

**Town of Kittery
 Planning Board Meeting
 March 14, 2019**

ITEM 3 Huntington Run - Cluster Subdivision Final Plan Review

Action: Approve or deny preliminary plan. Owner, Landmark Properties, LTD. And Kingsbury and Veronica Bragdon, and applicant, Chinburg Builders, Inc., request consideration of a 20-lot cluster subdivision on 86.6 +/- acres located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A) in the Residential Rural Zone (R-RL) and a portion located in the Shoreland Overlay (SH-250'-OZ) Zone. Agent is Jeff Clifford, P.E., Altus Engineering.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
Yes	Sketch Plan Review / Concept Approval	4/13/2017	APPROVED
No	Site Visit	8/15/2017	HELD
Yes	Preliminary Plan Review Completeness/Acceptance	7/13/2017	ACCEPTED
Yes	Public Hearing	8/24/2017.	HELD
Yes	Preliminary Plan Approval	8/24/2017	APPROVED
Yes	Final Plan Review	2/14/2019; 3/14/2019	PENDING

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. 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 has been duly recorded in the York County registry of deeds, when applicable.

Background

Planning Board review of the proposed development is required by 16.10.3.1, General Development as a subdivision plan. The applicant is under a purchase and sales agreement with the owners of three abutting vacant parcels that, once combined, will result in an 86.6 acre vacant parcel with frontage along Betty Welch Road. The proposed development is a 20-lot cluster subdivision containing a 60-foot wide right of way, 1200-feet in length.

The proposed development was previously reviewed by the Board in 2014-2015. The Board approved a sketch plan on 11/12/2015 however, prior to submitting a preliminary plan application, the applicant found a discrepancy between the Town’s tax map and deed references for Lot 8A. In the process of resolving the issue, the 6-month allowance between sketch plan approval and the submittal of a preliminary plan application expired. The applicant resubmitted a sketch plan, with little variation from the 2015 approved plan, which the Board approved on 4/13/2017 (minutes attached).

The preliminary plan application was scheduled for 7/13/2017, however, that meeting was postponed to 7/27, where a public hearing was scheduled. A site walk was held on 8/15/2017. The preliminary plan application was approved on 8/24/2017 with conditions.

The final plan application submittal was made for the February 14, 2019 meeting. At that meeting, the Planning Board continued the application for a period not to exceed 90 days in order to receive a modified design and waiver request for the proposed development road.

Staff Review

1. **Street Standard Modifications.** The applicant is requesting two (2) waivers from the Section 16.8.4.4 and Table 1 for Class III Private Street Standards:
 - a. **Update:** *Street Width Design: e. Paved Shoulder:* To maintain the rural character of the area, the applicant proposes to construct 1' wide paved & 3' wide gravel shoulders each side of the paved 20' travelled way in lieu of the 1' and 8' paved shoulders.
 - b. *Street Gradients: b. Side Slope (horiz. to vert.):* To minimize wetland impact, the applicant proposes to construct 2:1 road side slopes in lieu of 3:1 standard.
2. **Additional waivers being requested.**
 - a. Section 16.10.5.2.B.2 Plan Size: Drawing scale: 1"=100' for Existing Conditions and Topographic Plans and Subdivision Plans; 1"=150' for Soils Plan. The smaller scale coincides with the Lot plans, while having a scale that is easily readable.
 - b. Section 16.9.3.2 Wetlands Boundaries. Jurisdictional wetlands were not delineated on approximately 22 acres of the northern portion of the parcel since additional developable area was not needed for the density calculation and the area will be protected open space. As agreed to at the August 24, 2017 Planning Board meeting, a Natural Resource Assessment was prepared for the 22 acres by Gove Environmental in lieu of flagging and surveying the wetlands.
3. The following waiver was granted by the Board at the April 13, 2017 Planning Board meeting: Section 16.8.4.13. Sidewalks. No sidewalk is proposed. A walking and biking direction sign shall be provided.
4. **Municipal Impact Analysis.** The applicant has provided a Municipal Impact Analysis which is attached.
5. **Wetlands Alteration.** The applicant proposes to alter 6,438 sf of forested freshwater wetlands at six locations for the construction of the access road. The MDEP permit made a finding that the applicant has avoided and minimized the wetlands impacts to the greatest extent practicable and the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project. A wetlands alteration permit from the Planning Board may still be necessary for these impacts. **Update:** A wetlands alteration application dated June 22, 2017 was accepted by the Board at its July 27, 2017 meeting. A wetlands mitigation narrative dated 2/14/19 was submitted by the applicant and is attached for your review.
6. **Peer Review - CMA Engineers** reviewed the plans and their comments have been satisfactorily addressed.
7. **Street Naming Application.** A request has been made by the applicant to name the new development road Huntington Way. The request has the sign off from all of the applicable departments.

Recommendation / Action

Both Staff and CMA Engineers find the outstanding issues have been satisfactorily addressed.

Approve the following waivers from Title 16:

1. *Section 16.10.5.2.B.2 Plan Size. Drawing scale: 1"=100' for Existing Conditions and Topographic Plans and Subdivision Plans; 1"=150' for Soils Plan. The smaller scale coincides with the Lot Plans, while having a scale that is easily readable.*
2. *Section 16.9.3.2 Wetlands Boundaries. Jurisdictional wetlands were not delineated on approximately 22 acres of the northern portion of the parcel since additional developable area was not needed for the density calculation and the area will be protected open space. As agreed to at the August 24, 2017 Planning Board meeting, a natural Resource Assessment was*

prepared for the 22 acres by Gove Environmental in lieu of flagging and surveying the wetlands.

