



TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6631
Fax (978) 929-6340
planning@acton-ma.gov
www.acton-ma.gov

Planning Department

January 30, 2012

Linda Walsh
Transportation Planner
Community Compliance Section
Department of Transportation, Highway Division
Right of Way Bureau
1000 County Road
Taunton, MA 02780

**Re: Assabet River Rail Trail (ARRT), Acton – Maynard, Project No. 604531
25% Submittal, ROW Plan**

Dear Linda:

This is a follow-up to our meeting of January 12, 2012 reviewing the right of way plan of the 25% ARRT project submittal. Thank you for coming out to Acton on such dreary day. We very much appreciate your time spent with us and the valuable input you provided. After discussing the matter further with Carolyn Britt of Maynard, I wanted to clarify how Acton and Maynard wish to proceed on the subject of any additional easements that may be needed:

1. Where permanent improvements, including necessary permanent grade changes, are proposed outside of the right-of-way, the revised 25% ROW plan should show proposed permanent easements. AECOM is working to show these on the revised ROW plan, and will resubmit them in the near future.
2. Where construction may only require a temporary trespass by construction workers with or without equipment, we find that it is premature at this time to invest design efforts in delineating all these possible areas as easements. Instead, we would prefer if your 25% design review comments would include a general note and reminder that these areas need be identified as the plans proceed to the 75% and final design stages. At that time the design will be at a much more developed stage were these can be easily identified and quantified.
3. Easements are very different tools from Right of Entry agreements. Easements require in all instances appraisals, surveys, Town Counsel time for title search and preparation of easement documents, land owner compensation as required, and Town Meeting appropriations and acceptances. This is a very complicated, expensive, and time consuming undertaking. This does not seem justified for each case of temporary disturbance on abutting properties, and the Towns would like to limit these to as few as needed.

4. Therefore, we wish to proceed with caution here. Some potential trespass situations may be avoidable through minor redesign at the 75% state; our goal will be to minimize their extent and number. Where such situations cannot be avoided entirely, we would like them to be identified on the 75% plan, so that we can begin conversations with affected land owners and execute rights of entry agreements ready to go for the 100% submittal. We realize that affected landowners are still entitled to be offered monetary compensation for rights of entry, and to receive such compensation if they wish. Allowing the use of Right of Entry in all cases where it is possible and appropriate will reduce the overall effort and expense to the Towns compared to the taking of easements.

5. We would not proceed with the execution of the right of entry agreements until after the 75% submittal, and at such time that a construction date is set. Such date will depend on the timing of Federal funding and cannot be predicted with certainty in these economic times when public budgets are particularly volatile. This timing will avoid possible expirations before construction commences. Conversely, we understand that there may last-minute issues with land-owners who had just newly acquired their property and not been aware of the preliminary outreach. However, we feel that this is a small administrative risk that the Town's are willing to take, and which to avoid does not justify the huge upfront expense that the taking of easements would require.

We hope you will find this to be an agreeable path forward and look forward to our continued cooperation on this project.

Sincerely,



Roland Bartl, AICP
Planning Director

Cc: Pamela Marquis
Shirley Shiver
Mike Papadopolous
Carolyn Britt
Michael Sullivan, Maynard Town Administrator
Steve Ledoux, Acton Town Manager
Nicolas Rubino, AECOM

I:\planning\projects\rail trails\arrt\design project\100% design project acton maynard\25% design submission\25% arrt package\preliminary row plans - pdfs\row letter on easement v. roes.doc