



FRAMINGHAM PLANNING BOARD

APPLICATION FOR APPROVAL
DEFINITIVE PLAN MODIFICATION (§ 81W)

INSTRUCTIONS TO OWNER/APPLICANT

Please complete this *entire* form, including the checklist on page 4 of this form, and submit the original to the Planning Board. The application *must* be accompanied by the following:

- Eighteen (18) copies of the application together with one original mylar, ten (10) full size copies of the subdivision plan, and eight (8) halfsize, legible sets of the subdivision plans (with a bar scale) and eighteen (18) copies of all supporting documents accompany the application.
- The Treasurer's Certification that no municipal charges are outstanding (see page 3 of this form).
- A Statement of Communication with residents in the vicinity of the subject property.
- Certification herein, that a Community Notice has been posted on the subject property.
- Designers Certificates – Form 4
- A Certified List of the Abutters - Form 5
- Full payment of Application Fee

When *all* information is submitted and deemed complete, the application will be date and time stamped by the Planning Board. Incomplete applications will *not* be accepted by the Planning Board. All material must be submitted in electronic version as well as hard copies.

After the application is date/time stamped by the Planning Board, the applicant shall be responsible to file one copy of the application with the Office of the Town Clerk in accordance with the requirements of Section 41 of the Massachusetts General Laws.

Where appropriate, separate paragraphs are used below to indicate alternate provisions. Please select and complete the pertinent paragraph(s). Please read Section VI of the "RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM" and the attached description of the review process before filing this form.

You or your duly authorized agent will be expected to appear before the Planning Board to answer any questions and/or submit such additional information as the Board may request in connection with this application. You are encouraged to attend the Planning Board meeting that will be scheduled to consider your application and your absence may result in a delay in its review or its disapproval.

Date of Application: JANUARY 14, 2014

Owner of Record Title's Name: ELON DEVELOPMENT LLC

Owner/Applicant's Address: 1881 WORCESTER RD. STE. 200 FRAMINGHAM Phone Number: 508-271-9225
(Number and Street, Town or City, State, Zip Code) 01701

Co-Applicant's Name: NONE

Co-Applicant's Address: _____ Phone Number: _____
(Number and Street, Town or City, State, Zip Code)

Project Contact's Name: PAUL V. GALVANI

Project Contact's Address: 1881 WORCESTER RD. STE. 200, FRAMINGHAM 01701

Project Contact's Phone Number: 508-626-3620 Project Contact's Fax Number: 508-626-3649
(Number and Street, Town or City, State, Zip Code) PVG@GALVANILAWOFFICES.COM

The undersigned applicant being the owner, agent, or representative of the owner of all the land included within a proposed subdivision shown on a plan entitled FOX CREEK LANE

prepared by VANASSE HANGEN BRUSTLIN
and dated 2/18/2005, located at (address) 160A MEADOW STREET and shown on

Framingham Assessor's Plan Sheet # 301, Block # 208, Lot(s) # 1A and

Framingham Assessor's Plan Sheet # _____, Block # _____, Lot(s) # _____,

with number of lots proposed 12 on total acreage of tract (acres/sq.ft.) 27.17 ACRES

APPLICATION FOR APPROVAL OF DEFINITIVE PLAN (cont.)

hereby submits said plan as a Definitive Subdivision Plan in accordance with the Rules and Regulations of the Framingham Planning Board and makes application to the Board for approval of said plan.

The Owner's title to the land being subdivided is derived under deed from FOX CREEK LAKE LLC, by deed dated AUGUST 6, 2013 and recorded in the Middlesex District Registry of Deeds Book # 62422, Page # 435, or under Certificate of Title # _____ registered in the Middlesex Land Registry District, Book# _____, Page# _____.

