

Town of Kittery Planning Board Special Meeting April 23, 2020

ITEM 1 – Miller Road – Major Modification to an Approved Conventional Subdivision Plan Review

Action: Accept/deny application & Approve/deny major subdivision modification plan: Owners D.E.C.M LLC requests consideration of a lot line adjustment to convey a segment of land (252-sf) within the approved 40-foot right-of-way (McCloud Drive) to Lot 1 in order to comply with the approved setbacks for the 6-lot conventional subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones as recorded at the York County Registry of Deeds under Book 397 Page 32. Agent is Nathan Amsden, Amsden Field Survey.

PROJECT TRACKING FOR MAJOR SUBDIVISION MODIFICATION

REQ'D	ACTION	COMMENTS	STATUS
YES	Final Plan Review and Decision	August 9, 2018	APPROVED
Yes	Modification to a subdivision plan application completeness review	Set for April 23, 2020	PENDING
Yes	Modification to a subdivision plan application approval	Set for April 23, 2020	PENDING
<p>Applicant: <u>Prior to the signing of the approved Plan any Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS. As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.</u></p>			

Background

The Planning Board (“Board”), pursuant to §16.10.9.3, Modifications to Approved Plan, is designated as the reviewing authority for major modification requests for subdivision plans. Prior to the modification request currently before this Board, on August 9, 2018, the Board approved a special exception subdivision application for a 6-Lot conventional subdivision plan located in the R-RL and OZ-RP zones. During the progression of the subdivision’s development, a discovery was made identifying that the single-family dwelling unit situated on Lot 1 was constructed inadvertently closer to the privet street (McCloud Drive), thereby rendering the dwelling unit non-conforming for its encroachment within the 40-foot front yard setback by approximately 2.7-feet. In order to correct the dimensional non-conformity, the Applicant filed a proposed plan depicting a conveyance of land (252-sf) from the 40-foot right-of-way (McCloud Drive) unto Lot 1 via a lot line adjustment.

To date, Lot 1 is substantially constructed; however, there are still plan elements needing completion such as the landscaping and stormwater infrastructure. Another change to the approved subdivision plan was to the surface of the private street. According to the August 9, 2018 approved plan, McCloud Drive’s (labeled Hutchins Creek Lane in the 2018 plan) was specified to be compose of gravel; howbeit, it subsequently was paved by the developer. The paving of the street was determined not require a driveway entrance permit by DPW in that the McCloud Drive is as a Class I private street and is to remain as such in perpetuity in accordance with the Board’s August 9, 2018, Miller Road Major Subdivision Findings of Fact.

A discussion took place among staff whether or not the paved private street would adversely affect stormwater runoff, leading to a consensus that additional information from the applicant will need to be filed for further examination to determine compliance with the original approved stormwater design. Nevertheless, for the purpose of this lot line adjustment application and given the unique circumstances, staff concluded that it was not necessary at this juncture for the applicant to furnish such information so as to not further delay a decision by the Board.

In essence, the Board's task in this filing is to contemplate and decide if the proposed modification request to adjust the right-of-way will have a negative impact on the health, safety and welfare of abutting properties and surrounding area.

Staff Review

16.10.9.3 Modifications to Approved Plans,

The Board must hear this application because the proposed relocation of a property boundary constitutes a major modification as stated in 16.10.9.3.B. As referenced hereinabove, the Applicant proposes adjust the lot line of the right-of-way to convey 252-sf to Lot 1 in order for the residential property to meet the 40-foot front setback requirements. The Board's review and approval for any modification to the final approved plan is also enumerated as a condition (Condition 1.) in the August 9, 2018 Miller Road Major Subdivision Findings of Fact.

Waivers

According to 16.8 Attachment I: Table 1. Design and Construction Standards for Streets and Pedestrianways, a Class I private street is to have a 40-foot right-of-way. Considering a segment of the right-of-way is proposed to be less than 40-feet due to the lot line adjustment, the granting of a waiver must be considered by the Board.

Additional waivers requested by the Applicant are as follows:

1. 16.10.5.2.B(8): Names and addresses of all owners of record of property abutting the development, including those across the street.
 - a. The Applicant requests only to show the segment and lots of the subdivision that are affected directly by the proposed amendments.
2. 16.10.5.2.B(10)(a): Structures, their location and description including signs, to be placed on the site, floor plan of exterior walls and accesses located within 100 feet of the property line.
 - a. The Applicant requests not to file floor plans for the dwelling units in that it is not pertinent to the proposed modification application.
3. 16.10.5.2.B(10)(b): Utilities proposed including power, water, sewer, holding tanks, bridges, culverts and drainageways;
 - a. Applicant states that the location of all approved utilities and structures under this subsection shall remain as approved.
4. 16.10.5.2.B(10)(c): Sewage facilities type and placement. Test pit locations, at least two of which must meet the State of Maine Plumbing Code requirements, must be shown;
 - a. Applicant states that test pits and septic system locations shall remain as approved.

5. 16.10.5.2.B(10)(g): Road and other paved ways, profiles and typical sections including all relevant dates.
 - a. Applicant states that the street profile has been approved in the original filing and states no changes to it are being proposed, notwithstanding the gravel private street becoming paved.
6. 16.10.5.2.B(10)(k): Topographic contours of existing contours and finished grade elevations within the development;
 - a. Applicant states that the topography and grades are not proposed to be different from the approved plan.

Peer Review

CMA's review, dated April 21, 2020 (see attached) found that there is no negative impact from the proposed modification.

Recommendation / Action

If the Planning Board finds that no further information is needed, the Board may vote to accept and approve the major modification application.