- 3. Section 16.8.4.4 and Table 1 Class III Private Streets Standard. Street Width Design: e. Paved Shoulder: To maintain the rural character of the area and reduce impervious surfaces, the applicant proposes to construct 1' wide paved and 3' wide gravel shoulders on each side of the paved 20' travelled way in lieu of the Minor Streets standard of 1' and 8' paved shoulders.*
- 4. Section 16.8.4.4 and Table 1 Class III Private Streets Standard. Street Gradients: b. Side Slope (horiz. to vert.). To minimize wetland impact, the applicant proposes to construct 2:1 road side slopes in lieu of 3:1 standard.*

Approve the final cluster subdivision plan dated January 24, 2019 and wetlands alteration application dated June 22, 2017, as revised on February 14, 2019 from owners Landmark Properties & Kingsbury and Veronica Bragdon, and applicant, Chinburg Development, for a 20-lot cluster subdivision located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A) in the Residential Rural and Shoreland Overlay Zones..

Accept and approve a Street naming Application from Chinburg Development, LLC, dated February 6, 2019 to name a new private road off of Betty Welch Road (Map 66, lots 2A, 8, 8A), Huntington Way.

**KITTERY PLANNING BOARD
FINDINGS OF FACT -
for
Huntington Run Subdivision
Major Cluster 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 Landmark Properties, LTD and Kingsbury and Veronica Bragdon, and applicant Chinburg Builders, Inc. requests consideration of a 20-lot cluster subdivision on 86.6 +/- acres located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A) in the Residential-Rural (R-RL) and a portion located in the Shoreland Overlay (SH-250-OZ) Zones. Agent is Jeff Clifford, Altus Engineering.

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 02/14/2019;

Sketch Plan Review	Held	4/13/2017
Site Visit	Held	8/15/2017
Preliminary Plan Completeness Review	Held, accepted	7/13/2017
Public Hearing	Held	8/24/2017
Preliminary Plan Approval	Granted (with conditions)	8/24/2017
Final Plan Approval	Granted (with conditions)	3/14/2019

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 02/14/2019 (Hereinafter the “Plan”).

1. Final Plan Review Documents, Altus Engineering, Inc. letter dated January 29, 2019
2. Huntington Run Subdivision Plan, Altus Engineering, Inc. dated January 24, 2019
3. Soils Plan, Longview Partners, LLC. dated March 21, 2018
4. Site Details – Plan Sheets – G-1.1, C-1.0 – 8.2, Altus Engineering, Inc., dated January 24, 2019
5. Standard Boundary Survey & Existing Conditions Plan, dated 6/22/17

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.D. 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 plans.

<p>Finding: The subdivision is a permitted use in the Residential – Rural R-RL zone and does not require any variances as proposed.</p>
<p>Conclusion: This standard appears to be met.</p>
<p>Vote of ___ in favor _ against _ abstaining</p>
<p>B. Freshwater Wetlands Identified.</p>
<p><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></p>
<p>Finding: The wetlands have been delineated by Gove Environmental and depicted on the subdivision plans.</p>
<p>Conclusion: This standard is appears to be met.</p>
<p>Vote of ___ in favor __ against __ abstaining</p>
<p>C. River, Stream or Brook Identified.</p>
<p><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></p>
<p>Finding: A small intermittent stream originating at a culvert under Betty Welch Road and leaving the property near the intersection of the water main and property line has been identified on the site.</p>
<p>Conclusion: This standard appears to be met.</p>
<p>Vote of ___ in favor __ against __ abstaining</p>
<p>D. Water Supply Sufficient. {and}</p>
<p><i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i></p>
<p>E. Municipal Water Supply Available.</p>
<p><i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i></p>
<p>Finding: When completed, the proposed project is anticipated to use 5,400 gallon of water per day. The applicant has submitted a letter from the Kittery Water District, dated July 25, 2017, indicating that it will be capable of servicing this project.</p>
<p>Conclusion: This standard appears to be met.</p>
<p>Vote of ___ in favor __ against __ abstaining</p>
<p>F. Sewage Disposal Adequate.</p>
<p><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></p>
<p>Finding: Wastewater will be disposed of by an engineered system that consists of a septic tank and advanced</p>

treatment system for each lot. MDEP has found that the proposed wastewater disposal system will be built on suitable soil types and that Maine's Drinking Water Standard for nitrates will be met at the project's property lines.

Conclusion: This standard appears to be met.

Vote of ___ in favor _ against __ abstaining

G. Municipal Solid Waste Disposal Available.

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.

Finding: The proposed development will not burden the Town Resource Recovery Facility.

Conclusion: This standard appears to be met.

Vote of ___ in favor __ against __ abstaining

H. Water Body Quality and Shoreline Protected.

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.

Finding: The proposed development is partially located within the Shoreland Water Body / Wetland Protection Overlay Zone. All proposed development 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.

The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

Finding: MDEP has found that the proposed project will not unreasonably deplete groundwater resources. The Department further found that the proposed project will not have an unreasonable adverse effect on groundwater quality or quantity.

