



**Town of Reading**  
**16 Lowell Street**  
**Reading, MA 01867**

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**May 23, 2016**

## **Definitive Subdivision Plan**

# **DECISION**

***364 Lowell Road, "Lyle Estates" – Jamieson Properties LLC***  
**Proposed Street Name: Alfred E. Peterson Way**

*To the Town Clerk:*

*This is to certify, at a public hearing of the Reading Community Planning and Development Commission (CPDC) opened and closed on May 23, 2016 by a motion duly made and seconded, it was voted:*

"We, the CPDC, as requested by Jamieson Properties LLC, under the Town of Reading's Subdivision Rules & Regulations, and MGL Chapter 41 Sections 81K through 81GG, to consider the 4-Lot Definitive Subdivision Plan for property located at 364 Lowell Street (Assessors Map 26, Lot 157), as shown on the plans prepared by ASB Design Group LLC, dated April 4, 2016, do hereby vote x-x-x to approve the said plans, inclusive of all waivers listed herein, subject to the Findings and Conditions below."

### **MATERIALS:**

The following documents and plans were submitted into the public record:

1. Form B: Application for a Definitive Subdivision Plan, filed 4/28/16.
2. Form G: Designer's Certificate, dated 4/27/16.
3. Certified List of Abutters, dated 4/12/16.
4. Email from Community Development Director to Applicant's Engineer and Attorney with list of items needed in order to deem the submission Complete, dated 4/5/16.
5. Application Package: "Project Data/Environmental Impact Report/Definitive Subdivision and Notice of Intent," Lyle Estates, Reading MA, prepared by ASB Design Group LLC, dated April 2016, submitted 4/4/16, including:
  - a. List of Waivers requested from the Town's *Subdivision Rules & Regulations*;
  - b. Project Data/Environmental Impact Report documenting existing and proposed site conditions including the right-of-way, utilities, drainage, erosion control measures, construction sequencing, long-term operations and maintenance, and traffic;
  - c. Appendix A: Soil Boring Logs 1-10;

- d. Appendix B: TSS Removal Work Sheets 1 and 2; Stormwater Checklist, and Home Owner's Rain Garden Guide;
  - e. Figure 1A: Existing Conditions (aerial photo) – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16;
  - f. Figure 1B: Proposed Subdivision (aerial photo) – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16;
  - g. Figure 1: Fire Truck Turning Movements (autoturn) – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, revised 3/14/16;
  - h. Figure SD1: Sight Distance Lowell Street Looking Northwest – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16; and
  - i. Figure SD2: Sight Distance Lowell Street Looking Southeast – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
6. C1: Cover Sheet – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  7. C2: General Notes & Standard Legend – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  8. C3: Existing Conditions – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  9. C4: Lotting Plan – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  10. C5: Layout, Utilities & Pavement Marking/Signed Plan – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  11. C6: Grading & Drainage Plan – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  12. C7: SWPP Plan – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  13. C8: Roadway & Sewer Profile – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  14. C9: Site Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  15. C10: Site Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  16. C11: Utility Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  17. C12: Erosion Control Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  18. C13: Drainage, Sewer & Erosion Control Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
  19. C14: BMP 1 Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.

20. C15: LID BMP 1-5 Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
21. C16: Landscape Details – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
22. T1: Tree Inventory Plan – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
23. “Drainage Report Accompanying Definitive Subdivision and Notice of Intent,” Lyle Estates, Reading MA, prepared by ASB Design Group LLC, dated April 2016, submitted 4/4/16, including:
  - a. D1: Pre-Development Hydrology – Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16;
  - b. D2: Post-Development Hydrology - Definitive Subdivision & Notice of Intent, Lyle Estates, prepared for: Jamieson Properties LLC, prepared by: ASB Design Group LLC, dated 4/4/16.
24. Order of Resource Area Delineation, issued by the Reading Conservation Commission on 7/25/13.
25. Memo from the Town Engineer to the Community Development Director, dated 5/12/16.
26. Email from the Historical Commission to the Community Development Director, dated 5/17/16.
27. Memo from the Community Development Director to the CPDC, including all staff feedback and notes from the 3/16/16 Development Review Team Meeting, dated 5/19/16.