Waivers

1. *Move to approve the waiver requested from Section 16.8 Attachment I: Table 1. Design and Construction Standards for Streets and Pedestrianways to allow for a decrease in the 40-foot width right-of-way requirement for a Class I Private Street.*
2. *Move to approve the waiver requested from Section 16.10.5.2.B(8): to allow for the absence of abutters not directly affected by the proposed amendments.*
3. *Move to approve the waiver requested from Section 16.10.5.2.B (10)(a) to allow for the absence of floor plans as it is not pertinent to the nature of the major subdivision modification request.*
4. *Move to approve the waiver requested from Section 16.10.5.2.B(10)(b) to allow for the absence of utility information as it is not pertinent to the nature of the major subdivision modification request.*
5. *Move to approve the waiver requested from Section 16.10.5.2.B(10)(c) to allow for the absence of sewage information and type as it is not pertinent to the nature of the major subdivision modification request.*
6. *Move to approve the waiver requested from Section 16.10.5.2.B(10)(g): to allow for the absence of a road profile plan as the proposed modification does not intend to modify the profile of the private street as it was originally approved.*
7. *Move to approve the waiver requested from Section 16.10.5.2.B(10)(k): to allow for the absence of topographic and existing contours and final grade as the proposed modification does not intend to modify the approved contours and grades as originally approved.*

Modification Plan

Move to accept and approve the major modification plan dated 4/20/20, prepared by Amsden Field Survey for owner D.E.C.M. to a 6-lot conventional major subdivision plan, originally approved on August 9, 2018 prepared by Attar Engineering, Inc. for owner Joseph Falzone, for Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones with the condition that (1) all other conditions and approvals in the August 9, 2018 final approval and final plan as recorded in the York County Registry of Deeds under Book 397 Page 32 shall remain as approved and (2) the applicant shall submit an as-built plan and stormwater information for review by CMA of the entire subdivision to determine compliance with the originally approved plan prior to the issuance of a certificate of occupancy of the last dwelling unit of the subdivision development.

**KITTERY PLANNING BOARD
FINDINGS OF FACT -
for
Miller Road
Major Modification Subdivision Plan**

Unapproved

Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and required by the Planning Board.

WHEREAS: Owners D.E.C.M LLC requests consideration of a lot line adjustment to convey a segment of land (299-sf) within the approved 40-foot right-of-way (McLoud Drive) to Lot 1 in order to comply with the approved setbacks for the 6-lot conventional subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones as recorded at the York County Registry of Deeds under Book 397 Page 32. Agent is Nathan Amsden, Amsden Field Survey.

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 04/23/2020;

PROJECT TRACKING FOR MAJOR SUBDIVISION MODIFICATION

ACTION	COMMENTS	STATUS
Modification to a subdivision plan application completeness review	PENDING	PENDING
Modification to a subdivision plan application approval	PENDING	PENDING

and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following and as noted in the Plan Review Notes dated 04/23/2020 (Hereinafter the “Plan”).

1. Application and associated and subsequent submittal information dated, 4/14/2020
2. Modification to a Final Subdivision Plan, , Inc. dated 4/15/2020

NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section **16.10.8.3.4.** and as recorded below:

FINDINGS OF FACT

Action by the Board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:

A. Development Conforms to Local Ordinances.

The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and

<i>plans.</i>
Finding: The modification pertains to an approved residential conventional development in a residential zone. The modification will increase one lot by 299-sf and increase its front setback by 2.7-feet. The right-of-way consequently will be reduced by 299-sf.
Conclusion: This standard appears to be met.
Vote of ___ in favor ___ against ___ abstaining
B. Freshwater Wetlands Identified.
<i>All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.</i>
Finding: The wetlands associated with Hutchins Creek have been delineated and are depicted on the final plan as recorded at the York County Registry of Deeds under Book 397 Page 32.
Conclusion: This standard is appears to be met.
Vote of ___ in favor ___ against ___ abstaining
C. River, Stream or Brook Identified.
<i>Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B, Subsection 9.</i>
Finding: Hutchins Creek has been identified on the site as it serves as the western boundary of the property. The centerline of the creek is depicted on the final plan as recorded at the York County Registry of Deeds under Book 397 Page 32.
Conclusion: This standard appears to be met.
Vote of ___ in favor ___ against ___ abstaining
D. Water Supply Sufficient. <i>{and}</i>
<i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i>
E. Municipal Water Supply Available.
<i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i>
Finding: Because this proposed modification is a lot line adjustment between Lot 1 and the abutting right-of-way in a previously approved subdivision, there is no impact to water supply.
Conclusion: This standard is not applicable
Vote of ___ in favor ___ against ___ abstaining

F. Sewage Disposal Adequate.
<i>The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.</i>
Finding: Because this modification is a lot line adjustment between Lot 1 and the abutting right-of-way in a previously approved subdivision, there is no impact to the sewage waste disposal.
Conclusion: This standard is not applicable
Vote of ___ in favor ___ against ___ abstaining
G. Municipal Solid Waste Disposal Available.
<i>The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.</i>
Finding: Because this modification is a lot line adjustment between Lot 1 and the abutting right-of-way in a previously approved subdivision, there is no impact to solid waste.
Conclusion: This standard is not applicable
Vote of ___ in favor ___ against ___ abstaining
H. Water Body Quality and Shoreline Protected.
<i>Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.</i>
Finding: The proposed development is partially located within the Resource Protection Overlay Zone. All proposed amendments in the regulated zone is outside of the required 100-foot setback and will not adversely affect the water quality of the regulated wetland.
Conclusion: This standard appears to be met.
Vote of ___ in favor ___ against ___ abstaining
I. Groundwater Protected.
<i>The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.</i>
Finding: The proposed lot line adjustment between two lots in a previously approved subdivision will not affect the use of the individual septic systems designed by a Licensed Professional.
Conclusion: This standard appears to be met.
Vote of ___ in favor ___ against ___ abstaining
J. Flood Areas Identified and Development Conditioned.

