance, upkeep and/or repair to the standard approved herein) of Clay Street unless and until the Town of Nantucket has acquired an interest in Clay Street for the benefit of the public to pass and repass, each individually and in combination serve to preserve the current character of the property comprising the subdivision and that of surrounding subdivisions and properties while adequately planning for the coordination of future traffic patterns, access of vital emergency and public safety services and to lessen any potential congestion or unsafe or impractical traffic condition thereof;
- g. The Cultec system to be installed and the waiver(s) granted in relation thereto adequately provide for the artificial recharge of storm water runoff from Clay Street in accordance with the standards required by the Nantucket Zoning Bylaw and is designed in conformance with the publication entitled "Artificial Recharge: Evaluation and Guidance to Municipalities: A Guide to Stormwater Infiltration Practices in Public Water Supply Areas of Massachusetts, prepared by the Pioneer Valley Planning Commission, except as deviations therefrom or waivers of certain requirements thereof have been approved by the Planning Board;

- h. The driveway improvement standard and design proposed for Clay Street by the applicant, as shown in greater detail on the plan set, has been reviewed and approved by the Nantucket Fire Department, subject to conditions related to the prohibition of parking and related requirements which are described in more detail in the conditions of approval, as set forth herein; and
- i. The "Potential / Future Roadway Easement" depicted upon the Clay Street Definitive Subdivision Plan allows the Town, or County, of Nantucket, as the case may be, to layout and accept Clay Street as a public way in the future and to connect it with other nearby private ways (which would also first, or concurrently need to be established as public ways) in the event the Board of Selectmen, or the Board of Selectmen sitting as the Board of County Commissioners, shall determine it is in the public interest to do so.

Decision and Conditions:

Based on the foregoing described proposal and summary of requested action, findings of the Planning Board, the herein referenced documents, and the testimony given at the public hearing, the Nantucket Planning Board hereby APPROVES the Clay Street Definitive Subdivision Plan, based on a 5 - 0 vote in favor of approval.

The Planning Board's approval of the Clay Street Definitive Subdivision Plan is expressly subject to compliance with the following conditions:

- 1) The Applicant shall submit final plans for review and acceptance by the Planning Board within six (6) months of the date of the Planning Board's action (December 6, 2016). Said final plans shall be reviewed and approved prior to such submittal to the Planning Board by the Town's consulting engineer and shall address, to the satisfaction of the Town's consulting engineer, all of the technical comments and recommendations provided in its review letter to the Applicant. To the extent the Applicant believes that any of the comments and / or recommendations of the Town's consulting engineer cannot be satisfied or resolved between the Town's consulting engineer and the Applicant, the Applicant may request a clarification, interpretation or decision by the Planning Board. Any such request shall be submitted, in writing, to the Planning Board. The foregoing shall not be construed to require that the Applicant's request for clarification, interpretation or decision be considered at a public hearing, unless required by law. The Planning Board may, at its discretion, grant an extension or extensions to this deadline, upon written request of the Applicant, by action taken in conformity with the provisions of this condition number 1.
- 2) All improvements required in conjunction with the subdivision, including the improvement more particularly described in condition number six (6) below (i.e., drainage, driveway apron, driveway surfacing, etc.), shall be completed within two (2) years from the date of the Planning Board's action (December 6, 2016). In the event that said improvements cannot be completed within this time frame, the Planning Board may, at its discretion, grant an extension or extensions to this deadline, upon written request of the Applicant. The foregoing shall not be construed to require that the Applicant's request for extension be considered at a public hearing, unless required by law.
- 3) The existing one and one-half story single family home located in the northern center of "Lot C", shall, at the option of the Applicant, either be demolished or relocated within two (2) years from the date of the Planning Board's action (December 6, 2016). Any and all permits necessary for such demolition or relocation must be obtained from the applicable authority or authorities of the Town of Nantucket prior to the commencement of such demolition or relocation. In the event that said demolition or relocation cannot be completed within the time provided herein, the Planning Board may, at its discretion, grant an extension or extensions to this deadline, upon written request of the Applicant. The foregoing shall not be construed to require that the Applicant's request for extension be considered at a public hearing, unless required by law

4) Pursuant to the recommendation of the Nantucket Fire Department:

- A. While Clay Street is retained in private ownership and improved only to driveway standards, no parking shall be permitted on either side of Clay Street for the entire length of the right-of-way (including within the approximate sixty (+/- 60) foot long portion located north of the vehicle turnaround area which is located at the northeastern terminus of the driveway). A sign, or signs, to such effect shall be installed at the sole cost and effort of the Applicant.
- B. While Clay Street is retained in private ownership and improved only to driveway standards, no parking shall be permitted within any portion of the vehicle turnout / easement area located at the northeastern terminus of the driveway (located on the right hand side of the driveway, looking north from Skyline Drive). A sign, or signs, to such effect shall be installed at the sole cost and effort of the Applicant.