## **FINDINGS:**

1. **General:** The site is approximately 2.574 acres and contains an existing house, gravel road, driveway, septic system and lawn. The site access is via a 56’ wide curb cut off of Lowell Street. The site is heavily forested and has a peak elevation of 198’ at its northeast corner. More than half of the site is within a wetland resource area or 100’ wetland buffer area.
2. **Zoning:** The site is within the S-15 Zoning District and the Aquifer Protection Overlay District.
3. **Upland Area:** ZBL Section 6.2.8 requires that any lot in the S-15 District must contain at least 12,000 SF of upland area outside of a Wetland Resource Area. The Applicant shall provide calculations proving that this requirement is met for each lot.
4. **Aquifer Protection Overlay District:** a maximum of 15% impervious coverage is allowed per lot. The Applicant shall provide calculations proving this maximum is not exceeded on any lot.
5. **Wetlands:** On July 25, 2013, the Applicant received an Order of Resource Area Delineation (ORAD) from the Reading Conservation Commission. The proposed work will require the filing of a Notice of Intent (NOI) with the Reading Conservation Commission.
6. **Historical Commission:** The Reading Historical Commission does not have jurisdiction over the proposed project as indicated in email correspondence dated May 17, 2016.
7. **Proposed Lots:** The Applicant is proposing to subdivide the property into 4 lots that fully conform to the frontage and area requirements of the S-15 Zoning District. Lot 1 will contain the existing house at 364 Lowell Street.
8. **Proposed Structures:** Lots 2, 3 and 4 are proposed to be developed with new homes that will meet the setback requirements of the S-15 Zoning District.
9. **Existing Structure:** The existing house on the property currently fronts on Lowell Street and meets the setback requirements of the S-15 Zoning District. The Applicant is proposing to maintain the existing house in its present location, but to have the lot’s legal frontage be along the proposed subdivision road. In doing so, the existing house will not meet the 20’ front yard setback requirement, and the Applicant will need to seek a variance from the Zoning Board of Appeals.

10. **Proposed Addition to Existing Structure:** The Applicant is proposing to add a garage to the existing house. A portion of the proposed garage will infringe on the 20' front yard setback, thus the Applicant will need to seek a variance from the Zoning Board of Appeals.
11. **Proposed Right-of-Way:** The proposed 40' wide subdivision road will be located within the existing curb cut and the historic 40' right-of-way. It will have a pavement width of 28', be 326' in length, and will end in a cul-de-sac bulb with a 36' radius.
12. **Cut / Fill:** The site will require approximately 470 cubic yards of roadway gravel base. Excavated sand will likely be used in the final site grading.
13. **Landscaping:** Landscaping Details for the Street Trees and raingardens are depicted on Sheet C16; however an overall Landscape Plan has not been provided. An overall Landscape Plan for the project may not be needed, as the lots will be individually sold and maintained by future owners. The CPDC shall discuss this.
14. **Existing Utilities:** Town of Reading water and sewer, as well as gas, telephone, electric, and a closed drainage system, are located within Lowell Street. The site has an existing septic system.
15. **Proposed Utilities:** Town of Reading water (8" line in Lowell, 1" line to homes) and sewer (8" pipe in Lowell, 4" pipe to homes), gas, telephone, electric and cable. All new utilities will be located within the right-of-way. The existing septic system will be decommissioned. The Applicant shall coordinate the installation and/or decommissioning of any utilities with the Town Engineer, the Health Agent, and the RMLD.
16. **Stormwater:** The project includes the construction of five LID BMPs to capture site and driveway stormwater runoff. A closed drainage system will collect stormwater runoff from the proposed subdivision road and direct it to BMP Pond 1, which is on Lot 1.
17. **Drainage:** A poorly maintained culvert under the MBTA tracks at the southern end of the site causes a lot of water backup in the neighborhood; the Applicant is proposing to add a drainage ditch along the southern property line. The Applicant shall work with the Town Engineer to ensure that all drainage measures are properly designed and constructed and that any mitigation is implemented as needed.
18. **Streetlights:** Two light poles are proposed and shall be installed in accordance with RMLD standards and specifications.
19. **Easements:** Sheet C-4 depicts a 4' wide planting easement on the perimeter of the proposed right-of-way, a 15' wide water easement on the southern property line, and 6 drainage easements throughout the site. The Applicant shall work with the Town Engineer, and Town Counsel as needed, to ensure that all easements are properly written and recorded.