All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.

Finding: There is no construction proposed by this lot line adjustment within a flood prone area.

Conclusion: This standard is not applicable.

Vote of ___ in favor ___ against ___ abstaining

K. Stormwater Managed.

Stormwater Managed. The proposed development will provide for adequate stormwater management

Finding: The proposed lot line adjustment between Lot 1 and the abutting right-of-way in a previously approved subdivision will not affect stormwater. Nevertheless, the Applicant shall submit additional data demonstrating the stormwater infrastructure adequately can manage and treat the run-off flowing from the paved surfaced of McCloud Drive.

Conclusion: This standard appears to be met but requires additional data to verify.

Vote of ___ in favor ___ against ___ abstaining

L. Erosion Controlled.

The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

Finding: The proposed lot line adjustment between Lot 1 and the abutting right-of-way in a previously approved subdivision will not affect soil erosion.

Conclusion: This standard is not applicable.

Vote of ___ in favor ___ against ___ abstaining

M. Traffic Managed.

The proposed development will:

- 1. Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and*
- 2. Provide adequate traffic circulation, both on-site and off-site.*

Finding: The proposed lot line adjustment between Lot 1 and the abutting right-of-way in a previously approved subdivision will have no impact on traffic.

Conclusion: This standard is not applicable.

Vote of ___ in favor ___ against ___ abstaining

N. Water and Air Pollution Minimized.
<i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i>
<ol style="list-style-type: none">1. Elevation of the land above sea level and its relation to the floodplains;2. Nature of soils and sub-soils and their ability to adequately support waste disposal;3. Slope of the land and its effect on effluents;4. Availability of streams for disposal of effluents;5. Applicable state and local health and water resource rules and regulations; and6. Safe transportation, disposal and storage of hazardous materials.
Finding: Because the modification consists of a lot line adjustment between Lot 1 and the abutting right-of-way in a previously approved subdivision, with no additional development involved, besides the paving of McCloud Drive, there appears to be no impact on the factors listed above.
Conclusion: This standard is not applicable.
Vote of ___ in favor ___ against ___ abstaining
O. Aesthetic, Cultural and Natural Values Protected.
<i>The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.</i>
Finding: The property or right-of-way does not include any significant aesthetic, cultural or natural values that require protection so the lot line adjustment will have no impact.
Conclusion: This standard appears to be met.
Vote of ___ in favor ___ against ___ abstaining
P. Developer Financially and Technically Capable.
<i>Developer is financially and technically capable to meet the standards of this section.</i>
Finding: The previous subdivision approval required that the developer provide a performance guarantee and an inspection escrow in an amount suitable to cover the costs of required infrastructure including on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan. The proposed lot line adjustment will have no effect on these transactions.
Conclusion: This standard appears to be met.
Vote of ___ in favor ___ against ___ abstaining

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers:

1. 16.8 Attachment I: Table 1. Design and Construction Standards for Streets and Pedestrianways: a segment of the right-of-way as depicted on the modified subdivision plan, dated 4/15/20 shall be permitted to be less than 40-feet.
2. 16.10.5.2.B(8): Only names and address of lots that are affected by the proposed changes shall be included on the modified plan, dated 4/15/2020.
3. 16.10.5.2.B(10)(a): the submission of floor plans is deemed unnecessary since it is not pertinent to the proposed subdivision modification application.
4. 16.10.5.2.B(10)(b): the submission of utility information is deemed unnecessary as it is not pertinent to the proposed subdivision modification application and is not proposed to change as approved.
5. 16.10.5.2.B(10)(c): the submission of test pit and septic system location information is deemed unnecessary as it is not pertinent to the proposed subdivision modification application and is not proposed to change as approved.
6. 16.10.5.2.B(10)(g): A street profile was approved in the original filing and no changes to it are being proposed; therefore, it has been deemed unnecessary for it to be included in this subdivision modification request and is not proposed to change as approved.
7. 16.10.5.2.B(10)(k): the submission of topographic and contour information is deemed unnecessary as it is not pertinent to the proposed subdivision modification application and is not proposed to change as approved.

Conditions of Approval (To be included as notes on the final plan):

1. All other conditions and approvals in the August 9, 2018 final approval and final plan as recorded in the York County Registry of Deeds under Book 397 Page 32 shall remain as approved.
2. All waivers granted by the Planning Board.

Conditions of Approval (Not to be included as notes on the final plan):

1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar.
2. Applicant shall file an as-built plan and stormwater information for CMA to review in order to determine compliance with the originally approved plan, dated August 9, 2018, prior to the issuance of the last certificate of occupancy of the subdivision development.

