Town of Kittery Planning Board Meeting January 9, 2020

ITEM 2 – 76 Dennett Road – Sidewalk Waiver Discussion

Action: Approve or deny sidewalk waiver. Owners William J. Cullen and Sail Away, LLC and applicant William Wharff were granted preliminary plan approval on September 26, 2019. That approval was granted with conditions, one of which was to present sidewalk options per the requirements of Title 16. Agent is Shawn Tobey, P.E. Hoyle, Tanner & Associates, Inc. Applicant is now requesting a waiver of the sidewalk requirements.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Sketch Plan Acceptance/Approval	5/9/2019 meeting	APPROVED
YES	Site Visit	7/23/2019	HELD
YES	Preliminary Plan Review Completeness/Acceptance	7/11/2019 meeting	ACCEPTED
YES	Public Hearing	8/8/2019 meeting	HELD
YES	Preliminary Plan Approval	9/29/19 meeting	APPROVED
YES	Final Plan Review and Decision	Not yet submitted	

Applicant: 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.L - 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.

Background

At the Planning Board meeting on December 12th, 2019, the Applicant presented sidewalk plans that showed a sidewalk at the toe of the slope, which would necessitate clearing of existing trees and pose some wetland impacts and a sidewalk located mid-slope which would entail considerable fill and grading plus some clearing of vegetation. The third option which wasn't shown on a plan but was discussed was building the sidewalk within the ROW of Dennett Road. The Applicant's agent stated their position was placing a sidewalk along Dennett Road was risky to pedestrians. The Planning Board did not appear to favor the sidewalk designs (toe of slope and mid-slope locations) shown and asked the Applicant to do two things:

- 1. Submit a design illustrating how the sidewalk could be built within the ROW of Dennett Road without any clearing of trees
- 2. Explain why they are seeking a waiver for building a sidewalk

Staff Review

The materials submitted for further discussion are comprised of an application for a waiver and a letter which addresses why the Applicant is seeking a waiver. No plan or standards showing a sidewalk within the ROW was submitted.

The Applicant's request for a waiver is based on their position that building any sidewalk along the frontage of the property exposes pedestrians to high risk conditions due to road speed, existing sidewalks being nearly half a mile away, and the lack of crossing options. The letter addresses these reasons in detail along with the tree clearing and grading issues.

Staff believes that MaineDOT likely has sidewalk designs for roads like Dennett Road which could be presented to the Board fairly easily. Staff also recognizes that while this is the first development in the Neighborhood Mixed-Use Zone, others will follow and these may also have frontage on Dennett Road.

Interconnectivity between developments in the Neighborhood Mixed-Use Zone is desirable but is not a substitute for sidewalk along frontage requirements per 16.8 Table 1 Design and Construction Standards for Streets and Pedestrianways.

Other Reviews

- 1. The Board will also find in the packets, a landscape design review of 76 Dennett Road, from Jeffrey Hyland, of Ironwood Design, done at the request of CMA. The review has been forwarded to Shawn Tobey at Hoyle, Tanner & Associates.
- 2. The Maine DOT Traffic Movement Permit (TMP) Application Sections 1-6 revised per the prescoping comments, the Section 7 Traffic Study, and associated Drainage Summary have been submitted for peer review by CMA. The results of the peer review will be submitted to the Board when it is available.

Recommendation / Action

The Board will want to discuss the waiver request materials submitted. If the Board finds that sufficient information has been submitted, a vote can be taken. The suggested motion is below:

Move to approve/deny the sidewalk waiver request, dated December 19, 2020 as prepared by Hoyle, Tanner & Associates, Inc., for owners William J. Cullen and Sail Away, LLC and applicant William Wharff for a mixed-use residential development on 23.3+- acres of land at 76 Dennett Road (Tax Map 6 Lots 15B & 16A and Tax Map 13, Lot 4) in the Mixed Use - Neighborhood (MU-N) Zone.