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.

<p>Finding: Flood Insurance Rate Maps (FIRM) and Town maps indicate that the only designated floodplain area on the property is located well away from the area of development.</p> <p>Conclusion: This standard appears to be met.</p>
<p>Vote of ___ in favor __ against __ abstaining</p>
<p>K. Stormwater Managed.</p>
<p><i>Stormwater Managed. The proposed development will provide for adequate stormwater management</i></p>
<p>The design was prepared by Altus Engineering, Inc. and reviewed by CMA Engineers, Town peer-review engineer. CMA reported that the applicant has prepared a complete stormwater design and associated analysis and the proposed development meets the requirements of the Title 16.</p>
<p>Finding: MDEP has found that the applicant has made adequate provision to ensure that the proposed project will meet the following: Basic Standards contained in Chapter 500 (4) (B); General Standards contained in Chapter 500 (4) (C), and the Flooding Standard contained in Chapter 500 (4) (F).</p> <p>Conclusion: This standard appears to be met.</p>
<p>Vote of ___ in favor __ against __ abstaining</p>
<p>L. Erosion Controlled.</p>
<p><i>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.</i></p>
<p>The Contractor shall follow MDEP best management practices for erosion and sediment control (silt fencing, silt sacks, etc.), and CMA Engineers will be notified to observe application during construction.</p>
<p>Finding: The proposed project meets the standard for erosion and sedimentation control in 38 M.R.S Section 420-C provided that sewer grit and sediment are disposed of in compliance with Maine Solid Waste Management rules. The installation of stormwater components will be overseen by CMA Engineers and documented according to State rules. Executed deed restrictions for the designated stormwater buffers will be recorded and marked on the ground.</p> <p>Conclusion: This standard appears to be met.</p>
<p>Vote of ___ in favor __ against __ abstaining</p>
<p>M. Traffic Managed.</p>
<p><i>The proposed development will:</i></p> <ol style="list-style-type: none"> 1. <i>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</i> 2. <i>Provide adequate traffic circulation, both on-site and off-site.</i>
<p>The proposed development does not require a traffic movement permit as it does not create an additional 100 vehicle trips during peak traffic hours</p>
<p>Finding: With consideration of the waivers granted below, the proposed development conforms to Title 16.8.9 Parking, Loading and Traffic and will provide for adequate traffic circulation. CMA Engineers has indicated that the site distances on Betty Welch Road are acceptable.</p> <p>Conclusion: This standard appears to be met.</p>

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; and 6. Safe transportation, disposal and storage of hazardous materials.
1 thru 6 have been addressed previously or are not applicable to the proposed project.
Finding: Addressed under the approval by MDEP of Site Location of Development Permit application.
Conclusion: This standard appears to be met.
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 applicant has made adequate provision for the protection of wildlife and fisheries. MDEP had found that the proposed development will not have an adverse effect on the scenic character of the area and preservation of unusual natural areas.
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 developer has been involved with many large scale construction projects through completion. The developer will provide an inspection escrow in an amount suitable to cover the costs of on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan.
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. Section 16.8.4.13. Sidewalks. No sidewalk is proposed. A walking and biking direction sign shall be provided.
2. Section 16.10.5.2.B.2 Plan Size. Drawing scale: 1"=100' for Existing Conditions and Topographic Plans and Subdivision Plans; 1"=150' for Soils Plan. The smaller scale coincides with the Lot Plans, while having a scale that is easily readable.
3. Section 16.9.3.2 Wetlands Boundaries. Jurisdictional wetlands were not delineated on approximately 22 acres of the northern portion of the parcel since additional developable area was not needed for the density calculation and the area will be protected open space. As agreed to at the August 24, 2017 Planning Board meeting, a natural Resource Assessment was prepared for the 22 acres by Gove Environmental in lieu of flagging and surveying the wetlands.
4. Section 16.8.4.4 and Table 1 Class III Private Streets Standard. *Street Width Design: e. Paved Shoulder:* To maintain the rural character of the area and reduce impervious surfaces, the applicant proposes to construct 1' wide paved and 3' wide gravel shoulders each side of the paved 20' travelled way in lieu of the Minor Streets standard of 1' and 8' paved shoulders.
5. Section 16.8.4.4 and Table 1 Class III Private Streets Standard. *Street Gradients: b. Side Slope (horizontal. to vertical).* To minimize wetland impact, the applicant proposes to construct 2:1 road side slopes in lieu of 3:1 standard.

Conditions of Approval (to be included as notes on the final plan in addition to the existing notes):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. All Notices to Applicant contained in the Findings of Fact (dated: 02/14/2019).

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

5. 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.
6. The Home Owners Association (HOA) document must be reviewed and found satisfactory by the Shoreland Resource Officer and the Town Attorney prior to the final Mylar being signed by the Chair.
7. Provide the additional documents and/or responses to all CMA comments prior to presentation of final Mylar.

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.

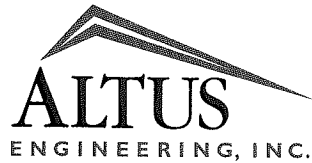
The Planning Board authorizes the Planning Board Chair, or Vice Chair, to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of __ in favor__ against __ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON March 14, 2019

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.