Notices to Applicant: (not to be included on the final plan)

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.
4. The owner and/or developer, in an amount and form acceptable to the Town Manager, must file with the municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and site erosion and stormwater stabilization, including inspection fees for same.
5. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

The Planning Board authorizes the Planning Board Chair, or Vice Chair, to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of ___ in favor ___ against ___ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON April 23, 2020

Dutch Dunkelberger, Planning Board Chair

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

TOWN OF KITTERY, MAINE

TOWN PLANNING AND DEVELOPMENT DEPARTMENT

200 Rogers Road, Kittery, Maine 03904
 PHONE: (207) 475-1323 FAX: (207) 439-6806

www.kittery.org

APPLICATION: MAJOR MODIFICATION TO AN APPROVED PLAN- SITE PLAN



FEE FOR SITE PLAN AMENDMENT REVIEW: (TITLE 16.10.9.3)	<input checked="" type="checkbox"/> \$300.00 PLUS THE GREATER OF	<input type="checkbox"/> \$50/ADDITIONAL USE OF UNIT; OR	<input type="checkbox"/> \$5.00/100 SQ FT OF ADDITIONAL GROSS FLOOR AREA	Application Fee Paid: \$ _____ Date: _____ ASA Fee Paid: (TITLE 3.3 TOWN CODE) \$ _____ Date: _____
		<input type="checkbox"/> \$0.50/LINEAR FOOT OF ADDITIONAL DOCK, SLIP & FLOAT; OR	<input type="checkbox"/> \$20.00/ADDITIONAL UNIT INTENDED TO PROVIDE OVERNIGHT SLEEPING ACCOMODATIONS	

PROPERTY DESCRIPTION	Parcel ID	Map	59	Lot	20	Zone(s):	R-RL _____	Total Land Area (Square Feet)	9.5 AC
	3247					Base:	_____ YES		
	Physical Address	Miller Rd at approximately #20							
						Overlay:	_____ NO		
						MS4:			

PROPERTY OWNER'S INFORMATION	Name	D.E.C.M. LLC	Mailing Address	Mary & Buz Couillard 9 Merrimac St. Seabrook, NH 03874
	Phone	978-479-1718		
	Fax			
	Email	BUZMAIR@COMCAST.NET		

APPLICANT'S AGENT INFORMATION	Name	Nathan Amsden	Name of Business	Amsden Field Survey
	Phone	207-451-0444	Mailing Address	799 Main St. Eliot, ME 03903
	Fax			
	Email	afs99@comcast.net		

PROJECT DESCRIPTION	Project Name: Miller Road Subdivision
	Existing Use: 6 lot subdivision, 2 lots remaining undeveloped
	Proposed Amendment Please describe how the approved plan is proposed to be amended. State any known areas of non-compliance to the Town Code and how this amendment will decrease or remove non-compliance, if applicable.
	Private driveway accessing Lots 1, 2, and 6 is 40' in width. Destroyed monuments has resulted in dwelling on Lot 1 encroaching into front
	yard 40' setback by 2.5' at one corner. Leases, moving contracts, financing are affected. This request is to modify the private driveway on the
	westerly side with a slight change in curvature in order to make the house conforming. The modification reduces the square footage of the private way and increases Lot 1 accordingly.

I certify, to the best of my knowledge, this application information is true and correct and I will not deviate from the plan submitted without notifying the Kittery Town Planning Department of any changes.

Applicant's Signature:		Owner's Signature:	
Date:		Date:	

Minimum Plan Submittal Requirements

- 15 COPIES OF THIS APPLICATION
- 15 COPIES OF THE APPROVED SITE PLAN – 12 REDUCED SIZE AT 11"X17"AND 3 FULL SIZE AT 24"X 36"
- 15 COPIES OF THE PROPOSED AMENDED SITE PLAN– 12 REDUCED SIZE AT 11"X17"AND 3 FULL SIZE AT 24"X 36"
- 1 PDF OF THE SITE PLAN SHOWING GPS COORDINATES

PRIOR TO BEGINNING THE REVIEW PROCESS, THE PLANNING BOARD WILL DECIDE WHETHER SUFFICIENT INFORMATION HAS BEEN PROVIDED AND WILL VOTE TO **DETERMINE COMPLETENESS/ACCEPTANCE.**

THE APPLICANT IS RESPONSIBLE TO PRESENT A CLEAR UNDERSTANDING OF THE PROPOSED AMENDMENT.

- A) Paper size:
 No less than 11" X 17" (reduced) or greater than 24" X 36" (full)
- B) Scale size:
 Under 10 acres: no greater than 1" = 30'
 10 + acres: 1" = 50'
- C) Title block:
 Applicant's name and address
 Name of preparer of plans with professional information and professional seal
 Date of plan preparation
 PARCEL'S TAX MAP ID (MAP/LOT) 1/4" TALL IN LOWER RIGHT
 'SITE PLAN AMENDMENT' CLEARLY PART OF TITLE
- D) Clearly show how the approved plan will be amended.
- E) Provide signature blocks for amended approval.
- F) Provide all associated reference material and or documentation that clarifies and or supports the purpose of the proposed amendment.
- G) Revisions to the boundary, internal lots and or parcels must be signed and sealed by a surveyor licensed in the State of Maine.
- H) Revisions to the proposed site must be signed and sealed by a professional engineer licensed in the State of Maine.

SEE TITLE 16.10.5.2 FOR COMPLETE LIST OF SUBMITTAL INFORMATION

NOTE TO APPLICANT: PRIOR TO THE SITE WALK, TEMPORARY MARKERS MUST BE ADEQUATELY PLACED THAT ENABLE THE PLANNING BOARD TO READILY LOCATE AND APPRAISE THE LAYOUT OF DEVELOPMENT.

Waiver Request

DESCRIPTION	Ordinance Section	Describe why this request is being made.
	16.10.5.2.B8	Abutters adjacent to McCloud Dr
	B 10.(a)	Floor plans N/A
	B 10.(c)	Wastewater systems already approved thru construction inspection
	B 10.(g)	Design road profiles previously submitted
	B 10.(k)	Spot elevations in lieu of finish contours

16.10.8.2.5 Conditions or Waivers.

Conditions required by the Planning Board at the final plan review phase must have been met before the final plan may be given final approval unless so specified in the condition or specifically waived, upon written request by the applicant, by formal Planning Board action wherein the character and extent of such waivers which may have been requested are such that they may be waived without jeopardy to the public health, safety and general welfare.

