

**Kim DelNigro**

**From:** Joseph Ricciardi [jricciar12@earthlink.net]  
**Sent:** Friday, September 23, 2005 1:19 PM  
**To:** Planning Board; Planning Department  
**Subject:** Landscaping Improvements and Jackson Drive Road Conveyance Petition  
**Importance:** High

I have attached a statement and supporting documents regarding prescribed landscaping improvements to provide a visual barrier on my property that have, to date, not been completed as set out in the terms of the Definitive Plan for the Jackson Drive Extension Subdivision. In light of the developer's recent petition to the Town for final acceptance of the roadway (which I believe will be discussed at the September 27th Planning Board meeting), I would like to submit this statement for your consideration. A copy of the signed letter and documents is contained in the attached .pdf file, and the text of the letter is also included below. My thanks in advance for your consideration.

Sincerely,

Joe Ricciardi  
14 Washington Dr.  
Acton, MA 01720  
978-264-9706

-----Letter Text Below -----  
September 21, 2005

Joseph Ricciardi  
14 Washington Dr.  
Acton, MA 01720

To: Roland Bartel, Town Planner  
Kristen Alexander, Assistant Town Planner  
Members of the Acton Planning Board:  
Gregory Niemyski, Chair  
Christopher Schaffner, Vice Chair  
William King  
Gary Sullivan  
Ruth Martin  
Edmund Starzec  
Michael Densen  
Bruce Reichlen

Re: Visual Barrier Landscaping Improvements for 14 Washington Drive

Dear Members of the Planning Department and Town Planning Board,

I would like to submit this written statement for your consideration in the upcoming review of Camille Donelle's (developer of the "Jackson Drive Extension" subdivision) petition to convey the new Jackson Drive roadway segment to the Town as a public way.

The approved Definitive Subdivision Plan for Jackson Drive Extension called for the developer to provide landscaping improvements on my property to provide a visual barrier to screen annoying headlight disturbance within the residence associated with traffic on Jackson Drive approaching and stopping at the intersection with Washington Drive. The terms of these modifications were specified in section 3.2.19 under "Plan Modifications" in the Definitive Subdivision agreement.

The original specification called for completion of improvements "within one year" after construction begins. Mr. Donelle requested an urgent meeting on December 21, 2000 to set out terms of the landscaping improvements. He presented a letter from his Counsel, specifying "Mr. Donelle expects to plant at least 10 plants, but not more than 20 to achieve the desired result." Regarding the timing of completion, it suggested the somewhat confusing specification, " The selection and planting will occur during the first year after construction begins, but not until the subdivision nears completion so that the impact of the subdivision traffic can be quantified and remedied." The agreement was signed in the presence of the Town Planner.

It is now nearly five years later and nothing has been done to remedy the situation. I contacted the developer on a number of occasions to

9/23/2005

no avail. I have also raised the issue on a couple of occasions with members of the Planning Department, expressing frustration with the lack of progress with the situation.

I would like to request the Planning Board's assistance in achieving compliance with the terms of the definitive plan. Under the circumstances, I would like to request that a mutually agreed upon independent landscaping firm be assigned to provide an estimate of landscaping improvements needed to remedy the situation with headlights and privacy, and that these improvements be performed by the firm at the developer's expense.

As a final matter, I would like to request that the Town Engineering department review the plans regarding the crosswalk on Washington Drive in front of my property. My concern is that the berm on Washington Drive in front of my property has been damaged as a result of construction vehicles using this area for three-point turns to reverse direction on Jackson Drive. Also, there is no corresponding "ramp" to match that on the facing side of the street, to gain access to the Washington Drive sidewalk.

Your consideration of these matters is greatly appreciated.