**Pursuant to Section 6.2.3 Criteria for Decision, the CPDC hereby finds that:**

- a. *Conforms entirely with all provisions of the Subdivision Control Law:*
  - i. On April 4, 2016, a Definitive Subdivision Plan was submitted on behalf of Jamieson Properties LLC for the property at 364 Lowell Street. On April 28, 2016, upon receipt of additional information, the Community Development Director determined that the application was substantially complete and distributed copies to other staff departments for review and comment.
  - ii. The Applicant has conformed to the procedural requirements under Section 3.5 of the Reading Subdivision Rules and Regulations.

b. *Conforms to the recommendations of the Board of Health:*

The Reading Board of Health voted to approve the proposed Definitive Plan without conditions on May 18, 2016.

c. *Meets all stated requirements and standards of these Regulations, with the exception of any waiver therefrom which has been requested in writing by the applicant in accordance with Section 3.8 hereof and which the CPDC specifically grants as part of its action with respect to the application:*

The Applicant has requested waivers, they are listed herein for the CPDC to consider.

d. *Satisfies in full all purposes of these Regulations set forth in Section 1.2 thereof:*

a. *For the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel;*

b. *For lessening congestion in such ways and in adjacent public ways;*

c. *For reducing danger to life and limb in the operation of motor vehicles;*

d. *For securing safety in case of fire, flood, panic, or other emergencies;*

e. *For ensuring compliance with applicable zoning, health, conservation, and natural resource protection bylaws;*

f. *For securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, street lighting, and other requirements where necessary in a subdivision;*

g. *For coordinating the ways in a subdivision with each other and with the public ways in the town and with ways in neighboring subdivisions; and*

h. *For the encouragement of the use of solar energy and the protection of solar access.*

The CPDC should consider a condition requiring that the Applicant orient the buildings for potential rooftop solar to the greatest extent practicable.

e. *Conforms in every respect with the requirements of the Reading Zoning Bylaw as the same may be conditioned by special permit or modified by a variance:*

The Applicant will seek a Variance from the Zoning Board of Appeals for the existing structure's newly non-conforming front yard setback created from a change to the lot's legal frontage, and for the proposed garage that infringes on the front yard setback.

f. *Is suitable for the land on which it is proposed to be placed:*

The Applicant is proposing a residential subdivision that conforms to the requirements of the underlying residential zoning district. The site is surrounded by single-family residential development.

g. *Has properly, accurately, and completely identified its effects on all matters of concern to legal parties of interest and to the general public, as specified in these Regulations, and sets forth when required by the CPDC and where appropriate mitigation measures which the applicant is obligated to carry out and which are reasonable and appropriate to address and overcome such effects: The Applicant shall address this requirement.*

h. *Does not omit adjacent property which is owned by the applicant and which the Building Inspector has not determined to be a legally separate and buildable lot:*

The Lotting Plan indicates ownership for all adjacent lots – this requirement appears to be met.

i. *Does not cause any existing structure on the subject property to become non-conforming under the Reading Zoning Bylaw or increase any existing non-conformity:*

The Applicant will seek a Variance from the Zoning Board of Appeals for the existing structure's newly non-conforming front yard setback created from a change to the lot's legal frontage.