16.7.4.1 Objectives Met. In granting modifications or waivers, the Planning Board must require such conditions as will, in its judgment, substantially meet the objectives of the requirements so waived or modified.

SUBMITTALS THE TOWN PLANNER DEEMS SUFFICIENTLY LACKING IN CONTENT WILL NOT BE SCHEDULED FOR PLANNING BOARD REVIEW.

COMPLETED BY OFFICE STAFF

ASA CHARGE	AMOUNT	ASA CHARGE	AMOUNT
REVIEW		SERVICES	
LEGAL FEES (TBD)		RECORDER	\$35
ENGINEERS REVIEW (TBD)		FACT FINDING (TBD)	
ABUTTER NOTICES		3 RD PARTY INSPECTIONS (TBD)	
POSTAGE	\$20	OTHER PROFESSIONAL SERVICES	\$50
LEGAL NOTICES		PERSONNEL	
ADVERTISING	\$300	SALARY CHARGES IN EXCESS OF 20 HOURS	
SUPPLIES			
OFFICE	\$5		
SUB TOTAL		SUB TOTAL	
		TOTAL ASA REVIEW FEES	

AMSDEN FIELD SURVEY

**MAINE LICENSED SURVEYS AND
LAND PLANNING**

**799 MAIN ST.
ELIOT, MAINE 03903
(207) 451-0444
afs99@comcast.net**

Adam Causey
Bart McDonough
200 Rodgers Rd.
Kittery, ME 03904

4/2/20

Adam,

The attached documents are for a proposed Major Modification of the Miller Road Subdivision. Although the modification is quite small, it involves altering a private way, which is defined as a Major Modification.

Letter of Authorization

Application for Major Modification, missing \$300 fee
Affidavit of authorization to act for the Homeowners Association
Sketch/site plan current improvements and proposed modification
Certification letter of monuments set for subdivision
PDF of recorded subdivision plan

Narrative:

The Miller Road Subdivision was approved and recorded in September 2018. The 6 Lot subdivision has 3 lots with frontage on Miller Road, and 3 lots that utilize a private way for access.

Condominium documents were prepared and recorded to govern the subdivision. Title to the property passed to D.E.C.M. LLC.

In the course of construction monuments on one side of the private way were destroyed. In all likelihood this led to the dwelling on Lot 1 being situated within the 40' front yard setback. The mortgage survey revealed this. Pursuant to the discovery, leases, moving contracts, and the closing on Lot 1 have been jeopardized. The materials submitted seek to correct the non-conformity of Lot 1 by altering the sideline of the private way.

The Condominium Homeowners Association is currently under authority of Mary C. Couillard. An Affidavit and Approval document has been submitted.

Please let me know of recommendations per your guidance and that of the Planning Board. Also please accept our deep thanks for the quick replies you have already given.

Respectfully yours,

Nathan Amsden
PLS #2438
207-451-0444

AMSDEN FIELD SURVEY

MAINE LICENSED SURVEYS AND
LAND PLANNING

799 MAIN ST.
ELIOT, MAINE 03903
(207) 451-0444
afs99@comcast.net

Bart McDonough
4/21/20
200 Rodgers Rd.
Kittery, ME 03904

Request of plan waivers for Major Modification:

Town Code 16.10.5.2.B

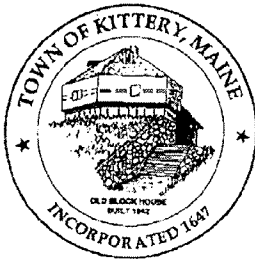
B.8 All abutters rights in McCloud Dr.		Abutters having
.10(a) Floor plans of dwellings	N/A	
(b) Stormwater structures, swales	Removed for clarity	
(c) Wasterwater systems	N/A	
(g) Road profiles and cross-sections	N/A	
(k) Topographic data depicted, contours		Spot elevations as removed for clarity

This waiver request replaces a previous waiver list dated 4/2/20 as part of the original submission.

TOWN OF KITTERY, MAINE

TOWN PLANNING AND DEVELOPMENT DEPARTMENT

200 Rogers Road, Kittery, Maine 03904
 PHONE: (207) 475-1323 FAX: (207) 439-6806
www.kittery.org



APPLICATION: MAJOR MODIFICATION TO AN APPROVED PLAN- SITE PLAN

FEE FOR SITE PLAN AMENDMENT REVIEW: (TITLE 16.10.9.3)	<input checked="" type="checkbox"/> \$300.00 PLUS THE GREATER OF	<input type="checkbox"/> \$50/ADDITIONAL USE OF UNIT; OR	<input type="checkbox"/> \$5.00/100 SQ FT OF ADDITIONAL GROSS FLOOR AREA	Application Fee Paid: \$ _____ Date: _____
		<input type="checkbox"/> \$0.50/LINEAR FOOT OF ADDITIONAL DOCK, SLIP & FLOAT; OR	<input type="checkbox"/> \$20.00/ADDITIONAL UNIT INTENDED TO PROVIDE OVERNIGHT SLEEPING ACCOMODATIONS	ASA Fee Paid: (TITLE 3.3 TOWN CODE) \$ _____ Date: _____

PROPERTY DESCRIPTION	Parcel ID 3247	Map 59	Lot 20	Zone(s): Base: Overlay: MS4:	R-RL _____ YES _____ NO	Total Land Area (Square Feet)	9.5 AC
	Physical Address Miller Rd at approximately #20						