March 6, 2019

Civil
Site Planning
Environmental
Engineering

133 Court Street
Portsmouth, NH
03801-4413

Jamie Steffen, Town Planner
Town of Kittery
200 Rogers Road
Kittery, Maine 03904

Re: **Huntington Run Cluster Subdivision**
Map 66, Lots 2A, 8, and 8A
40 Betty Welch Road
Kittery, Maine

Dear Mr. Steffen:

The Huntington Run Cluster Subdivision was presented for final approval at the February 14, 2019 Planning Board meeting. The project was continued to the March 14, 2019 meeting for resolution of the applicant's waiver request regarding the Land Use and Development Code (LUDC) street standards, in particular the requirements for paved shoulders listed in Table 1, Section 16.8.4.4(d). Pursuant to the Board's recommendation for the applicant to confer with Town staff on the issue, representative from Town and the applicant met at Town Hall on March 5, 2019. Attending were the following:

- Adam Causey, Planning and Development Director
- Jamie Steffen, Town Planner
- David Rich, DPW Commissioner
- Robert Richter, Chief of Police
- William Straub, PE, CMA Engineers, Inc.
- Paul Kerrigan, CEO, Chinburg Properties
- Jeff Clifford, PE, Altus Engineering, Inc.

As part of the final approval submission, the proposed roadway section included a 20-foot wide traveled way and 4-foot wide gravel shoulders on each side (for a total roadway width of 28 feet). This proposal requires a waiver from the 2-foot and 8-foot wide paved shoulder requirements listed in Table 1 for Minor Streets. At the February 14th Planning Board meeting, the applicant agreed to modify the proposal and include 1-foot paved shoulders as recommended by CMA in their review letter dated February 7, 2019. The paved shoulder protects the edge of the traveled way and provides a total pavement width of 22 feet. The gravel shoulders will be 3-feet wide for a total roadway width of 28 feet. This roadway section was the basis for discussion at the March 5th meeting. Please note that early in the review process the applicant agreed to maintain a right-of-way width of 60-feet and a waiver from the sidewalk standard in Section 16.8.4.13 was approved by Board on April 13, 2017.

At the March 5th meeting, Altus provided information regarding roadway width and shoulders from the American Association of State Highway and Transportation Officials (AASHTO) publication titled "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT \leq 400)". Attached is *Exhibit 2 - Guidelines for Total Roadway Width for New Construction of Urban Residential Streets* from the AASHTO publication. The developed portion of Huntington Run, at approximately four (4) dwelling units per acre, is considered a median development density for the purposes of *Exhibit 2*. Since the proposed houses will have garages and driveways providing sufficient off-street parking, the lower end of the range of total roadway width (28 feet) is applicable to Huntington Way.

There was consensus at the meeting that narrow pavement slows traffic and the proposed 22-foot pavement with 3-foot gravel shoulders is appropriate for this project. It was recognized that Huntington Way will be predominately used by familiar drivers since there is no through traffic. The Chief of Police said cul-de-sac streets, where neighbors are known to each other, tend to be self-regulating in regards to vehicle speed. The DPW Commissioner said the overall 22-foot pavement width is appropriate for the 198 ADT at Huntington Run and noted that 22 feet is the pavement width listed in Table 1 of the LUDC for the traveled way of a Secondary Collector Street. He also noted that the proposed 3-inch pavement thickness would conform to the LUDC requirement for a Secondary Collector (whereas the LUDC requirements for Minor Streets do not include a specific pavement thickness). CMA pointed out that the added pavement at the shoulder will help occasional large vehicles stay on pavement at the curves along the cul-de-sac. CMA recommended that 4-foot deep paved aprons be provided at each driveway. The applicant agreed, noting that they plan to fully pave the driveways. The applicant also agreed to post Huntington Way at 10 mph to promote safe travel conditions.

At the February 14th Board meeting, the applicant was requested to expand that the narrative justifying the propose waiver. The LUDC's criteria for waiver authorization are presented in *Article IV. Waivers* as follows:

16.7.4.1 Waiver Authorization. (Ordained 9-26-11; Effective 10-27-11)
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 adjacent 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.

For the Board's consideration, we offer the following responses to address the above criteria:

"... due to special circumstances of a particular plan ..."

Response: The proposed roadway section is reasonable in consideration of low traffic volume, low speed, and other successful clustered subdivision in Kittery with similar road widths. Huntington Way is designed as an extended cul-de-sac that serves only adjacent residences. There will never be through traffic to adjacent land. The predominate uses of the road will "familiar drivers". Vehicles entering Huntington Way from Betty Welch Road will be making a right angle turn and entering the street at low speed. With road curves and residences beginning within 450 feet of Betty Welch Road, drivers are expected to maintain a low speed.

Huntington Way (with ADT 198) is characterized as a "Very Low-Volume Road in Rural Area" per the previously referenced AAHSTO publication. As noted above Huntington Way falls in the mid-range of very low-volume roads (ADT \leq 400). Adequate on-site parking is provided with garages and driveways. We note that the LUDC standards do not differentiate between a subdivision with adequate off-street parking whereas *Exhibit 2* addresses this important distinction and recognizes that there is no need for an 8-foot wide paved parking lane (shoulder).

“... Certain required improvements do not promote the interest of public health, safety and general welfare...”