Sincerely,

Joseph Ricciardi  
14 Washington Dr.  
Acton, MA 01720

September 21, 2005

Joseph Ricciardi  
14 Washington Dr.  
Acton, MA 01720

To: Roland Bartel, Town Planner  
Kristen Alexander, Assistant Town Planner  
Members of the Acton Planning Board:  
Gregory Niemyski, Chair  
Christopher Schaffner, Vice Chair  
William King  
Gary Sullivan  
Ruth Martin  
Edmund Starzec  
Michael Densen  
Bruce Reichlen

Re: Visual Barrier Landscaping Improvements for 14 Washington Drive

Dear Members of the Planning Department and Town Planning Board,

I would like to submit this written statement for your consideration in the upcoming review of Camille Donelle's (developer of the "Jackson Drive Extension" subdivision) petition to convey the new Jackson Drive roadway segment to the Town as a public way.

The approved Definitive Subdivision Plan for Jackson Drive Extension called for the developer to provide landscaping improvements on my property to provide a visual barrier to screen annoying headlight disturbance within the residence associated with traffic on Jackson Drive approaching and stopping at the intersection with Washington Drive. The terms of these modifications were specified in section 3.2.19 under "Plan Modifications" in the Definitive Subdivision agreement.

The original specification called for completion of improvements "within one year" after construction begins. Mr. Donelle requested an urgent meeting on December 21, 2000 to set out terms of the landscaping improvements. He presented a letter from his Counsel, specifying "Mr. Donelle expects to plant at least 10 plants, but not more than 20 to achieve the desired result." Regarding the timing of completion, it suggested the somewhat confusing specification, "The selection and planting will occur during the first year after construction begins, but not until the subdivision nears completion so that the impact of the subdivision traffic can be quantified and remedied." The agreement was signed in the presence of the Town Planner.

It is now nearly five years later and nothing has been done to remedy the situation. I contacted the developer on a number of occasions to no avail. I have also raised the issue on a couple of

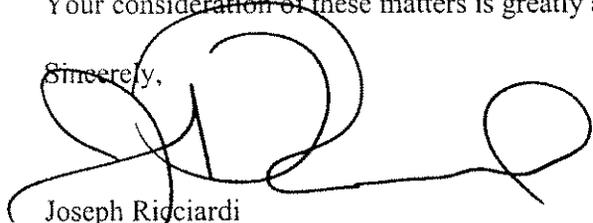
occasions with members of the Planning Department, expressing frustration with the lack of progress with the situation.

I would like to request the Planning Board's assistance in achieving compliance with the terms of the definitive plan. Under the circumstances, I would like to request that a mutually agreed upon independent landscaping firm be assigned to provide an estimate of landscaping improvements needed to remedy the situation with headlights and privacy, and that these improvements be performed by the firm at the developer's expense.

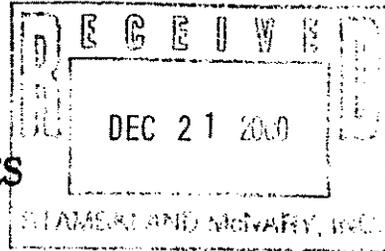
As a final matter, I would like to request that the Town Engineering department review the plans regarding the crosswalk on Washington Drive in front of my property. My concern is that the berm on Washington Drive in front of my property has been damaged as a result of construction vehicles using this area for three-point turns to reverse direction on Jackson Drive. Also, there is no corresponding "ramp" to match that on the facing side of the street, to gain access to the Washington Drive sidewalk.

Your consideration of these matters is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joseph Ricciardi', written over the word 'Sincerely,'.

Joseph Ricciardi  
14 Washington Dr.  
Acton, MA 01720



**COURNOYER & ASSOCIATES**

A PROFESSIONAL CORPORATION  
COUNSELORS AT LAW  
321 BOSTON POST ROAD  
SUDBURY, MASSACHUSETTS 01776

GERALD S. COURNOYER, JR.  
JOHN G. LAMB

Telephone: (800) 696-0517  
Facsimile: (978) 443-9499

December 21, 2000

Chairman and Members  
Planning Board of Acton  
Town Hall  
Acton, Massachusetts

Re: "Jackson Drive Extension"

Dear Chairman and Members of the Board:

We represent Mr. Camille Donelle, Trustee of Patriot Conservation Trust, the developer of the above referenced subdivision.