PROPERTY OWNER'S INFORMATION	Name	D.E.C.M. LLC	Mailing Address	Mary & Buz Couillard 9 Merrimac St. Seabrook, NH 03874
	Phone	978-479-1718		
	Fax	_____		
	Email	BUZMAIR@COMCAST.NET		

APPLICANT'S AGENT INFORMATION	Name	Nathan Amsden	Name of Business	Amsden Field Survey
	Phone	207-451-0444	Mailing Address	799 Main St. Elliot, ME 03903
	Fax	_____		
	Email	afs99@comcast.net		

PROJECT DESCRIPTION	Project Name: Miller Road Subdivision
	Existing Use: 6 lot subdivision, 2 lots remaining undeveloped
	Proposed Amendment Please describe how the approved plan is proposed to be amended. State any known areas of non-compliance to the Town Code and how this amendment will decrease or remove non-compliance, if applicable.
	Private driveway accessing Lots 1, 2, and 6 is 40' in width. Destroyed monuments has resulted in dwelling on Lot 1 encroaching into front yard 40' setback by 2.5' at one corner. Leases, moving contracts, financing are affected. This request is to modify the private driveway on the westerly side with a slight change in curvature in order to make the house conforming. The modification reduces the square footage of the private way and increases Lot 1 accordingly.

I certify, to the best of my knowledge, this application information is true and correct and I will not deviate from the plan submitted without notifying the Kittery Town Planning Department of any changes.

Applicant's Signature:		Owner's Signature:	_____
Date:	4/14/20	Date:	_____

HUTCHINS CREEK HOMEOWNERS ASSOCIATION

**AFFIDAVIT AND APPROVAL OF
MODIFICATION TO SUBDIVISION PLAN**

I, Mary Couillard of Seabrook, New Hampshire, under oath, makes the following statements:

1. I am the Manager of D.E.C.M., a New Hampshire limited liability company, registered as a foreign limited liability with the State of Maine.
2. D.E.C.M. is the developer of a six-lot residential subdivision located off Miller Road in Kittery, Maine, named Hutchins Creek.
3. D.E.C.M. filed a Declaration of Covenants, Restrictions, Easement, Charges and Liens for Hutchins Creek Homeowners Association and associated Bylaws, dated December 28, 2018, recorded at YCRD at Book 17891, Page 822, as amended by a First Amendment, dated August 28, 2019, recorded with YCRD at Book 18037, Page 229 (the "Declaration").
4. In accordance with the Section 6.9 of the Declaration, D.E.C.M., LLC has sole and exclusive control of the Association.
5. D.E.C.M., LLC approves the modification to the subdivision plan to reduce the width of the McCloud Drive in front of Lot 1, 9 McCloud Drive, in order to cure the set-back violation on Lot 1, 9 McCloud Drive per the attached plan.

Executed this 1st day of April, 2020.

D.E.C.M., LLC

DATE: April 1, 2020

By: Mary C. Couillard
Mary C. Couillard, Manager



April 21, 2020

Mr. Bart McDonough Town Planner
Town of Kittery
200 Rogers Road
Kittery, Maine 03904

**RE: Town of Kittery, Planning Board Services
Major Modification to An Approved Plan-Site Plan
Miller Road Subdivision
CMA #591.120**

Dear Mr. McDonough:

CMA Engineers received the following information for Assignment #120, modification to a site plan for the subdivision on Miller Road:

- 1) "Modification to a Final Subdivision Plan" by Amsden Field Survey dated April 14, 2020 and revised April 17 and April 21, 2020.

We have reviewed the information submitted for conformance with the Kittery Land Use and Development Code Zoning Ordinance and general engineering practices and offer the comment below that corresponds directly to the Town's Ordinances.

- 1) We take no exception to the modification to a final subdivision plan for the Miller Road subdivision with respect to the right-of-way for McCloud Drive as shown on the plan.

Should you have any questions, please do not hesitate to call.

Very truly yours,

CMA ENGINEERS, INC.