Precinct # 2 Current zoning of property: R-1
Current use of property: RESIDENTIAL SUBDIVISION (UNDER CONSTRUCTION)
Number of Lots Existing: 12 Proposed: 12

Zoning and use of surrounding properties:

	ZONING DESIGNATION	LAND USE
Parcel(s) to the North ↗:	<u>P.U.D / M</u>	<u>VACANT LAND</u>
Parcel(s) to the South ↘:	<u>R-1</u>	<u>SINGLE FAMILY RESIDENCES</u>
Parcel(s) to the East ⇨:	<u>R-1 P.U.D./M</u>	<u>VACANT LAND & INDUSTRIAL</u>
Parcel(s) to the West ⇦:	<u>R-1</u>	<u>VACANT LAND</u>

Brief Description of project (e.g.: proposed use of property, number of lots being created, significant features and current condition of the site, attach additional pages as necessary): _____

SEE SUPPLEMENT TO APPLICATION ATTACHED

1. Yes No The land within the proposed subdivision is subject to easements and restrictions. If yes, attach documentation and show such easements and restrictions on the Plan, as applicable.
2. Yes No There are easement restrictions over the land of others applicable to the proposed subdivision. If yes, attach documentation and show such easements and restrictions on the Plan, as applicable.
3. Yes No Structures (walls, fences, guardrails, etc.), significant topographical features (wetlands, slopes, ledge, etc.), easements or other conditions are present that could limit or impede access to the proposed subdivision or to individual lots within the subdivision. If yes, please explain.

4. Yes No The owner/co-applicant(s) request waivers for the proposed subdivision. If yes, the waivers requested are listed herein with a justification for each waiver requested.

5. Yes No The owner/co-applicant(s) certify that **no waivers** are being requested for completion of the subdivision.
6. Yes No This Plan **has** been submitted to the Framingham Board of Health. If yes please identify the date of submission. JAN. 15, 2014. If no, please file two copies of said plan
7. Check as appropriate
 - a. Yes No A preliminary plan of the proposed subdivision, to which the accompanying plan conforms, has been submitted and was approved by the Planning Board on _____.
 - b. Yes No A preliminary plan of the proposed subdivision has been submitted and was approved by the Planning Board on _____ with modifications, which modifications have been incorporated in the accompanying plan.
 - c. Yes No A preliminary plan of the proposed subdivision has not been submitted to the Planning Board.
8. Yes No List all other required permits (local, state and federal) already in hand, or which will be in hand prior to final occupancy and necessary for construction (i.e. NPDES, Conservation Commission,

APPLICATION FOR APPROVAL OF DEFINITIVE PLAN (con't)

Board of Health, Public Works, Board of Selectmen etc). PERMITS FROM DPW HAVE BEEN OBTAINED