TOWN OF KITTERY ~ MAINE PLANNING OFFICE

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

www.kittery.org

APPLICATION: REQUEST FOR WAIVER

THIS REVIEW PROCESS REQUIRES APPROVAL FROM BOTH THE TOWN PLANNER AND THE CODE ENFORCEMENT OFFICER											
PROPERTY DESCRIPTION		Parcel ID	Мар	6 6 13	Lot	15B 16A 4	Zone Base Overlay		Total Land Area	23.34 Acres	
		Physical Address	76 Dennett Road, Kittery, ME 03904								
PROPERTY OWNER'S INFORMATION		Name	William J Cullen				Mailing Address				
		Phone	(207) 252-1437 wmjcullen@gmail.com					12 Roseberry Lane Kittery, ME 03904			
		Fax									
		Email									
APPLICANT'S AGENT INFORMATION		Name	Shawn Tobey, P.E.				Name of Business	Hoyle, Tanner & Asso	Hoyle, Tanner & Associates, Inc.		
		Phone	(603) 431-2520, ext 29					Descriptional Tradesort			
		Fax					Mailing Address	Pease International Tradeport 100 International Drive, Suite 360 Portsmouth, NH 03801			
	Email		stobey@hoyletanner.com					1 dishibuti, Ni 1 00001			
DESCRIPTION	Ordinance Section		Describe why this request is being made.								
	EXAMPLE 16.32.560 (B)- OFFSTREET PARKING.		***EXAMPLE*** Requesting a waiver of this ordinance since the proposed professional offices have a written agreement with the abutting Church owned property to share parking.								
	16.8.4.13 (A)	The applicant is requesting a waiver from sidewalk installation along Dennett Road due to unsafe conditions. See attached memo for additional information									
I certify that, to the best of my knowledge, the information provided in this application is true and correct and will not deviate from the plans submitted without notifying the Kittery Planning Department of any changes.											
Appl	icant's	12/19/2019			Owner's	1 // //					
Sign: Date		12/19/2019					Signature: Date:	Shir Mr	12/19/2019		

December 19, 2019

Adam Causey Director of Planning and Development Town of Kittery 200 Rogers Road Kittery, Maine 03904

Pease International Tradeport 100 International Drive, Suite 360 Portsmouth, New Hampshire 03801 603-431-2520

oyle, Tanner Associates, Inc.

603-431-8067 fax www.hovletanner.com

Re: Waiver Request - Sidewalks

Proposed Mixed-Use Development at 76 Dennett Road

Lots 6-15B, 6-16A, 13-4, Kittery, Maine

Dear Mr. Causey,

On behalf of Aztec, LLC, Hoyle, Tanner and Associates is formally submitting this written waiver request from the provision of Chapter 16.8 of the LUDC (Kittery Land Use and Development Code): Article IV. Streets and Pedestrian Ways/Sidewalks Site Design Standards, 16.8.4.13. paragraph A., which states "Where required, sidewalks must be installed to meet minimum requirements as specified in Table 1 of Chapter 16.8."

Chapter 16.7 of the LUDC: Article IV. Waivers, 16.7.4.1 Waiver Authorization states "Where the Planning Board finds, due to special circumstances of a particular plan, certain required improvements do not promote the interest of public health, safety and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities or in proximity to the proposed development, upon written request, it may waive or modify such requirements, subject to appropriate conditions as determined by the Planning Board."

It is Hoyle, Tanner's position that constructing a sidewalk along the frontage of the proposed development would expose pedestrians to high risk conditions. The nearest sidewalk to the site is on the southern side of the S. Eliot Road intersection with Dennett Road, nearly a half mile away from the limit of the proposed site frontage. Constructing a sidewalk along just the development frontage would encourage pedestrians to perform one of two unsafe actions; cross Dennett Road, a 40 mph facility, or cross both the nearby interstate ramps, within the MaineDOT Controlled Access ROW. In regards to the crosswalk option, MaineDOT has specific guidelines on when crosswalks are allowed based on the speed and number of lanes of the roadway (see Table 2 below from MaineDOT Guidelines on Crosswalks). With the proposed combination auxiliary right turn lane and southbound bypass lane, the number of lanes to cross would be 3 or 4 depending on the location. The posted speed of Dennett Road is 40 mph, however the traffic counts performed report an 85th percentile speed of 45 mph. As the table below shows, crosswalks are only allowed on 45 mph facilities at fully actuated traffic signals, which is not warranted for the intersection of the proposed development with Dennett Road.