Jodie Bray Strickland, P.E.
Project Engineer

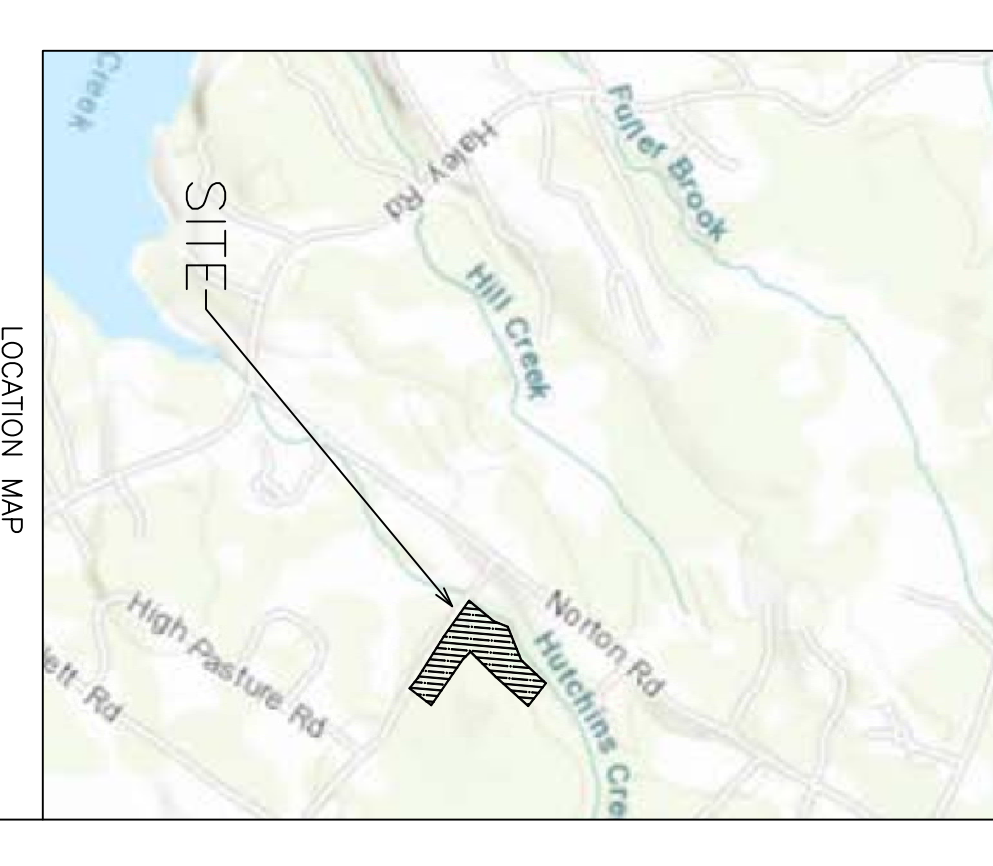
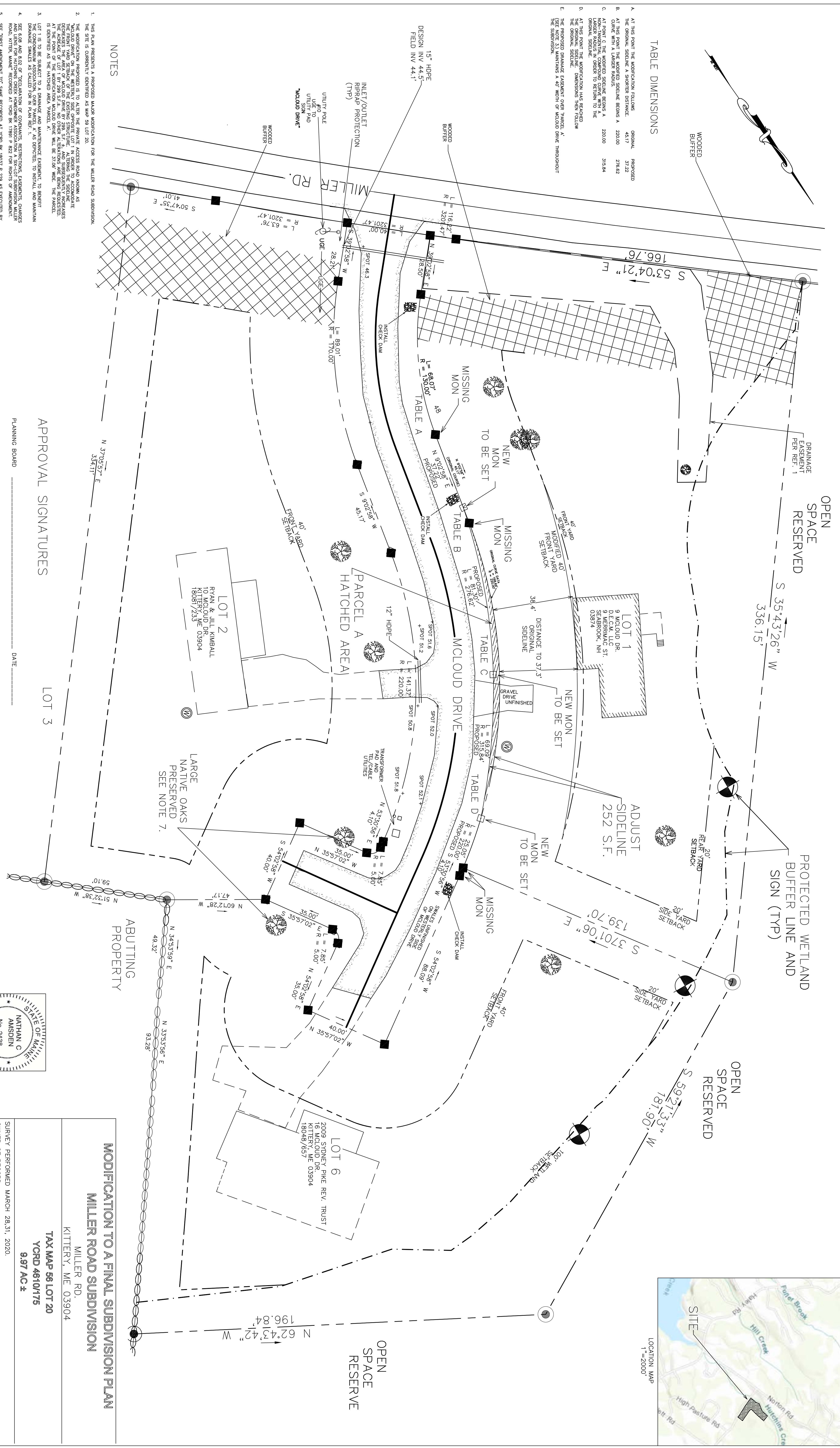


TABLE DIMENSIONS

	ORIGINAL	PROPOSED
A. AT THIS POINT THE MODIFICATION FOLLOWS THE ORIGINAL SLOPE A SHORTER DISTANCE.	45.17	37.22
B. AT THIS POINT THE MODIFIED SLOPE BEGINS A CORNER WITH A LONGER RADIUS.	220.00	276.62
C. AT THIS POINT THE MODIFIED SLOPE BEGINS A CORNER WITH A LONGER RADIUS IN ORDER TO RETURN TO THE ORIGINAL SLOPE.	220.00	315.84
D. THE PROPOSED DRAINAGE EASEMENT HAS BEEN ADJUSTED TO ACCOMMODATE THE MODIFICATION. THE ORIGINAL SLOPE AND THE PROPOSED SLOPE DIMENSIONS THEN FOLLOW THE ORIGINAL SLOPE.		
E. THE PROPOSED DRAINAGE EASEMENT OVER PARCEL A, PARCEL B, AND PARCEL C HAS BEEN ADJUSTED TO ACCOMMODATE THE MODIFICATION. THE ORIGINAL SLOPE AND THE PROPOSED SLOPE DIMENSIONS THEN FOLLOW THE ORIGINAL SLOPE.		