Please be advised that our client has met with Mr. Riccardi and has agreed to plant whichever plants Mr Riccardi selects from the attached list taken from the Planning Board Rules and Regulations to insure his privacy. The location and spacing of the plants will be consistent with the recommendations set forth in the attached list and the need to insure Mr. Riccardi's privacy. Mr Donelle expects to plant at least 10 plants but not more than 20 to achieve the desired result.

The selection and planting will occur during the first year after construction begins but not until the subdivision nears completion so that the impact of the subdivision traffic can be quantified and remedied.

Sincerely,

  
Gerald S. Cournoyer, Jr.

I agree to these terms - 12/21/00



## PLANT SPECIES FOR CUL-DESAC ISLANDS & CHOKERS

### I. Tall Growing Deciduous Shade Trees Minimum of 10 feet in height and caliper size 1.5" - 2" at planting time. One tree per 400 square feet.

Acer platanoides (Norway Maple)  
Phellodendron amurense (Amur Cork)  
Quercus palustris (Pin Oak)Zalkova  
Zalkova serrata (Zalkova)  
Gleditsia tricanthos inermis (Thornless Honeylocust "Skyline")  
Tilia cordata (European Littleleaf Linden "Greenspire")

Acer rubrum (Red Maple)  
Quercus velutina (Black Oak)March  
Quercus borealis (Northern Red Oak)  
Larix sp. (Larch)  
Platanus acerifolia (London Plane Tree)  
Fraxinus pennsylvanica (Green Ash "Marshall's Seedless")

### II. Small Deciduous Ornamental Trees Minimum of 8 feet in height and caliper size 1" - 1.5" at planting time. One tree per 225 square feet.

Cornus Kousa (Japanese Dogwood)  
Malus species (Crabapple species)  
Syringa reticulata (Japanese tree lilac)  
Pyrus calleryana (Bradford Pear, Rodspire Pear)

Catalagus species (Flowerhorn species)  
Prunus serrulata (Kwanzan cherry)  
Prunus subhirtella (Higan cherry)

### III. Deciduous Shrubs for Screening

Syringa vulgaris (Common lilac)  
Potentilla sp. (Potentilla)  
Forsythia sp. (Forsythia)  
Kerria japonica (Kerria)  
Viburnum trilobum (American Cranberry Bush)  
Rhododendron P.J.M. (P.J.M. Rhododendron)

Rosa Rugosa (Rugosa rose)  
Euonymus alatus (Burning Bush)  
Spirea sp. (Spirea)  
Berberis koraiana (Korean bayberry)  
Philadelphus virginialis (Mock Orange)

### IV. Evergreen Shrubs for Screening

Taxus sp. (Yew)  
Pinus mugo (Mugo Pine)  
Hornbeck

Juniperus sp. (Juniper)  
Thuja occidentalis (American arborvitae)

### V. Groundcovers

Vinca Minor (Periwinkle)  
Pachyandra terminalis (Japanese Spruce)  
Hemerocallis (Daylilies)

Juniperus sp. (Low juniper)  
Cotoneaster sp. (Ground cotoneaster)

