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Members of the Hollis Planning Board

RE: Non Compliances with Hollis Subdivision and Site Plan Regulations

On Sept 23 2019, the applicant of the 32 unit condo development at Map 10 lot 33-1 has submitted a waiver request for 2 sections of the Hollis Subdivision Regulations. The waiver requests relief for sections IV. 7 B. (Hammerheads and Cul-de-sacs) as well as section IV.7.E.1. (Minimum Centerline radius). The plans dated 8/28/19 are not compliant with these regulations. In addition, they are not compliant with Section V.2. of the Town of Hollis Site Plan Regulations since the minimum dimension for parking spaces is to be 18 ft long by 9ft wide, but the parking spaces included in this development are only 8 ft wide.

I am glad to see that the applicant has accepted the town's authority to regulate private roads within the development. The matter at hand now is whether the town should grant waivers for the two requested non compliances and how the applicant will address the issue of parking space width. First I will review the criteria for granting a waiver, then I will address each item separately. Section III.K describes the criteria for issuing a waiver and is posted below

**K. WAIVERS:** Pursuant to RSA 674:36, II (n), Waivers may be granted to any of the requirements of these Subdivision Regulations, provided the Planning Board finds, by majority vote, that:

1. Strict conformity could pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or
2. Specific circumstances relative to the subdivision, or conditions of land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

It is important to note that in both of the applicant's waiver requests, the applicant has made an argument on item 1 of the criteria above by citing financial hardship to the developer as the reason they are requesting a waiver. Although it may be true that the developer would incur costs by following the regulations, this alone is not a justification for granting a waiver. As an example, consider a hypothetical case where the developer were to choose to build the walls of the buildings using substandard materials not allowed by the building code. The fact that following the code would cost more does not justify a waiver for substandard building techniques. Understanding this, we can see that the real decision on whether to grant a waiver or not must be balanced by the interests of the town residents and future residents of the proposed subdivision.

Before examining the specific non-compliances, it is important to consider the state's legal guide book on this matter. The guide book distributed by the New Hampshire Municipal Association, *A Hard Road to Travel: New Hampshire Law of Local Highways, Streets and Trails* cites on P132 the case of Davis v Town of Barrington that "**Planning boards should not insist on road dedication but should insist on compliance with road standards.** Planning boards should avoid relaxing road standards upon a promise from a developer that the roads will remain private because, **not only would the board be abandoning its duty to protect the public interest** by assuring adequate access but developers simply cannot guarantee that any road will remain private" Emphasis added. At issue is the fact that in the future, residents of the development likely will petition the town to become a public highway, imposing maintenance responsibilities on the town.

P132 of a Hard Road to travel shown below. Highlight added

In *Davis v. Town of Barrington*, 127 N.H. 202 (1985), the plaintiff wanted to erect an eight-unit condominium in one building served by a 900-foot “driveway.” He claimed that since this road was intended to remain private, the planning board’s subdivision road standards didn’t apply. The Court said:

There is...simply no support for this claim. The statutory and regulatory provisions governing subdivision do not distinguish between condominium and other forms of property development. And there is no basis in policy that would support the plaintiff’s position. Although a condominium subdivision under one roof will not entail multiple lot or dwelling ownership in the traditional sense, it will involve multiple unit ownership. Therefore if its common features are deficient in matters of health or safety, they must be seen as affecting the public, not merely one family... Hence the board’s standards for street construction clearly do and should apply.

Planning boards should not insist on road dedication, but should insist on compliance with road standards. Planning boards should avoid relaxing road standards upon a promise from a developer that the roads will remain private because, not only would the board be abandoning its duty to protect the public interest by assuring adequate access, but developers simply cannot guarantee that any road will remain private. Once a development is sold, new owners can, and likely will, petition to have that road laid out as a public highway. If so, the only question the selectmen will legally be able to consider is the “public convenience and necessity” for that highway. See the section on layout in Chapter 2. The selectmen’s authority would not be constrained by any former promise made by a developer to a planning board with no jurisdiction over highway status.

## Hammerheads and Cul-de-sacs

Below is section IV. 7 B of our subdivision regulations. Emphasis Added

### B. Hammerheads and Cul-de-sacs

1. The maximum length of a cul-de-sac (dead-end road) shall be no greater than fifteen hundred linear feet (1,500) as measured from the right-of-way of an adjoining through street to the top of the radius point of the cul-de-sac. The maximum length shall be measured along the center line of the proposed road to the furthest point on the street(s), including cascading cul-de-sacs. Cul-de-sacs shall only be extended if the street connects with a planned or existing through street. Roads must be provided with a turnaround at the closed end. Roads with a hammerhead shall include a two (2) leg minimum with each leg of the hammerhead measuring at least fifty-five (55) feet of driving surface. The turnaround or cul-de-sac must meet the following minimum dimension:



There are 2 dead end roads in the proposal, both of which require a turnaround. The first is located at the western edge of the property near the newly proposed lot line and the second is at the northern end of the property where a gate is obstructing access to Old Runnels Bridge road. Although the applicant has added small hammerheads, they do not meet the length requirement of the regulation.