- 9. Yes No A Community Notice (min. 2ft. by 2ft.), specifying plans for the property has been posted, as required.
- 10. Yes No A statement regarding the extent of communications with residents of the area about the proposed development is included with this application.
- 11. Yes No The lot is on a Scenic Road? [A list of scenic roads is available in the Planning Board Office]
- 12. Yes No The project involves alteration or demolition of buildings which are at least 50 years old? If yes, the applicant must obtain a determination of historical or architectural significance from the Framingham Historical Commission in conformance with §17A of Article V. of the Town of Framingham's By-Laws (See Appendix IX of the Zoning By-Law).
- 13. Yes No The lot is located in an Historic District? (See Article V. §5 of the Town of Framingham's By-Laws and Appendix IX of the Zoning By-Law)
- 14. The applicant agrees, if the definitive plan is approved, to perform and complete all work on the ground within the proposed subdivision required by the "RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM" as in force on the date of this application (or if applicable on the date of an application of a Preliminary Plan) and as modified and supplemented by the specifications and other requirements of the Board set forth in the statements attached hereto.
- 15. The applicant further agrees to complete all said required work on the ground within two years from the date of the final endorsement of the definitive plan by the Board, unless an application is filed with and approved by the Board extending such time.
- 16. The applicant further agrees, if the definitive plan is approved, to cause said plan to be endorsed within six (6) months thereafter and to cause said plan to be recorded or registered in the Middlesex South District Registry of Deeds within thirty (30) days after the endorsement and return of said plan to the applicant by the Board, and agrees not to sell, or offer to sell, any of the lots within the subdivision until said plan is so recorded or registered.
- 17. The applicant further agrees, if the definitive plan is approved, to convey to the Town, promptly, at any time thereafter when requested to do so by the Board, in a form deemed satisfactory by the Board, title to water mains and sewers and the prescribed easements therefor.
- 18.a. The applicant further agrees, before final approval of the definitive plan, to cause to be filed with the Board a bank passbook solely in the name of the Town, negotiable securities or a bond, in a form deemed satisfactory by the Board, or a deposit of money, conditioned on the completion of all required work on the ground in the time and manner prescribed, in a penal sum sufficient, in the opinion of the Board, to cover the cost of such work. A bond form of security shall be executed by the applicant as principal and an indemnity or surety company authorized to do business in the Commonwealth and satisfactory to the Board as surety, or secured by the deposit with the Town Treasurer of cash or United States Government Bonds in an amount equal to the penal sum of the bond. A bank passbook shall be accompanied by an Agreement in a form to be provided by the Board and executed by the Board, the developer and the bank in which the account is established.
- OR**
- 18.b. The applicant requests the Board to approve the definitive plan on condition that no lot in the subdivision shall be sold and no building shall be erected or placed on any lot until the required work on the ground necessary to serve such lot adequately has been completed to the satisfaction of the Board.
- 19. This application is accompanied by an original drawing of the proposed definitive plan in accordance with the requirements of the "RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM", designer's certificates and approved cost estimates of all work to be covered by a bond, or bank passbook.

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Application Checklist *THE FOLLOWING HAVE PREVIOUSLY SUBMITTED*

The following plans, reports and information must be submitted with this application form, in accordance with "RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM", Section VI. Definitive Plan. Please complete the following checklist to ensure completeness.