Response: Roadways as well as sewer and water infrastructure are the types of “certain required improvements” that apply to subdivisions. The LUDC standard road section of 30 feet of pavement for a Minor Street would not serve to preserve the rural character of this section of Kittery. The impervious area would result in excessive stormwater runoff and the wide pavement would promote excessive speed.

The attendees at the March 5th technical meeting acknowledged that narrow pavement width is an effective and appropriate traffic calming practice to lower vehicle speed. AASTHO identifies lower speed as the primary factor in minimizing accidents. Narrower roads are also consistent with several objectives stated in the preamble of LUDC Section 16.8.11.1 - Cluster Development Purpose:

- A. efficient use of the land and water, with small networks of utilities and streets
- C. maintenance of rural character, preserving farmland, forest and rural viewsapes
- E. location of buildings and structures on those portions of the site most appropriate for development
- G. reduction of impacts on water resources by minimizing land disturbances and the creation of impervious surfaces and stormwater runoff

The Applicant agreed to a Planning Board member’s suggested signage for pedestrians to be facing traffic and bikes to travel in direction of traffic. Huntington Way will have a posted speed limit of 10 mph.

“....or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed development...”

Betty Welch Road (pavement width of 23 feet, variable gravel shoulders, and posted at 35 mph) has neither sidewalks nor obvious travel destinations for pedestrians from Huntington Way.

Based on the above analysis, we respectfully request that the Planning Board approve the requested waiver relating to Section 16.8.4.4(d) Paved Shoulder.

Sincerely,



Jeffrey K. Clifford, P.E.
Vice President

JKC:jkc/4567.030.JS.ltr.doc
Enclosures

e-copies (w/encl.): Paul Kerrigan, Chinburg Development and William Straub, PE, CMA

ATTACHMENT**Excerpt from: AASHTO - Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400)****Very Low-Volume Local Roads in Urban Areas**

As in rural areas, the cross section width guidelines for very low-volume local roads in urban areas are related to basic operational requirements. Speeds are lower, trip lengths and lengths of local roads are generally much shorter, and available right-of-way width is much less than in rural areas. The major functional requirements for very low-volume local roads in urban areas include the ability for vehicles in opposite directions to pass one another, the need for vehicles to pass parked or stopped vehicles, the need to provide access for fire trucks and other emergency vehicles, and the need to accommodate occasional larger delivery vehicles.

Cross section widths for urban major access roads and urban industrial/commercial access roads should generally be the same as those shown for comparable rural roads in Exhibit 1. Greater widths are desirable where parking is permitted.

Cross section width guidelines for urban residential streets are shown in Exhibit 2. These widths incorporate consideration of access for fire trucks and other emergency vehicles and apply to streets where parking is permitted on both sides of the roadway. Reduced widths may be appropriate where parking is restricted. These guidelines are based on the ITE Recommended Guidelines for Subdivision Streets (13).

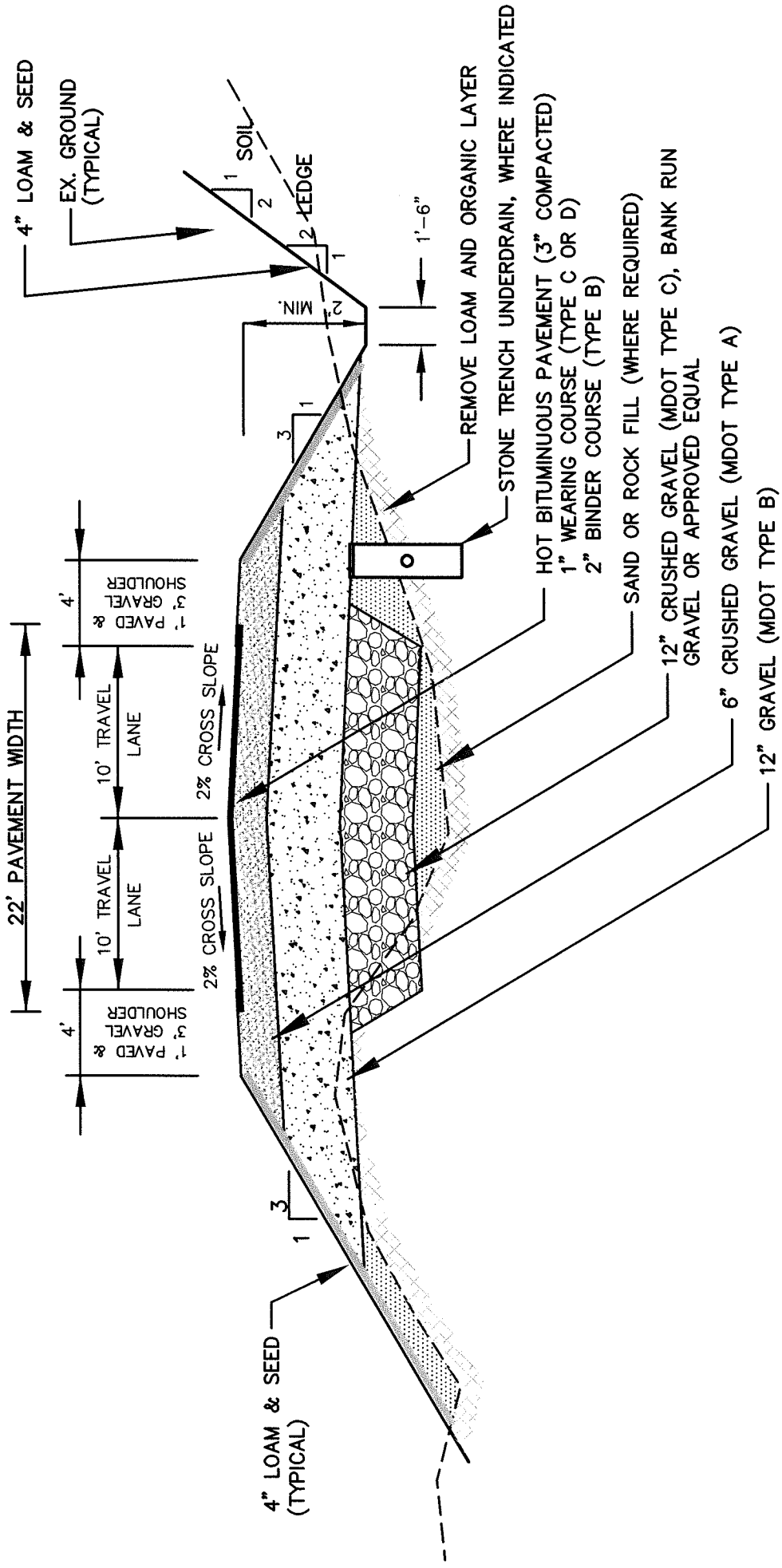
**Guidelines for Total Roadway Width for New Construction of Urban Residential Streets
Exhibit 2., page 20, AASHTO ADT<400 2001**