Should these roads become public highways it will be the responsibility of the town to maintain these roads and clear them of snow in the winter. The applicant indicates in his waiver request that smaller machines are required for winter maintenance since the turnarounds are not adequate for our town's standard plows. Thus it is in the town's interest to require that this development conform to our regulations since the town would need to acquire costly capital equipment if these roads become public highways.

The second reason not to approve the waiver is that having moving and delivery trucks reversing through the development is a safety hazard to future residents. The applicant's waiver request indicates that the turnarounds as provided are "solely for passenger vehicle use". It is reasonable to expect that the residents of this development will need to get appliance deliveries and use large trucks when moving in.

For these reasons, the planning board should vote to deny the waiver request since it has been shown **that this request is contrary to the spirit or intent of the regulations** and there are no specific circumstances that indicate a

waiver would make the proposal more congruent to the spirit of the regulations. The applicant's hardships do not justify a waiver in this instance.

## Minimum Centerline Radii on Curves

- Per Sec IV.7 of the town's subdivision regulations, the Minimum Road Radii are to be dimensioned to the centerline of the road and to be no less than 125 feet. The submitted plan shows several radii which are tighter than 125 feet and none of the curves are properly dimensioned to the centerline of the road.

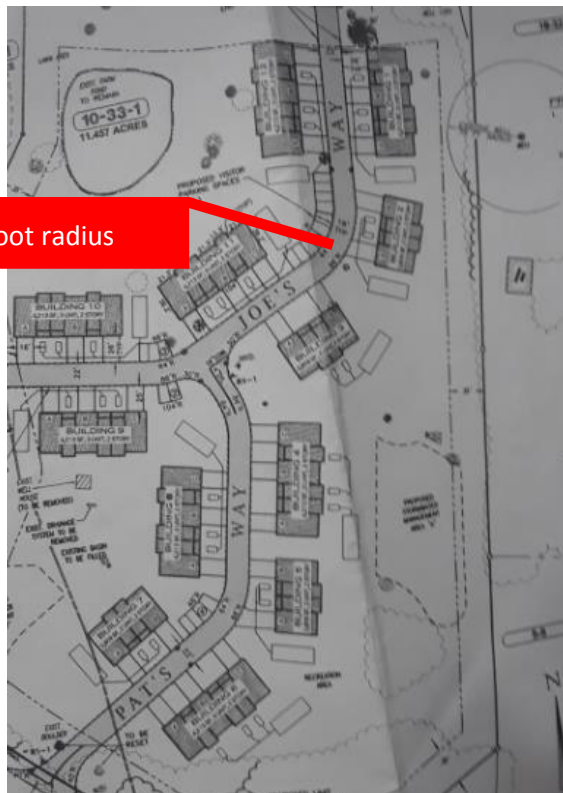
**TOWN OF HOLLIS, NH  
SUBDIVISION REGULATIONS**

**1) Roadways shall be constructed in accordance with the following table:**

**TABLE OF GEOMETRIC AND OTHER STANDARDS**

1.	Minimum right-of-way	50'*
2.	Centerline of right-of-way to be centerline of road	
3.	Minimum width of gravel (bank run + crushed)	28'
4.	Minimum width of pavement	22'
5.	Minimum road grade	0.5%
6.	Maximum road grade	8%
7.	Maximum grade 100' from intersection	3%
8.	Angle of intersection	60-90 degrees
9.	<u>Minimum centerline radii on curves</u>	<u>125'</u>
10.	Minimum gravel base depth	16"

The plans below show four radii which do not comply with the town's regulations. These curves are called out with red lines.



**75 foot radius**



The intent of the town subdivision regulation is to ensure safe travel on the streets in the town. The minimum radii of the town's regulation provide for safe operation of delivery and moving trucks as well as emergency vehicles. Tight radius turns are difficult for long wheelbase vehicles to navigate and are a life safety hazard since these vehicles will tend to cut over the inside corners on tight turns. In addition, the larger radii allow for better visibility and longer sightlines for drivers in the development. The developer asserts that building the development with the required radii would "likely result in increased speeds". This argument is not supported by evidence. The fact that other developments in town have been built in compliance with the standard and we have not had safety problems with those directly contradicts the applicant's assertion. In addition, why would we grant a waiver for this project when the town required those prior subdivisions to comply?