<input checked="" type="checkbox"/> Title Block, Lower Right Corner	<input checked="" type="checkbox"/> Subdivision Name and "Definitive Plan" Title	<input checked="" type="checkbox"/> Subdivision Boundaries
<input checked="" type="checkbox"/> Index Sheet	<input checked="" type="checkbox"/> North Point and Scale	<input checked="" type="checkbox"/> Date
<input checked="" type="checkbox"/> Legend of Symbols	<input checked="" type="checkbox"/> Benchmark and Datum	<input checked="" type="checkbox"/> Zoning Classification
<input checked="" type="checkbox"/> Name(s) and address(es) of Owner(s), Applicant(s)	<input checked="" type="checkbox"/> Surveyor's Seal, Name, Address, Signature	<input checked="" type="checkbox"/> Engineer's Name, Address, Signature, Seal
<input checked="" type="checkbox"/> Assessor's Map-Block-Lot(s)	<input checked="" type="checkbox"/> Names of abutters	<input checked="" type="checkbox"/> Halfsize Prints of Plans
<input checked="" type="checkbox"/> Existing and proposed Streets, Ways and Easements	<input checked="" type="checkbox"/> Existing and proposed public or common areas	<input checked="" type="checkbox"/> Consistent space to record Board action on all sheets
<input checked="" type="checkbox"/> Ownership, condition and status of Existing Streets	<input checked="" type="checkbox"/> Street Classification of Proposed Streets	<input checked="" type="checkbox"/> Existing and proposed Lot Boundaries and Dimensions
<input checked="" type="checkbox"/> Front and side setback lines for each lot	<input checked="" type="checkbox"/> Proposed building footprint and driveways	<input checked="" type="checkbox"/> Location, bearing and length of streets, ways, lots, boundaries
<input checked="" type="checkbox"/> Numerical designation and area of all lots and divisions	<input checked="" type="checkbox"/> Location of all existing and proposed permanent monuments	<input checked="" type="checkbox"/> Location, materials, type of sidewalks, curbs, street signs, lighting and trees
<input checked="" type="checkbox"/> Existing Topography	<input checked="" type="checkbox"/> Proposed Topography	<input checked="" type="checkbox"/> Street Profiles with Note
<input checked="" type="checkbox"/> Storm Drainage Systems, Plans, Elevations	<input checked="" type="checkbox"/> Stormwater Management Documentation	<input checked="" type="checkbox"/> Existing and Proposed Municipal Services/Easements
<input checked="" type="checkbox"/> Hydrological Calculations	<input checked="" type="checkbox"/> Septic & Well Locations	<input checked="" type="checkbox"/> Utility Wiring Plan
<input checked="" type="checkbox"/> Sewerage and Water Distribution Systems	<input checked="" type="checkbox"/> Easements, covenants, restrictions on Land	<input checked="" type="checkbox"/> Decisions on appeal, or applicable variances <i>N/A</i>
<input checked="" type="checkbox"/> Sewer Profiles	<input checked="" type="checkbox"/> Major Site Features	<input checked="" type="checkbox"/> Wetland delineation and upland area calcs. for proposed lots <i>N/A</i>
<input checked="" type="checkbox"/> Off-Site Surface Water Discharge & Written Evidence of Acceptance	<input checked="" type="checkbox"/> A close traverse of the whole subdivision and every street therein	<input checked="" type="checkbox"/> Notation of property confirmed by Mass. Land Court with case numbers, as applicable <i>N/A</i>
<input checked="" type="checkbox"/> Construction Access Routes and hours of operation	<input checked="" type="checkbox"/> Construction details for erosion control measures	<input checked="" type="checkbox"/> Preliminary OSRD Subdivision Plan <i>N/A</i>
<input checked="" type="checkbox"/> Complete Impact Statement	<input checked="" type="checkbox"/> Locus Plan	<input checked="" type="checkbox"/> Evidence of Other Permits
<input checked="" type="checkbox"/> Designers' Certificates	<input checked="" type="checkbox"/> Certified List of Abutters	<input checked="" type="checkbox"/> Approval Agreement

Provide an explanation for any information which has not been checked above as included in the application: _____

The Planning Board is entitled to rely on this representation as being the full and complete statement of the owner(s) and applicant. Therefore, the undersigned certifies that the information provided on the plan and this application is a true and accurate representation of facts pertinent to the subject parcel of land.

Victor C. Galvani
Signature(s) of Owner(s) (Applicant)

VICTOR C. GALVANI,
MANAGER
ELON DEVELOPMENT LLC

Signature of Co-Applicant

The Definitive Plan Review Fee: See Attached Schedule of Fees

NOTE: You will be billed for publication of required public notices.

NOTE: In accordance with Article IX of the By-Laws of the Town of Framingham, the Planning Board may withhold permits and approvals in the event that an applicant has neglected to pay local taxes, fees, assessments or other municipal charges. In order to satisfy the objective of this By-Law, please obtain the Town Treasurer's signature below to verify that no such outstanding charges have accrued relative to this application. This application will not be accepted without the following confirmation:

The signature below confirms that the applicant/owner has paid all local taxes, fees, assessments or other municipal charges and has no outstanding obligations due the Town of Framingham.