5) At any time prior to the expiration of the seventh (7th) anniversary of the date of the Planning Board's action (December 6, 2016), the Applicant, its successors or assigns, shall, upon receipt of written request of the Town of Nantucket, submit: (1) a written offer of dedication / gift to the County / Town of Nantucket of the fee simple ownership interest in the right-of-way portion of Clay Street for the public's use, operation, and maintenance thereof as a public road, and (2) an easement in favor of the County / Town of Nantucket of the "Potential / Future Roadway Easement" area running north from the northerly terminus of the Clay Street right-of-way and terminating at the existing southern property lines of the 20 Davkim Lane and 20(R) Davkim Lane properties, for the Town's use, operation, and maintenance thereof, as a portion of a public way. All legal instruments accomplishing the intent of the foregoing condition shall be in a form mutually acceptable to the Applicant, or its successors and assigns, the Board of Selectmen of the Town of Nantucket, and Town Counsel. No additional compensation shall be due from the Applicant, or its successors or assigns, to the Town of Nantucket, or vice versa, in the event that Clay Street is offered, dedicated, conveyed or otherwise acquired for the public benefit.

- 6) A split rail, or similar design, fence shall be erected at the northern terminus of Clay Street and shall extend perpendicularly to the entirety of the improved width of the right-of-way as approved in this Decision, to wit, twelve (12) feet. The fence may have a break or gap to allow for the passage of pedestrians and/or bicyclists, provided such break or gap shall be of a width that prevents passage of a passenger motor vehicles. This condition shall terminate if Clay Street is laid out and accepted as a public way, or otherwise acquired for the public benefit in accordance with condition number five (5) above, and, in such event, no modification of this Decision shall be required for the termination of this condition.
- 7) The Applicant shall be responsible for any and all consulting fees incurred by the Planning Board in connection with its review of this application and preparation of this Decision including, without limitation, engineering and legal fees, all pursuant to MGL c. 44 §53G. Such fees shall be paid to the Town of Nantucket within fourteen (14) days after written notice of the amount due is provided to the Applicant by the Planning and Land Use Services (PLUS) Department, unless the Planning Board determines to instead require deposit of a lump sum as permitted by the statute.

RECORD OF VOTE AND SIGNATURE PAGE FOLLOWS

Record of Vote: On December 6, 2016 the Planning Board voted 5 - 0 to CLOSE the public hearing, and voted 5 - 0 to APPROVE the Clay Street Definitive Subdivision Plan in accordance with this Decision.



Barry G. Rector APPROVED



Nathaniel Lowell APPROVED



Linda F. Williams APPROVED

Joseph Marcklinger APPROVED

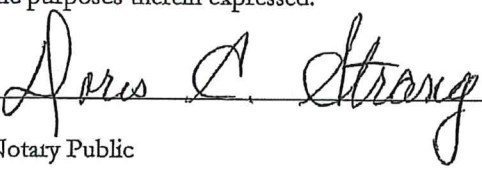
John Trudell, III APPROVED

COMMONWEALTH OF MASSACHUSETTS

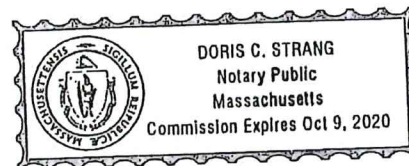
Nantucket, ss

January 23, 2017

On the 23rd day of January, 2017, before me, the undersigned notary public, personally appeared Nathaniel Lowell, one of the above-named members of the Planning Board of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledged that he/she signed the foregoing instrument voluntarily for the purposes therein expressed.



Notary Public



October 9, 2020

My Commission Expires

“Exhibit A”

(List of Waivers Granted from the Applicable Sections of “*The Rules and Regulations Governing the Subdivision of Land, Nantucket Island, Massachusetts, Amended Through December 20, 1999*” by the Planning Board for the Clay Street Definitive Subdivision Plan)

- Section 2.06b(10) The elevations shown on the plan are NAVD88 rather than half-tide datum.
- Section 2.06b(14)(a) Landscaping is not being proposed as the proposed roadway construction consists of only a 12' wide gravel road and drainage swale with minimal disturbance.
- Section 2.06b(14)(b) Existing trees to be saved will be decided upon during construction.
- Section 2.06(e) Staking and brush cutting of the proposed way (Clay Street) was not undertaken, based on the ease of visibility of the prospective path and location of the proposed way and the availability of updated, high resolution aerial photographs to demonstrate the same.
- Section 4.06(b)(3) Cultec® Contactor 100HD stormwater chambers to be substituted for the leaching basin (Appendix A, Plate No. 12)
- Section 4.13 Dry sewer lines are not proposed to be installed.
- Section 4.06b(4) Allow use of minimum 8 inch diameter drain pipe due to the minimal runoff flows.
- Section 4.16 Same as Section 2.06b(14)(a) & (b) above.

Waivers associated with Rural Road Alternative (Section 4.05(a))

- Section 4.03 A Rural Road Alternative (Section 4.05(a)) will be permitted, which requires a waiver of strict compliance with this Section. Specifically, the right-of-way will not be symmetrical with the curbline radii of the street on the westerly sideline at the intersection of Skyline Drive.
- Section 4.04b Allow construction of alternative turnaround layout, as shown on the proposed plan.
- Section 4.09 Allow shoulder as shown in Appendix A, Plate No. 6.
- Section 4.18 & 4.19 No sidewalks or bicycle paths are proposed along the sides of the proposed gravel roadway, Clay Street. There are no sidewalks on the adjacent street, Skyline Drive.
- Section 4.22 No curbing or berms are being proposed.
- Section 4.23 Soil tests will be provided prior to construction.
- Appendix A Plate No. 6 Typical Section – Stabilized Gravel Road be waived to allow the cross section as shown on the “Definitive Plan & Profile, Clay Street, Nantucket, Mass.”, Sheet 4 of 5 dated October 12, 2016.