NOTES

1. THIS PLAN PRESENTS A PROPOSED MAJOR MODIFICATION FOR THE MILLER ROAD SUBDIVISION. THE SITE IS CURRENTLY IDENTIFIED AS MAP 59 LOT 20.
2. THE MODIFICATION PROPOSED IS TO ALTER THE PRIVATE ACCESS ROAD KNOWN AS MILLER ROAD, SETBACK OF THE EXISTING STRUCTURE, ALTERING THE SLOPE BEHIND THE FRONT YARD SETBACK OF THE EXISTING STRUCTURE. ALTERING THE SLOPE BEHIND THE ADDRESS OF LOT 1 BY 299 S.F. NO OTHER ALTERATIONS ARE BEING REQUESTED AT THE FRONT OF THE MODIFICATION MLOUD DRIVE WILL BE 37.00' WIDE. THE PARCEL BEHIND THE MODIFICATION WILL BE 37.00' WIDE.
3. LOT 1 IS TO BE SUBJECT TO A DRAINAGE AND MAINTENANCE EASEMENT TO DRAIN DRAINAGE SWALES AS CALLED FOR IN PLAN REF. 1.
4. SEE 8.08 AND 8.02 OF "DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND CONDITIONS" RECORDED AT YCRD BK 17891 P 822 FOR RIGHTS OF AMENDMENT. ROAD, KITTERY, MAINE RECORDED AT YCRD BK 17891 P 822 FOR RIGHTS OF AMENDMENT. MANY C. CONSULTANT, SUCCESSOR TO ORIGINAL DECLARANT.
5. SEE "NOTIONS CHECK HOMEOWNERS ASSOCIATION AFFILIANT AND APPROVAL OF MODIFICATION TO SUBDIVISION PLAN" AS PART OF THIS SUBMISSION.
6. SEE "NOTIONS CHECK HOMEOWNERS ASSOCIATION AFFILIANT AND APPROVAL OF MODIFICATION TO SUBDIVISION PLAN" AS PART OF THIS SUBMISSION.
7. THE ORIGINAL DESIGN OF MILLER DRIVE CALLS FOR A GRAVEL ROAD. IT HAS BEEN PAVED AS DEPICTED. THE IMPROVED NATURE OF COMPACTED GRAVEL SURFACES BUILD UP OVER TIME AND MATERIAL WILL NOT ABSORBT AFFECT THE STRENGTH OF THE STRENGTHENED DESIGN. RUN-OFF VELOCITY IS TO BE MODERATED BY INSTALLATION OF THE CHECKDAMS DEPICTED, WHICH ARE CALLED FOR IN THE ORIGINAL DESIGN.
8. DRAINAGE SWALES ON THE WESTERNLY SIDE OF MLOUD DRIVE ARE UNLINED.
9. UTILITIES ARE ACCESSED UNDERGROUND FROM UTILITY POLE #10 LOCATED AT THE ENTRANCE.
10. A TABLE OF RELEVANT DIMENSIONS AND LOCATION POINTS IS FORWARDED ABOVE.

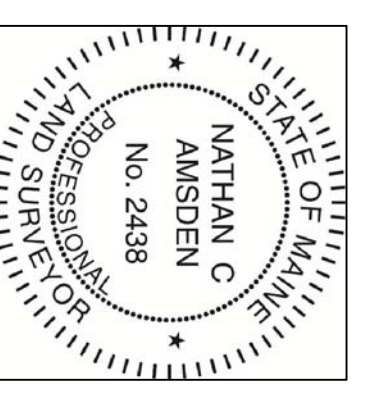
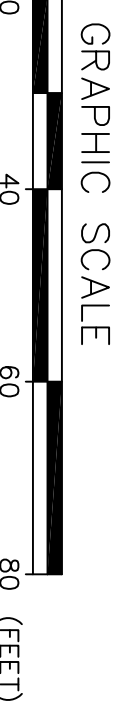
APPROVAL SIGNATURES

PLANNING BOARD _____ DATE _____

OWNER

PLAN REFERENCES

1. FINAL SUBDIVISION PLAN MILLER ROAD SUBDIVISION" BY AITAP ENGINEERING, RECORDED AT YCRD BK 397 P. 32.



MODIFICATION TO A FINAL SUBDIVISION PLAN

MILLER ROAD SUBDIVISION
 MILLER RD.
 KITTERY, ME 03904
 TAX MAP 56 LOT 20
 YCRD 4610/175
 9.97 AC ±

SURVEY PERFORMED MARCH 28, 2020.
 OWNER OF RECORD:
 D.E.C.M. LLC
 9 MERIMAC ST.
 SEABROOK, NH 03874

BY
 AMSDEN FIELD SURVEY
 799 MAIN ST.
 ELIOT, ME 03903
 207-451-0444
 AFS99@COMCAST.NET
 4/21/20
 4/17/20
 FILE 19-062.1

SCALE 1" = 20'

