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**TO:** Duxbury Planning Board  
Valerie Massard, Director of Planning  
(*By Electronic Mail Only*)

**FROM:** Amy E. Kwesell, Esq.

**RE:** Designation of Individual to Sign Plans on Behalf of Planning Board and  
Notification to Registry

**DATE:** May 8, 2020

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### **Summary**

G.L. c. 41, s. 81P and s. 81X allow a Planning Board to authorize an individual to sign ANR and definitive plans, respectively, on behalf of the Board for recording in the Registry of Deeds (and Land Court side). During the current COVID-19 emergency, while the Board is meeting remotely, the Board may wish to use this mechanism to simplify the logistics of signing plans. While not modifying the Board’s substantive review of the plans, the mechanism will allow the Board to carry out its statutory duties and enable landowners to file plans without undue complication. The Board can accomplish this by vote at a noticed meeting, followed by letter to the Registry.

### **Statutory Authority**

G.L. c. 41, s. 81P provides, with respect to ANR plans:

“The planning board of a city or town which has authorized any person, other than a majority of the board, to endorse on a plan the approval of the board or to make any other certificate under the subdivision control law, *shall transmit a written statement to the register of deeds and the recorder of the land court, signed by a majority of the board, giving the name of the person so authorized.*” (emphasis supplied)

G.L. c. 41, s. 81X provides, with respect to subdivision plans:

“The planning board of a city or town which has authorized any person, other than a majority of the board, to endorse on a plan the approval of the board or to make any other certificate under the subdivision control law, *shall transmit a written statement to the register of deeds and the recorder of the land court, signed by a majority of the board, giving the name of the person so authorized.*” (emphasis supplied)

## **Procedure for Exercise**

**Posted agenda item.** The Board must vote to take action under either statute, so there must be a noticed agenda item at a meeting. No hearing is necessary. Suggested agenda item: “Designation of individual authorized to endorse ANR plans and definitive subdivision during COVID-19 state of emergency.”

**Discussion and vote at meeting.** The Chair should reference the current emergency and note that the Board has authority under the Subdivision Control law to designate an individual to sign plans on behalf of the Board. Discussion topics:

Whom to designate – need not be a member of the Board. My recommendation is that it be a member, but if logistics prohibit, it could be staff. The statute specifies, “name of the person so authorized,” so it should be an individual rather than a title (e.g., not “Chairman”).

Whether to limit practice to endorsements taking place during the emergency.

Review draft letter to send to Registry.

The Chair would accept a motion:

“Mr. Chairman, I move that the Board authorize [name of individual] to endorse ANR plans on behalf of the Board as permitted under G.L. c. 41, s. 81P, and to endorse subdivision plans, on behalf of the Board as permitted under G.L. c. 41, s. 81X, and further move that the letter reviewed be transmitted to the Register of Deeds and Assistant Recorder of the Land Court as the notice required under both statutes.”

Second; Discussion; Roll call vote

## **Letter to Registry/Land Court**

Both statutes require the signatures of a majority of the Board on the notices sent to inform the Registry that the designated individual may sign plans on behalf of the Board. In ordinary times, this would be accomplished at a meeting or other visits to Town Hall. At this time, unless it is possible and safe for three board members to visit Town Hall (which I am not recommending; we are all still supposed to stay home!) each of the Board members will print out and sign a signature page, and send it to the Director of Planning, who will assemble the pages with the letter and send to the Registry of Deeds.

After the Board’s letter is accepted by the Registry, ANR plans and subdivision plans may be endorsed by the individual authorized and submitted to the Registry for recording.

## **Resumption of standard endorsement practice**

When the current state of emergency terminates, and assuming the Board seeks to revert to the prior practice of plan endorsement, the Board should vote to withdraw its authorization for the individual to endorse plans on behalf of the Board. A second letter should be prepared and

submitted to the Registry reflecting this vote and as notification of a reversion to the prior endorsement practice.

**Draft letter**

A draft letter to the Registry is attached for the Board's review when it discusses this matter at a meeting. Please let me know if you have any questions or if we can be of further assistance.

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