Development density	US Customary Total roadway width (ft)
Low	20 to 28
Medium	28 to 34

Note: Low development density represents 2.0 or fewer dwelling units per acre; medium development density represents 2.1 to 6.0 dwelling units per acre.

The lower end of the range of residential street widths in the ITE guidelines presented in Exhibit 2 are applicable to subdivision streets with sufficient off-

street parking (e.g., driveways and garages) so that on-street parking is used only occasionally by visitors and delivery vehicles. The higher end of the range of street widths is applicable where there is frequent parking on one side of the street. On streets with frequent parking on both sides of the street, street widths greater than those shown in Exhibit 2 may be appropriate.



TYPICAL ROADWAY CROSS SECTION
STA. 1+10 TO STA. 16+39

HUNTINGTON RUN SUBDIVISION

Betty Welch Road
Kittery, Maine

WETLAND MITIGATION NARRATIVE

Huntington Run is proposed as a clustered subdivision on 86.55 acres located on the easterly side of Betty Welch Road in Kittery, Maine. The property is approximately 1/4 mile south of the York town line and is comprised of three (3) parcels on Tax Map 66: Lot 2A (62.2 acres), Lot 8 (21.55) 66, and Lot 8A (2.8 acres). Lot 2A has over 2,100 feet of frontage along Betty Welch Road. The land is vacant woodlands; timber harvesting occurred several years ago. The subdivision will include twenty (20) new single family residential lots in a clustered configuration along a proposed 1,200 foot long private roadway. Through the flexibility provided in the ordinance's cluster provisions, the project team found that carefully locating the house lots respected the land's natural features, and provided a community atmosphere. A 17,400 s.f. village green is proposed in the center of the development creating a neighborhood gathering and play area.

The proposed roadway enters onto Betty Welch Road near the southeasterly corner of the property to minimize impacts at a wetlands crossing. This crossing's impact is 3,840 square feet of wetlands. The easterly wetland crossings are necessary for the construction of the common force mains and reinforced turf access road connecting the developed lots to the four (4) wastewater disposal fields. These crossings will impact 2,598 square feet of wetlands. **The total area of wetland impact is 6,438 square feet.** The MDEP issued a Site Location of Development Act permit #L-27871-L3-A-N on January 24, 2019 which included Natural Resources Protection Act (NRPA) permit #L-27871-TB-B-N for the wetland crossings. Permit Finding 17 states that, "The Department finds that the applicant has avoided and minimized forested, freshwater wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project."

The Preliminary Subdivision Application submitted June 11, 2017 included review of federal, state and local documents and maps of the site. The *Beginning with Habitat – High Value Plant and Animal Habitat* showed a potential corridor of New England Cottontail (NEC) habitat on the easterly portion of the property near I-95. Gove Environmental Service, Inc. (GES) along with Cory Stearns of MDIFW surveyed the property in January 2016 for the presence of NEC. Tracks and pellets were discovered in the area, but DNA results concluded that the species were Snowshoe Hare. They felt that due to the recent logging activity, the site lacks the understory for the NEC to proliferate. Also provided was an *Application: Wetland Alteration Plan Review* and supporting documents including a report titled "2015 Vernal Pool Assessment, Lots 66-8& 66-2A, Betty Welch Road, Kittery, ME" prepared by the project soil scientists, GES. The assessment found several vernal pools to exist in areas rutted by logging operations. The GES report noted that none of the pools contained a sufficient number of egg masses to qualify as a Significant Vernal Pool under state regulation even if considered natural;

therefore the pools are not subject to state regulation as vernal pools. A February 4, 2016 letter from MDEP confirmed GES findings.

GES also prepared a “Natural Resource Assessment, Huntington Run Subdivision – North 22 Acres” report. This report included details on the natural communities, potential habitat and observed wildlife, natural resource related management recommendations, and a photo-log.