The applicant has not shown that conformity with the regulations would be contrary to the spirit or intent of the regulations and they have not identified any circumstances specific to this parcel or conditions of this land that would show that a waiver of this section would better serve the intent of the regulation. Finally, the waiver request is written against the entire table of dimensions which contains 16 other items, all of which are important items in their own right, but have not been addressed in the applicant's letter

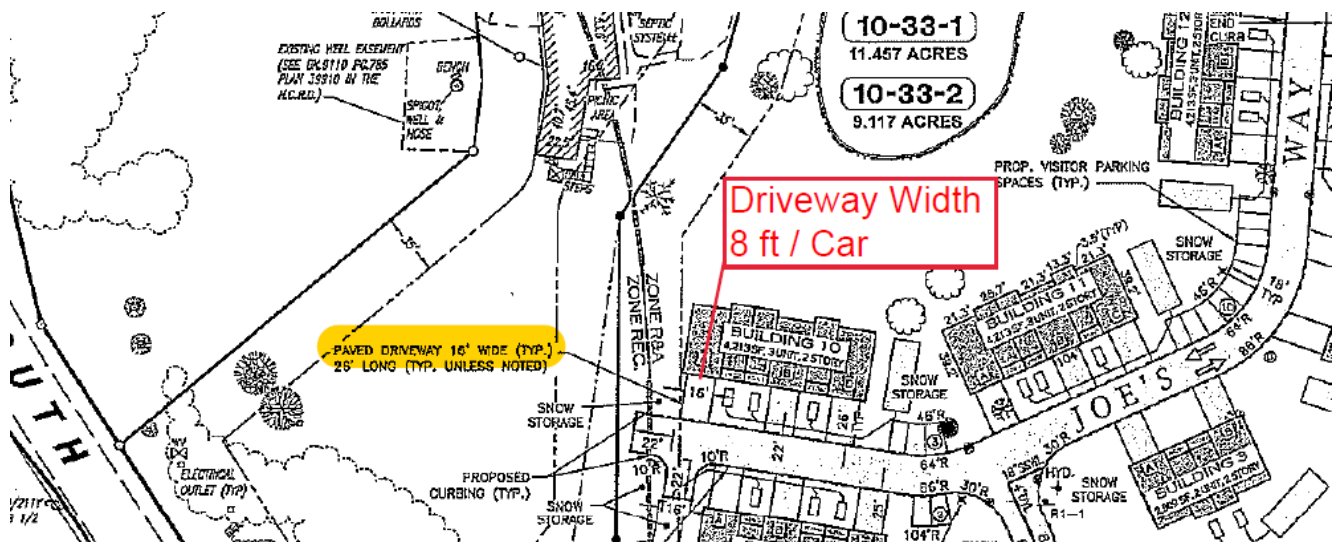
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### Minimum Parking Space Width

The Plans submitted by the applicant marked 8/28/19 are not compliant with section V.2. of the town of Hollis Site plan regulations regarding the dimensions of parking spaces.

#### SECTION V.2. SIZE OF PARKING SPACES AND DRIVE AISLES

- A. Spaces shall be 9 feet x 18 feet, exclusive of drive aisle width. A maximum of 50% of the required parking spaces are encouraged to be compact car spaces. Compact car spaces shall be 9 feet x 17 feet, exclusive of drive aisle width.



It can be seen from the provided plans that the parking provided is not compliant with the parking space width called for in the regulations. Each residential unit requires two parking spaces. This means a two car driveway would need to be 18 ft wide. According to the plans, the driveways in front of the units are only 16 feet wide. The visitor spaces on the plan are not dimensioned, but it seems that they are substandard as well. The planning board should require that the applicant provide updated plans that are compliant with our regulations.

I have provided citations of the town regulations as well as municipal handbooks including references to relevant case law clearly supporting my positions. It is undeniable that requiring this development to meet our subdivision regulations is in the best interest of the town, especially considering the fact that the developer cannot guarantee that these roads will remain private. Please act to protect the interests of the town and deny the two waiver requests before you. The material presented by the applicant is biased in favor of the developer. Each of the planning board members has been appointed to serve the interests of the town. Don't allow, our interests to be subverted by the generalizations and over simplifications provided by experts.

Regards,

Joseph Garruba

References:

A Hard Road to Travel: New Hampshire Law of Local Highways, Streets and Trails  
<http://chathamnh.org/wp-content/uploads/2014/09/A-Hard-Road-to-Travel.pdf>

TOWN OF HOLLIS, NEW HAMPSHIRE SUBDIVISION REGULATIONS  
[https://www.hollisnh.org/sites/hollisnh/files/uploads/subdivsion\\_regulations.pdf](https://www.hollisnh.org/sites/hollisnh/files/uploads/subdivsion_regulations.pdf)

TOWN OF HOLLIS, NEW HAMPSHIRE ROAD and DRIVEWAY SPECIFICATIONS APPENDIX  
<https://www.hollisnh.org/sites/hollisnh/files/uploads/road-drivewayspecifications.pdf>