- 3.2.11 On sheets 1 and 3, plan references, add Plan No. 24 of 1970.
- 3.2.12 On sheet 10 add a landscape planting detail with notes for the obsolete Washington Drive turnaround similar to the detail and notes for the roundabout island.
- 3.2.13 Specify loam and grass seed for the splitter islands at the roundabout consistent with the Rules' requirements for road shoulders.
- 3.2.14 Specify removal of the common driveway behind lots 10, 11, and 12, closure of the common driveway curb cut behind lot 12, and restoration of the curb and shoulder upon the establishment of alternate access to the houses on lot 10 and the abutting Nichols land. If Rafuses object to the removal, the preceding sentence shall not apply. Instead, the common driveway shall be removed south of the merge with the Rafuse driveway, the driveway curb cut shall be relocated as far away from the roundabout intersection as possible but at least centered on the easement, and the curb and shoulder shall be restored.
- 3.2.15 All water supply infrastructure shown on the Plan shall comply with the Acton Water District (AWD) requirements and AWD approval of the Plan shall be submitted in writing before Plan endorsement.
- 3.2.16 All fire hydrants and fire alarm call boxes shall be installed in accordance with the specifications of the Acton Fire Department (AFD) and AFD approval of the Plan shall be submitted in writing prior to Plan endorsement.
- 3.2.17 Add a Plan note stating that house locations are shown for illustrative purposes only and that they may vary from what is shown on the Plan within the setback requirements of the Bylaw.
- 3.2.18 Add a Plan note stating that any proposed limits of clearing on the lots are shown for illustrative purposes only and may vary from what is shown on the Plan. If such limits of clearing are required by another entity having jurisdiction the note shall clarify that fact.
- 3.2.19 Submit a plan for Board approval showing effective landscaping or other suitable methods of screening out car headlights from the Ricciardi residence at 14 Washington Drive. No such measures shall be shown or installed within the public way. The approved screening elements shall be installed during the first year of construction on the Site, subject to Ricciardis' notice to proceed.
- 3.2.20 Except during the period of initial clearing and grubbing, no construction or contractors' vehicles shall be parked on Washington Drive or Jackson Drive during the entire time of construction of the proposed subdivision and homes.
- 3.2.21 Before planting any trees required under the Rules or under this decision, the Applicant shall consult with the Tree Warden to determine acceptable species and varieties. The Applicant shall follow the Tree Warden's determination.
- 3.2.22 Unless directed otherwise by this decision, the definitive plan shall be modified to comply with all requirements of the Rules, and shall address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

### 3.3 CONDITIONS

The following conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to the following conditions shall be reason to rescind this subdivision approval pursuant to MGL Ch.41, S.81-W. The Town of Acton may elect to enforce compliance with this decision using any and all powers available to it under the law.

REFER TO THE STORMWATER MANAGEMENT HANDBOOK PROVIDED BY THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION.