The Final Subdivision application materials submitted on January 24, 2019 incorporate the stormwater management practices discussed, reviewed and approved by MDEP.

The Kittery Land Use and Development Code (LUDC) Section 16.9, Article III regulates wetland uses and provides criteria for the wetland alteration application. The following addresses Section 16.9.3.7 Wetland Alteration Approval Criteria:

Sec. 16.9.3.7.A In making the final determination as to whether a wetland application should be approved, the Planning Board will consider existing wetland destruction and the cumulative effect of reasonably anticipated future uses similar to the one proposed. Preference will be given to activities that meet wetland setbacks, have a reasonable stormwater management plan (subject to Planning Board review and approval), and that dedicate easements for the purposes of maintaining the wetland and the associated drainage system. Approval to alter a wetland will not be granted for dredging or ditching solely for the purpose of draining wetlands and creating dry buildable land areas. An application for a wetlands alteration will not be approved for the purpose of creating a sedimentation or retention basin in the wetland. Increased peak runoff rates resulting from an increase in impermeable surfaces from development activities are not allowed.

Response: The wetland alterations are limited to construction of the roadway to access developable upland at the center and easterly portion of the site. Cumulative impacts are minimal since the project impacts less than 0.15 acres of wetland on the 86.55 acre site. A stormwater management plan has been reviewed and approved by MDEP. Per the ACOE criteria to minimize wetland impacts, an open bottom culvert with 2:1 side slopes from the roadway and four (4) ford type crossings are proposed at wetland crossings. The access way will see minimal vehicular traffic and maintenance (mowed not more than twice a year per MDEP approval). The proposed layout of the roadway and lots minimizes the impacts within the 100-foot wetlands buffer. Stormwater treatment is provide by utilizing MDEP “wooded” buffers, grassed underdrain soil filters, and a wet pond.

Sec. 16.9.3.7.B It is the responsibility and burden of the applicant to show that the proposed use meets the purposes of this Code and the specific standards listed below to gain Planning Board approval to alter a wetland. The Planning Board will not approve a wetlands alteration unless the applicant provides clear and convincing evidence of compliance with the Code.

Response: Through extensive federal and state permitting processes, as well as Planning Board review, the applicant has provided appropriate documentation and demonstrated compliance with the LUDC intent.

Sec. 16.9.3.7.C In evaluating the proposed activity, the Planning Board may need to acquire expert advisory opinions. The applicant must be notified in writing, by the Town Planner at the Planning Board's request, that the applicant will bear the expenses incurred for the expert persons or agencies. The Planning Board will consider the advisory opinion, including any recommendations and conditions, provided by the Conservation Commission.

Response: The proposed roadway and wetland crossing has been reviewed by the Planning Board's peer review engineer as well as the MDEP and ACOE as noted above. The Planning Board has conducted multiple site walks of the project and comments have been received from the Conservation Commission.

Sec. 16.9.3.7.D: When the Planning Board finds the demonstrated public benefits of the project as proposed, or modified, clearly outweigh the detrimental environmental impacts, the Planning Board may approve such development, but not prior to granting approval of a reasonable and practicable mitigation plan, (see Section 16.9.3.9) and not prior to the completion of all performance guaranties for the project, (see Section 16.10.8.2.2).

Response: The project includes a reasonable and practicable mitigation plan which includes the following:

- MDEP findings "The Department finds that the applicant has avoided and minimized forested, freshwater wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project."
- MDEP "wooded" buffer proposed as part of the stormwater management system. This best management practice (BMP) provides superior stormwater treatment, requires minimal maintenance, and preserves existing woodland. Construction of other BMPs, such as constructing grassed underdrained soil filters and wet pond would reduce the land restriction to the owner (area of easements), but would require additional clearing. All BMP practices were designed outside of the 100 foot wetlands buffer.
- Two (2) 5' by 3' roadway culvert with a partially buried invert allows passage of aquatic fauna to and from the on-site wetland to the wetland on the abutting parcel to the north. Roadway side slopes at 2:1 minimize impact at the wetlands crossing.
- Utilized rock ford at four (4) wetlands crossings per discussions with MDEP and ACOE staff
- GES prepared a "Natural Resource Assessment, Huntington Run Subdivision – North 22 Acres" report. General recommendations for management of this area included walking trails to establish wildlife viewing areas, habitat management (promoting bats and New England Cottontail habitats) or leave in its current state.

- Open space provided exceeds the cluster development requirement by 36.36 acres (79.64 acres provided vs. 43.28 acres required)
- Open space uplands provided exceeds the cluster development requirement by 6.75 acres (12.67 acres vs. 5.92 acres)
- The applicant will provide the applicable wetland mitigation fees to the Town based on 6,438 sf of wetland impact

The applicant anticipates establishing an escrow account for the permanence guarantee and will schedule a meeting with the Town Manager for review and approval of form.

