

MARKEY & WALSH

ATTORNEYS AT LAW

August 31, 2026

Town of Fairhaven
Planning Board
40 Center Street
Fairhaven, MA 02719

Re: Approval Not Required (ANR) Plan
Mill Road, Assessor's Map 39, Lots 28 & 27B

Dear Madam Chair and Members of the Board,

On behalf of the landowner, please accept this submission of the accompanying Approval Not Required ("ANR") Plan for endorsement pursuant to M.G.L. c. 41, § 81P. The Plan does not create any new building lots or otherwise create additional lots requiring subdivision approval. Rather, the Plan reflects an adjustment to one existing lot and one parcel, along with the creation of two new parcels resulting from the reconfiguration of the existing land.

M.G.L. c. 41, § 81P provides that an ANR endorsement "shall not be withheld unless such plan shows a subdivision." Under M.G.L. c. 41, § 81L, a "subdivision" is defined as the "division of a tract of land into two or more lots," while a "lot" is defined as "an area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings." Massachusetts courts have confirmed that land shown on a plan is not a "lot" where it was not available for a building, and the plan identifies it as such (see *Bloom v. Planning Board of Brookline*, 346 Mass. 278 (1963), and *The ANR Handbook: Approval Not Required Plans*, Commonwealth of Massachusetts, Department of Housing and Community Development, rev. 2010, at 53).

Here, the Plan does not create any new lots. Instead, it adjusts the boundaries of the existing lot (Map 39, Lot 28) and the existing unbuildable parcel (Map 39, Lot 27B), creating two new unbuildable parcels: "Parcel A," which is formed from Map 39, Lot 28, and "Parcel B," which is formed from Map 39, Lot 27B.

In light of the foregoing, I respectfully request that the Planning Board endorse the Plan pursuant to M.G.L. c. 41, § 81P. Please do not hesitate to contact me should the Board or its staff require any additional information or documentation in connection with this request.

Best Regards,



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