3. THE DEVELOPER SHALL BE DILIGENT IN COMPLYING WITH THE EROSION AND SEDIMENTATION CONTROL PLAN.
- 3A. NO WORK ON THE SITE SHALL BEGIN PRIOR TO THE ENDORSEMENT AND RECORDING OF THE PLAN.
- 3B. REMOVE THE EXISTING COMMON DRIVEWAY CURB CUT BEHIND LOT 12 AND RESTORE THE CURBING JACKSON DRIVE. CLOSE THE COMMON DRIVEWAY CURB CUT BEHIND LOT 10 AND RESTORE THE CURBING AND SHOULDER UPON THE ESTABLISHMENT OF ALTERNATIVE ACCESS TO THE HOUSES ON LOT 10 (22 JACKSON DRIVE) AND THE ABUTTING NICHOLS LAND (26 JACKSON DRIVE). IF THE ABUTTING OWNERS OF #24 JACKSON DRIVE (N/F RAFUSE) OBJECT TO THE REMOVAL OF THE COMMON DRIVEWAY, THE PRECEDING SENTENCE SHALL NOT APPLY. INSTEAD THE COMMON DRIVEWAY SHALL BE REMOVED SOUTH OF THE MERGE WITH THE PRIVATE DRIVEWAY OF #24 JACKSON DRIVE. THE COMMON DRIVEWAY CURB CUT SHALL BE RELOCATED AS FAR AWAY FROM THE ROUNDABOUT INTERSECTION WITH JACKSON DRIVE EXTENSION AS POSSIBLE. AT A MINIMUM THE DRIVEWAY SHALL BE CENTERED ON THE 30' WIDE EASEMENT, THE CURB AND SHOULDER SHALL BE RESTORED. ALL DISTURBED AREAS SHALL BE GRADED TO MATCH EXISTING ELEVATIONS. 6" LOAM AND SEED ALL DISTURBED AREAS WITHIN THE EASEMENT AND R.O.W. OF JACKSON DRIVE.
4. THE DEVELOPER SHALL PLANT A TOTAL OF (10) TEN ARBORVITAE SHRUBS WITHIN THE (20) TWENTY FOOT WIDE BY (80) EIGHTY FOOT LONG AREA DESIGNATED AND SHOWN ON SHEET 5 (FIVE). THE APPROVED SCREENING ELEMENTS SHALL BE INSTALLED DURING THE FIRST YEAR OF CONSTRUCTION ON THE SITE. SUBJECT TO THE OWNER'S, (N/F RICCIARDI), NOTICE TO PROCEED. ALL SCREENING MEASURES SHALL BE SETBACK A MINIMUM OF (6) SIX FEET FROM THE EDGE OF THE PUBLIC RIGHT OF WAY OF WASHINGTON DRIVE, SO THAT THE SHRUBS ARE LESS LIKELY TO BECOME A MAINTENANCE RESPONSIBILITY TO THE TOWN OF ACTON. SHRUBS SHALL BE NURSERY STOCK AND SHALL NOT BE LESS THAN (18") EIGHTEEN INCHES IN SPREAD, AND SIX FEET IN HEIGHT, SPACED A MINIMUM OF (4) FOUR FEET APART. EXACT LOCATION OF ALL SHRUBS TO BE DETERMINED IN THE FIELD BY THE DEVELOPER AND OWNER.
5. EXCEPT DURING THE PERIOD OF INITIAL CLEARING AND GRUBBING, NO CONSTRUCTION OR CONTRACTOR'S VEHICLES SHALL BE PARKED ON WASHINGTON DRIVE OR JACKSON DRIVE DURING THE ENTIRE TIME OF CONSTRUCTION OF THE PROPOSED SUBDIVISION AND HOMES.
6. THE DEVELOPER SHALL INSTALL IN THE LOCATION SHOWN ON THE PLAN A CLEARLY VISIBLE INFORMATIONAL SIGN ON R.O.W. 2 ALERTING PROSPECTIVE BUYERS OF LOT 9 AND LOT 10 OF THE LOCATION AND PURPOSE OF R.O.W. 2. THE SIGN SHALL BE REMOVED WHEN A STREET IS BEING CONSTRUCTED IN R.O.W. 2 OR ONCE BOTH LOT 9 AND LOT 10 HAVE BEEN SOLD FOR THE FIRST TIME AFTER THIS SUBDIVISION APPROVAL.
7. PRIOR TO THE ACCEPTANCE OF JACKSON DRIVE EXTENSION (R.O.W. 1) AS A PUBLIC WAY BY THE TOWN OF ACTON, THE RESPONSIBILITY FOR PLOWING AND MAINTENANCE OF ALL STREETS IN THE PROPOSED SUBDIVISION SHALL BE THAT OF THE DEVELOPER, NOT THE NEW HOMEOWNERS.
8. FOLLOWING ACCEPTANCE OF THE STREETS, THE TOWN OF ACTON MAINTENANCE RESPONSIBILITIES SHALL FOLLOW STANDARD PROCEDURES FOR TOWN STREETS AND WAYS. THEY SHALL BE LIMITED TO THE IMPROVEMENTS LOCATED WITHIN THE STREET LAYOUTS AND ASSOCIATED WITH THEIR FUNCTION AS A STREET, AND TO ANY IMPROVEMENTS ASSOCIATED WITH STREET DRAINAGE LOCATED WITHIN DESIGNATED UTILITY EASEMENTS. THE MAINTENANCE OF ALL PRIVATE UTILITIES AND SERVICES LOCATED WITHIN OR OUTSIDE THE STREET LAYOUT OR SAID EASEMENTS AND OF ANY PRIVATE DRAINAGE FACILITIES FEEDING INTO DRAINAGE STRUCTURES WITHIN THE STREET LAYOUTS OR EASEMENTS SHALL NOT BE THE RESPONSIBILITY OF THE TOWN OF ACTON. THIS SHALL APPLY ALSO TO THE DRAINAGE DROP INLETS DI-1 AND DI-2. THE RESPONSIBILITY FOR THEIR MAINTENANCE AND RELATED EASEMENTS SHALL BE ASSIGNED TO THE BENEFITING LANDOWNERS.