Sec. 16.9.3.7.E: The applicant must submit applicable documentation that demonstrates there is no practicable alternative to the proposed alteration of the wetland. In determining if no practicable alternative exists, the Board will consider the following: The proposed use:

1. *Uses, manages or expands one or more other areas of the site that will avoid or reduce the wetland impact;*
2. *Reduces the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact;*
3. *Provides alternative project designs, such as cluster development, roof gardens, bridges, etc., that avoid or lessen the wetland impact; and*
4. *Demonstrates that the proposed development meets or exceeds best management practices for stormwater management in the wetland areas.*

Response: Through the regulatory approval process the land owner have clearly demonstrated that there is no practical alternative to the proposed roadway location and resulting wetland impact. The paved roadway location preserves a 100 foot wide undisturbed buffer as required for vernal pools. The wetland impact is minimized by a reduced pavement width, no sidewalk, and an optimized road cross section with minimal height of the road above the wetland, and a 2H:1V side slope. As a cluster subdivision, over 79 acres of permanently protected open space are provided. The MDEP approved stormwater management system includes wooded buffer easements, grassed underdrain soil filters and wet pond to protect the wetland. MDEP considers such buffers to provide the highest level of stormwater treatment and least maintenance.

Sec. 16.9.3.7.F. In determining if the proposed development plan affects no more wetland than is necessary the Planning Board will consider if the alternatives discussed above in subsection A of this section accomplish the following project objectives:

The proposed use will not:

1. *Unreasonably impair or diminish the wetland's existing capacity to absorb, store, and slowly release stormwater and surface water runoff;*
2. *Unreasonably increase the flow of surface waters through the wetland;*
3. *Result in a measurable increase in the discharge of surface waters from the wetland;*
4. *Unreasonably impair or diminish the wetland's capacity for retention and absorption of silt, organic matter, and nutrients;*

- 5. Result in an unreasonable loss of important feeding, nesting, breeding or wintering habitat for wildlife or aquatic life; all crossings must be designed to provide a moist soil bed in culvert inverts and to not significantly impede the natural migration of wildlife across the filled area;*
- 6. Result in a measurable increase of the existing seasonal temperature of surface waters in the wetland or surface waters discharged from the wetlands.*
- 7. Result in a measurable alteration or destruction of a vernal pool.*

The MDEP application for the Stormwater Management Law permit included technical review by their staff stormwater engineer address items list above. The issued permit states that the applicant has made adequate provisions to ensure that the proposed project will meet the MDEP Chapter 500 standards for erosion and sediment control as well as easement and covenants, management of stormwater discharges and discharge to freshwater wetlands. The wetland crossing culvert inverts are designed to provide a moist soil bed and are designed to ACOE and MDEP standards so as not to significantly impede wildlife migration. The MDEP wooded stormwater buffers provide superior stormwater treatment and because of the significant flow length and time of contact with the ground, the stormwater runoff temperature is tempered to natural levels. the roadway is the lowest impact alternative and the 100 foot undisturbed buffer to the vernal pool meets the ACOE regulations for vernal pool protection.

Jamie Steffen

From: William Straub <wstraub@cmaengineers.com>
Sent: Thursday, March 07, 2019 1:52 PM
To: Jamie Steffen; Adam Causey
Cc: Jeff Clifford; Jodie Bray Strickland
Subject: Kittery Huntington Run Cluster Subdivision (Map 66, lots 2A, 8, 8A) - Requested waiver of roadway design

Jamie,

We have reviewed the letter and attachments prepared by Jeff Clifford of Altus Engineering regarding the requested waiver of certain roadway design standards for the Huntington Run Cluster Subdivision. The letter fairly describes the discussion at the meeting on March 5 at which the road issues were discussed among the attendees listed.

In our February 7, 2019 review letter, we suggested the design be modified to add 1-foot paved shoulders to the proposed 20-foot paved section to provide mechanical protection of the 10-ft paved travelled way. Further, we noted to accommodate this modification if the proposed 4-foot gravel shoulders to 3-foot width would be appropriate, so that the entire roadway section would remain 28-feet wide.

Altus' letter provides additional justification for this design, citing concerns of control of vehicle speed, the fact that the roadway cannot be extended to connect to other roadways, and several other sources of low-volume roadway design standards that support the design in this case. They further offer to limit the roadway as very low speed (10 mph), and to assure that all driveway aprons are paved so that vehicle movements cannot damage the roadway. Further, they described how the design is consistent with the general objectives of cluster subdivisions as expressed in the ordinance.

In summary, we believe the design is appropriate, and support a decision to grant the requested waiver.

If you have any questions, please do not hesitate to contact us.

Best,

Bill

William A. Straub, P.E.
Principal/Project Manager



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**THIS DRAWING HAS NOT BEEN
RELEASED FOR CONSTRUCTION**

ISSUED FOR:

FINAL APPROVAL

ISSUE DATE:

JANUARY 24, 2019

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	PB SUBMISSION	JKC	6/22/17
1	MDEP SUBMISSION	JKC	3/19/18
2	TOWN FINAL APPROVAL	JKC	1/24/19

DRAWN BY:

RMB

APPROVED BY:

JKC

DRAWING FILE:

4567SITE.DWG

SCALE:

1" = 50'

OWNERS/APPLICANT:

CHINBURG DEVELOPMENT, LLC

3 PENSTOCK WAY
NEWMARKET, NH 03857

PROJECT:

**HUNTINGTON RUN
SUBDIVISION
MAP 66 LOTS 2A, 8 & 8A
40 BETTY WELCH ROAD
KITTELY, MAINE**

TITLE:

**HUNTINGTON RUN
SUBDIVISION PLAN -
SHEET 3 OF 3**

SHEET NUMBER:

S-14