Table 2 – Number of Lanes Vs Speed

Roadway Lanes	<35 MPH	40 MPH @	≥45 MPH *
2 Lanes	Allowed	Allowed,	Allowed at fully
		Consider pedestrian	actuated traffic signals
		activated flashers	only
3 Lanes	Allowed	Allowed with	Allowed at fully
		pedestrian activated	actuated traffic signals
		flashers	only
4 or more lanes	Allowed,	Allowed with	Allowed at fully
	Consider pedestrian	pedestrian activated	actuated traffic signals
	activated flashers	flashers	only

^{*}Only at fully actuated signals with existing or proposed sidewalks.

[@] Crosswalks at unsignalized locations in 40 mph settings should be accompanied by yield bars and associated signage. In areas with 4 or 5 lanes that signage should be installed overhead. See Figure 14.



If the developer were to install the sidewalk along the proposed development frontage, the pedestrians would then have two uncontrolled crossings of the I95 Exit 1 ramps. These crossings present their own challenges as the pedestrian would have to choose between crossing at the edge of Dennett Road, where visibility is the greatest but 120' crossing distances leave them exposed to traffic, or crossing further up the ramps where the distances are reduced to 24' feet but they are no longer visible to traffic until the vehicles have completed the turn, leaving no distance for reaction time.

Both of these options would encourage pedestrians to walk the half mile along either the northbound or southbound shoulder of Dennett Road to connect to the Town's sidewalk network and would lead them to walk beneath the I95 overpass which provides no illumination, exposing both pedestrians and vehicles to a high-risk condition.

The construction of a limited sidewalk section would also pose a problem to the Town for winter maintenance as the snow removal equipment would have to travel a half mile down the shoulder of Dennett Road to clear 640' of unconnected sidewalk. This would often lead to the sidewalk being untreated and not maintained for longer periods of time over the winter months, therefore leading to potential slipping hazards.

Additionally, the construction of a sidewalk would require significant clearing of vegetation and soil fill due to the steep embankments of Dennett Road. Clearing of vegetation would greatly reduce the natural buffer between the proposed development and the existing residential neighborhood.

To comply with the intent of the LUDC, a proposed 7' wide concrete multi-use sidewalk is proposed between the parking at Building 2 and the adjacent parcel. Should this parcel be developed in the future, the 7' wide sidewalk will provide interconnectivity and allow the passage of both pedestrians and bicycles. At the front of the site, a 5' wide sidewalk was extended to the ROW with tip-down ramps and a painted crosswalk. The sidewalk will provide a connection to a possible future Town sidewalk system should one be designed and constructed to S. Eliot Road as part of the Town's overall sidewalk master planning. Within the site, all roadways and parking areas provide adequate sidewalks per the LUDC design standards. The site itself has nearly a mile of interconnected sidewalks and walking trails.

We trust this letter has thoroughly addressed all requirements for a waiver as detailed in the LUDC Chapter 16.7. Please do not hesitate to contact our office with any questions or comments regarding this project.