TOWN TREASURER

DATE OF SIGNATURE

TO BE COMPLETED BY THE FRAMINGHAM PLANNING BOARD

Date application received: _____

Filing Fee of: _____ Paid: _____

Scheduled Hearing Date: _____ Date hearing notice Distributed to Abutters _____

Received by: _____

SUPPLEMENT TO APPLICATION FOR APPROVAL TO MODIFY A DEFINITIVE SUBDIVISION PLAN

Description of Requested Modifications

A. Application Summary.

This is an application by Elon Development LLC, which purchased the land and approved Fox Creek Lane subdivision on August 9, 2013, to modify an approved and partially constructed subdivision entitled Fox Creek Lane. The primary purpose of this modification request is for approval of the revised sewer system for the subdivision. The original Planning Board Decision (dated December 21, 2006, filed with the Town Clerk on January 26, 2007 and recorded with the Middlesex South District Registry of Deeds in Book 63176, Page 33, the (“Decision”) and Approval with Covenant Contract (dated June 8, 2007, and recorded with said Registry in Book 50771, Page 347, as modified by Covenant Amendments June 17, 2010, February 16, 2012, and March 22, 2013, the “Covenant”) and as shown on subdivision plans endorsed by the Planning Board and recorded with said Registry as Plan No. 128 of 2008 (the “Plans”) provided for an initial “shallow” sewer system that would subsequently be replaced by a “deep” sewer system. The Decision and Covenant set forth detailed conditions for the switch from the shallow to the deep system, and impose responsibilities on both the developer and the homeowner. Other revisions to the Plans relate to revised water main and sewer main locations and grading changes on the northerly side of Lots 8 through 12.

The Framingham Department of Public Works has approved revised plans as noted in correspondence dated October 25, 2013 to Justin Dufresne of Vanasse Hangen Brustlin, Inc. These plans now provide for a single sewer system with a temporary pumping station that will be removed and a permanent gravity connection made prior to formal acceptance of Fox Creek Lane as a public way. The Applicant seeks formal approval of these plans as well as corresponding modifications to certain conditions of approval in the Decision and the Covenant. As of the date hereof, the sewer main has been installed, including stubs into all of the lots.

B. Request for Approval and Endorsement of Revised Plans.

The Applicant and Owner, Elon Development LLC, requests that Plan sheets C-4, C-5, C-6, C-7, C-7B, C-9, C-10 and C-11, submitted with this application, be approved and endorsed by the Planning Board in replacement of the corresponding Plan sheets previously approved and recorded.

C. Request for Revisions to the Following Conditions of Approval in the Decision.

The Applicant requests that the following conditions of the Decision be modified or deleted and replaced with the following provisions:

10. The Planning Board acknowledges that the Applicant has recorded the Decision, Approval with Covenant Contract and Amendments thereto and the Definitive Plan with the Middlesex South District Registry of Deeds and that proof of recording has been submitted to the Planning Board. The Applicant shall record the Amended Decision, Covenant Amendment and revised Plans with the Middlesex South District Registry of Deeds within sixty (60) days of endorsement of the plans and Covenant Amendment by the Planning Board and submit proof of recording to the Planning Board.

11. The name and address of the Applicant for all notices and other communications is as follows: Elon Development LLC, 1881 Worcester Road, Suite 200, Framingham, MA 01701 with a copy to Paul V. Galvani, Galvani Law Offices P.C., 1881 Worcester Road, Suite 200, Framingham, MA 01701.

15. Prior to the issuance of any certificate of use and occupancy or sale of any lot, the Applicant shall establish and record with the Middlesex South District Registry of Deeds a homeowner's association or trust in a form substantially consistent with the Decision and this Modification, which shall be approved as to form and content by both the Board and the Board's legal counsel for the purposes described in the Decision.

35. Condition 35 of the Decision is hereby deleted.

36. Condition 36 of the Decision is hereby deleted.

37. Neither the Applicant nor the residents in the dwellings in the subdivision shall seek Town acceptance of the road as a public way until such time as all subdivision construction has been completed to Town standards and the temporary sewer pump station has been removed and the permanent gravity connection made.

39. The requirement that technical amendments to the deed restrictions applicable to this Subdivision shall be filed in the Middlesex South District Registry of Deeds is hereby deleted. The Applicant shall reference in the deeds of the lots in the subdivision the restrictions contained in the following two documents: "Development Restriction" by RTM Framingham LLC dated November 23, 2005 and recorded with Middlesex South District Registry of Deeds in Book 46598, Page 384 and "Restrictions" by RTM Framingham LLC dated November 30, 2005 and recorded with said Registry in Book 46598, Page 394.

40. Condition 40 is hereby deleted.