- j. *Contains a street system which connects directly with one or more existing accepted public ways:* Lowell Street is an existing accepted public way.
- k. *Does not cause a street intersection within the study area as defined in Section 6.1.1.d.3 to fall below a Level of Service (LOS) of D, nor discharges traffic into an intersection already operating at a Level of Service of F without reasonable mitigation:* The Applicant has only included the intersection of Lowell Street and the proposed subdivision road within the study area, and has not indicated the LOS of Lowell Street.
- l. *Includes an offer to the Town to accept all common water and sewer utilities, and proper easements therefor, in the subdivision:* The proposed subdivision right-of-way will be offered to the Town for acceptance as a public way, it includes all of the utilities for the site. Drainage and planting easements will be provided as needed and are shown on Sheet C-4.
- m. *Has available to it adequate public water supply in terms of quantity, quality, and water pressure without adversely impacting such availability to other developed properties:*  
The project includes the construction of appropriate water lines to ensure adequate public supply and service.
- n. *Has available to it adequate capacity in the public sewer system to accept the discharge from the proposed subdivision without adversely affecting other developed or undeveloped properties:*  
The project includes the construction of appropriate sewer lines to ensure adequate public supply and service.
- o. *Has available to it adequate storm drainage capacity to accept stormwater runoff from the subdivision without adversely affecting other developed or undeveloped properties:*  
The project has been designed to ensure that post-development runoff is not worse than pre-development runoff.
- p. *Does not have any street name or locational designation which in the opinion of the Fire Chief may be confused in emergency situations with the name of any existing street name or locational designation in the Town:*  
The Engineering Division will consult with dispatch, the Police Department, the Post Office, and the Town's addressing standards to determine if the proposed street name of Alfred E. Peterson Way causes any pronunciation issues or confusion. Punctuation is not allowed.

## **WAIVERS:**

**Pursuant to Section 7.0 Design Standards, the Applicant has requested the following waivers:**

1. *Section 7.1.1a – to provide a 40' right-of-way where 60' is required;* the existing right-of-way on the property is 40' wide
2. *Section 7.1.3a – to provide a pavement width of 28' where 30' is required;* reduced per the reduced right-of-way width, but still wide enough for emergency vehicles
3. *Section 7.1.3b – to provide sidewalks on one side of the right-of-way instead of both sides;* the sidewalk will serve the 3 new homes, all are on the northerly side of the property
4. *Section 7.1.3b – to provide a 4' wide tree planting easement to the Town outside of the right-of-way where a 10' wide tree lawn is required within the right-of-way;* reduced per the reduced right-of-way width, the Applicant shall be responsible for planting the street trees

5. *Section 7.1.3b – to lay the pavement 3’ to the left of the centerline of the right-of-way where it is required to be on center; shifted in accordance with the sidewalk waiver*
6. *Section 7.1.4b – to provide curb radii of 20’ where 30’ is required; reduced per the reduced right-of-way width*
7. *Section 7.1.5a – to provide a 36’ paved radius where 40’ is required; reduced per the reduced right-of-way width. The turn radius will need to be approved by the Fire Department.*
8. *Section 7.2a – to provide sidewalks on one side of the right-of-way instead of both sides; the sidewalk will serve the 3 new homes, all are on the northerly side of the property*

**Pursuant to Section 3.8 Waivers, the CPDC voted x-x-x to approve all of the requested waivers.**

**NOTE from Engineering:** Should the CPDC approve all of the requested waivers regarding the right-of-way, the CPDC should consider requiring “No Parking” signs along one side of the street and in the cul-de-sac, to ensure proper access at all times by emergency vehicles.

**CONDITIONS:**

**[Community Development Director working with Town Engineer on additional conditions]**

**General:**

1. The approval herein is limited to the number of lots shown on the referenced plan. Any additional lots created with legal frontage shall be considered a major modification to this subdivision as per Section 6.2.5 of the Subdivision Rules and Regulations.
2. **Paper Streets:** The subdivision is proposed over an area that has or has had paper streets (Street No. 1 and Street No. 8) already laid out on the property. The Applicant shall provide documents to the Town Engineer indicating whether these streets need to be abandoned prior to construction of the project.
3. **The Applicant shall work with the Town Engineer** to address all outstanding conditions within the Town Engineer’s memo to the Community Development Director, dated 5/12/16.

**Prior to Plan Approval,** The Applicant shall work with the **Fire Department** to ensure that the following condition can be met:

1. The Reading Fire Department requires a 45’ outside radius and a 27’ inside radius free of parked cars and other obstacles. The submitted drawing shows a 37’ radius along the side walk and a 42’ radius along the side without a side walk.