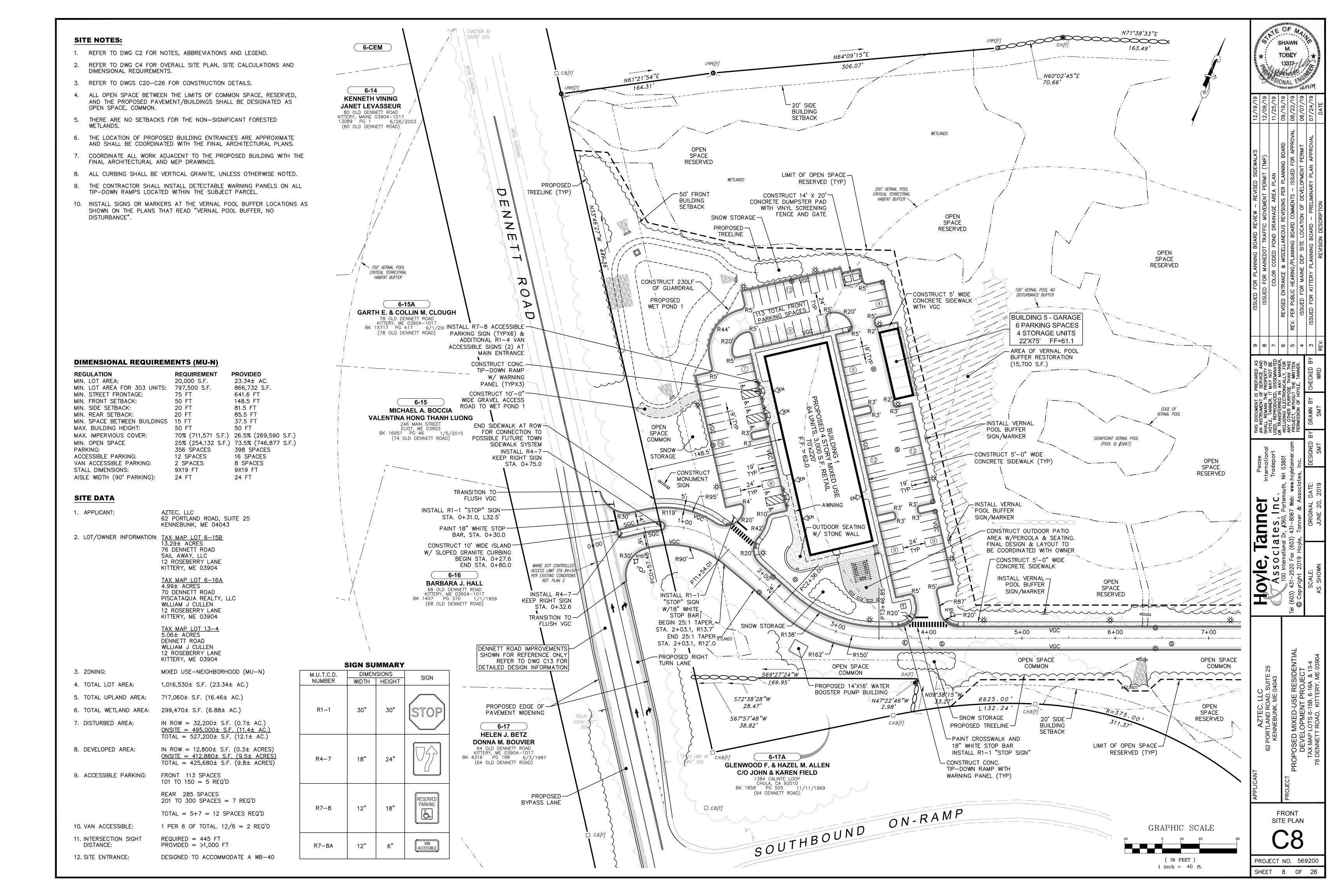
Sincerely,

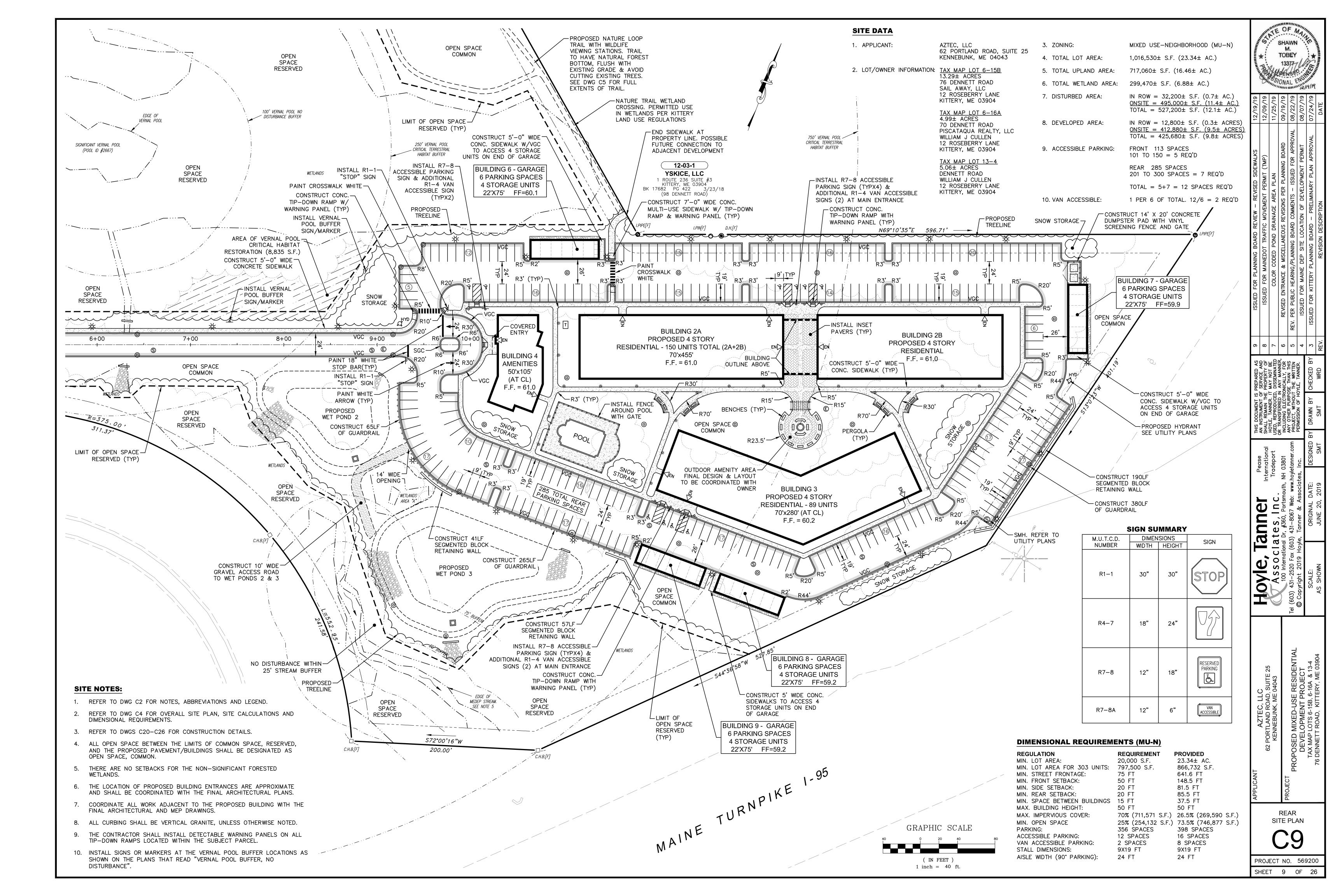
HOYLE, TANNER & ASSOCIATES, INC.

Shawn M. Tobey, P.E.

Project Manager







55 Main St, Suite 129 Newmarket, NH 03825 Phone: 603.772.0590 Web: www.FeWood.com



Memo

To: William Straub, PE

CMA Engineers Inc.

From: Jeffrey Hyland, PLA, ASLA

Maine License #LAR4319

Date: 12/9/2019

Re: Landscape Design Review for Mixed Use Residential Development Project, Tax Map

Lots 6-15B, 6-16A, and 13-4, 76 Dennett Road, Kittery, Maine, 03904

Ironwood Design Group, a landscape architectural firm based in Newmarket, NH, was enlisted to review the proposed landscape improvements included in the September 19, 2019 Planning Board submission prepared by HTA, Inc. for the Mixed-Use Residential Project proposed at 76 Dennett Road in Kittery. The review focused on Title 16 of Kittery's Land Use and Development Code, and landscape architectural best practices relating to materials and methods for plantings and general landscape improvements to safeguard public safety and welfare.

Summarized below are my recommendations and opinions as a Maine-licensed professional landscape architect:

- 1. Clarify the soil and planting treatment for the area of vernal pool buffer restoration. Clumps of shrubs are shown but the planting for the large areas between these shrubs is unclear. If the area is to be seeded, seed mix should be specified.
- 2. Specify seed mix/planting plan for the proposed wet ponds.
- 3. Specify grass seed mix and provide grass planting detail.
- 4. Include a the 'Vernal Pool Restoration' hatch in legend.
- 5. Include a 'life maintenance' note for street trees per § 16.8.18.1.

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- 6. Include Landscape plan for preservation of natural and historic features per § 16.9.2.4.
- 7. The parking lot screening at Building I does not seem adequate to meet the requirements of section § 16.8.4.12. The code calls for the screen to either consist of street trees and a fence or an 8'-wide continuous planting bed with 50% evergreen plants at 6'-high minimum.
- 8. Consider providing irrigation, especially at the plantings along the street frontage.
- 9. Per § 16.8.4.12 Street Trees shall be 12' minimum height. *Picea glauca* and *Magnolia 'butterfly'* are specified at 8-10'.
- 10. Consider including more trees around parking lots. According to square foot calculations on the drawings, 51 trees are required, but only 37 trees are provided within the parking lot area.
- 11. Several light pole locations conflict with tree locations. Coordinate light pole and street tree plantings so that the mature growth of the tree does not block the light.
- 12. One *Betula nigra (Bn)* at main entrance is shown on the curb line. Consider moving that tree into a plant bed and ensure that it does not block sight lines.
- 13. Consider alternatives to the following plant materials:
 - a. Pyrus Calleryana 'New Bradford' has invasive tendencies.
 - b. Acer saccharum 'Green Mountain' is not salt tolerant and should not be used in parking lots or along roadways that will be salted.
 - c. *Thuja occidentalis* is prone to deer browse damage and does not recover well from that damage.
 - d. *Ilex glabra, Spirea bumalda,* and *Buxus* are not shade tolerant and should not be planted on the north side of the building.
 - e. *Ilex glabra grows* to 6'-wide and will grow into the path where it is planted at the Building I foundation, in a 4' plant bed. Consider planting a dwarf or compact variety.
- 14. Verify that locations of foundation plantings will not be subjected to heavy snow falling off the roof. Where a plant bed might receive heavy snowfall from the roof, consider replacing woody shrubs with perennial or other non-woody plant material.
- 15. Provide more information in plan or detail related to the relationship between the 3' wide Drip Edge Infiltration (Detail 7/C21) and proposed foundation plantings.

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- 16. *Betula nigra* has a tenancy to bend under heavy snow. They should be planted 20' minimum from the edge of a pedestrian walkway or roadway to prevent blocking these pathways when this bending occurs.
- 17. The following comments refer to Detail 10/C25 Typical Tree Planting:
 - a. Replace galvanized wire with wide woven polypropylene straps to prevent gouging into tree trunk. Rubber hose does not provide adequate trunk protection.
 - b. Include a note that staking should be removed after two growing seasons.
 - c. Guying is recommended for deciduous trees greater than 6" caliper and all evergreen trees. Vertical stakes should be used for deciduous trees less than 6" caliper.
 - d. Details show mulch placed higher than the plant's root flare. Include a note that root flair should be exposed above finished grade and mulch should be kept 3" away from base of the tree.
 - e. To reduce the likelihood of settlement it is preferable to not over excavate the planting pit by 6".
 - f. Include a note that at least ½ of the wire basket should be removed completely.

Additional Comments

- 18. Curb ramps at the second Building I driveway should orient the pedestrian across the driveway. As drawn, the pedestrian is oriented into the street. Consider extending the sidewalk further into the driveway so the curb ramps can be more perpendicular to the driveway.
- 19. Consider providing a paved access path to the Booster Pump Building.
- 20. The following comments refer to Detail 6/C25 Brick Pavement Detail.
 - a. The detail provided lacks some information and raises feasibility concerns. Provide the following information and/or question responses:
 - i. Is the paver being proposed clay or concrete?
 - ii. A bituminous base in this application would be more typical unless heavy weight loading is anticipated.

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- iii. Consider providing weep holes in the base especially given the sand swept joints.
- iv. Consider a sand or drypac setting bed with polymeric sand joints.
- v. Identify the means of edge restraint,
- 21. The following comments refer to Detail 10/C24 Dumpster Vinyl Fence:
 - b. The fence detail lacks information to determine if it will be able to withstand the demands that a typical dumpster enclosure is subjected to. Provide the following information:
 - i. Information related to internal rail reinforcement. Given the 9' span steel reinforcement may be warranted.
 - ii. Provide clarification on the style of panel. Typically a picket (specified) is spaced out vs. inter-locking T&G which would be solid.
 - iii. Provide post information, is the post pressure treated with a vinyl sleeve, solid vinyl, or hollow.
 - iv. Provide additional hardware information for the following: hinges, latches, drop pin, fasteners, Specifically size, material, finishes, and strength rating.

Respectfully submitted,

Jeffrey R. Hyland, PLA, ASLA, CLARB Principal, Ironwood Design Group

jhyland@fewood.com

603.772.0590

JEFFREY R.
HYLAND
No. 4319