**Prior to Plan Endorsement,** the Plans shall be revised as such:

1. **Proposed Subdivision Road** – add a note to the plans indicating that the proposed subdivision road will be offered to the Town for acceptance as a public way.
2. **Profiles** shall be provided at a vertical scale of 1” = 4’ or better.
3. **Telephone numbers** of the record owner, the applicant (if different) and the P.E. shall be added to the plans.
4. Suitable space, with signature lines, for **certification signatures by the CPDC members** shall be added to the first page of the plans; each subsequent sheet shall have a space for the signature of the CPDC Chairman to indicate certification of the plan.
5. The **Locus Inset** shall be revised to show all properties within 1,000 feet of any portion of the subject property, the locations of all structures on all lots abutting the proposed subdivision site; and the name, location, right-of-way width, pavement width, sidewalk location and width, of any

existing public and private streets abutting, providing access to, or located within 1,000 feet of any portion of, the proposed subdivision, together with labels as to whether each is an accepted or unaccepted way; drawn at a scale of 1" = 100'.

6. The existing **topography** of the tract – containing the proposed subdivision and of all lands within 100 feet of any portion thereof, with contour intervals not to exceed two feet and with spot elevations as appropriate – shall be added to the plans.
7. The **Tree Inventory Plan** shall be revised to indicate trees and groups of trees proposed to be saved or preserved.
8. The **Zoning Table** shall be corrected to reference the S-15 Zoning District.
9. The site is within the **Aquifer Protection District**. Calculations shall be provided of maximum allowed impervious surface area for each lot in square feet and as a percentage of the lot size, together with the aggregate impervious surface for the entire subdivision in square feet and as a percentage of the entire subdivision parcel or parcels.
10. The **minimum cellar floor elevations** for each proposed habitable structure shall be added to the plans.
11. The width and location of each **proposed driveway curb cut** relative to each proposed lot and for each lot within 100 feet of the proposed subdivision shall be added to the plans.
12. The **font sizes and types** shall be brought into compliance with the Registry of Deeds standards for recordable plans.
13. Sheet C-5 shall be revised to indicate the placement of “No Parking” signs along the \_\_\_\_\_ side of the proposed street and within the cul-de-sac.
14. The following **Notes** shall be modified as such:
  - a. Project General Notes #3: the number for Dig Safe is 1-888-DIG-SAFE
  - b. Traffic Management General Notes #4: amend to include that work hours on Lowell Street are limited to between 9:00 AM and 3:00 PM.
  - c. Sanitary Sewer Notes #1: “Sewer Department” shall be replaced with “Engineering Division.”
15. Two sets of **Mylar plans** shall be submitted in black ink, without colors. One signed set shall be delivered to and retained by the Engineering Department and Department of Public Works for record purposes. In addition, an electronic version of the approved plans shall be submitted in a format acceptable to the Town Engineer.

**Prior to Plan Endorsement**, the Applicant shall adhere to the following conditions:

1. **Performance Guarantee: Conditions pending**

**Prior to the Release of the Covenant:**

1. **Conditions pending.**

**Prior to the Issuance of a Building Permit:**

1. The Applicant or the site supervisor shall contact the Community Development Director to set up a pre-construction meeting with Town staff.
2. All necessary permits and approvals shall be obtained prior to construction and occupancy, including as appropriate but not limited to: Street Opening Permit, Street Tree Removal Permit,

Sewer Extension Permit, Curb-cut Permit, Building Permits, Proof of Inspection and Certification of Cellar Floor Elevations, and Conservation Commission Permits.

3. Any **trees** requiring removal need to be identified and approved by the tree warden.

**Prior to the Issuance of a Certificate of Occupancy:**

**1. Conditions pending**

**Prior to the Issuance of the Final Certificate of Occupancy**, digital as-built plans shall be provided for all utility and site work and shall be certified by a Registered Professional Engineer or Surveyor. The plan shall be in accordance with Town standards and shall depict all final improvements, utilities and shall be submitted in paper and ACAD electronic format.

**Conditions during Construction:**

1. The Engineering Department shall be notified 72 hours in advance of excavations to mark out Town-owned utilities.
2. All utility work shall be installed and tested in accordance with Town of Reading standards.
3. All utility and site work shall be inspected prior to backfilling by the Engineering Department. The Department shall be notified 36 hours in advance of required inspections.
4. All utilities and roadway construction and materials shall conform to the most recently amended Subdivision Rules and Regulations (2006).
5. Hours of Construction shall be adhered to as per Section 8.9 of the General Bylaw and said hours shall be posted in a conspicuous place at the entrance prior to any work on the site.

**Ongoing Conditions:**

1. The Applicant shall ensure that all requirements of the Board of Health, Department of Public Works, Fire Department and the Conservation Commission are met.

**Waivers Granted:**

The following waivers from the Subdivision Rules and Regulations are hereby granted:

Section 7.1.1a – to allow a 40’ right-of-way where 60’ is required;

Section 7.1.3a – to allow a pavement width of 28’ where 30’ is required;

Section 7.1.3b – to allow sidewalks on one side of the right-of-way instead of both sides;

Section 7.1.3b – to allow a 4’ tree planting easement to the Town outside of the right-of-way where a 10’ tree lawn inside the right-of-way is required;

Section 7.1.3b – to allow the pavement to be laid 3’ to the left of the centerline instead of on center;

Section 7.1.4b – to allow curb radii of 20’ where 30’ is required;

Section 7.1.5a – to allow a 36’ paved radius where 40’ is required;

Section 7.2a – to allow sidewalks on one side of the right-of-way instead of both sides;

**MODIFICATIONS:**

**6.2.5 Modifications to an Approved Definitive Plan:**

The CPDC may consider modifications to an approved Definitive Subdivision Plan, upon written request of an applicant accompanied by the requisite number of copies of plans and other information

sufficient to explain such modification clearly. The CPDC shall determine, in its sole judgment, whether such modification is minor or major.

If minor, the CPDC shall consider the substance of the request at a public meeting at its earliest convenience, and if it finds any or all modifications requested to be acceptable according to the standards set forth in these Regulations, the CPDC may grant, with or without conditions, approval to any such modification; if it finds any modification to be unacceptable, it shall deny such modification; in either case, it shall notify the Town Clerk of such decision within seven days thereafter.

If major, the procedures specified in Sections 3.5.1.2, 3.5.2, 6.2.1, 6.2.2, and 6.2.3, as applicable shall be followed, with the exception that no inspection fee shall be payable for a modification; however, an application fee as set forth in Section 3.6.3.3 shall be payable. If a major modification is approved, the applicant shall, within thirty days of the decision thereon, supply to CPDC three copies of revised plans fully reflecting such modification and bearing a reference to the original subdivision plan.

#### **6.2.6 Modification or Rescission:**

##### **6.2.6.1 Modification or Rescission by Other than the Applicant:**

The CPDC on its own motion or on the petition of any person interested, shall have the power to modify, amend, or rescind any approved Definitive Subdivision Plan, or to require a change in a plan as a condition of its retaining the status of an approved plan, in accordance with MGL Chapter 41, Section 81W.

In addition to the above, the CPDC may consider rescinding approval of a Definitive Subdivision Plan on the following grounds:

- a. If no guarantee for required improvements is provided and the plan is not recorded within six months following the expiration of the twenty-day appeal period or the settlement of any appeal, whichever occurs later;
- b. If the required subdivision improvements have not commenced within one year of the recordation of the Definitive Subdivision Plan; or
- c. If work on the required subdivision improvements is not completed within two years of the recordation of the Definitive Subdivision Plan, or by the end of any extension period requested in writing by the applicant prior to the end of such two-year period and granted by the CPDC.

##### **6.2.6.2 Rescission for Noncompliance with Plans, Conditions, or Other Requirements:**

The CPDC shall consider any variation from the approved Definitive Subdivision Plans or any other noncompliance to be sufficient cause for the applicant to be found in breach of the Definitive Subdivision Plans.

Should the CPDC find an applicant so to be in breach, it may rescind its approval and require the immediate cessation of all work on the property or, at CPDC's discretion, it may utilize the bond or other form of surety held in connection with such subdivision to remedy such breach.

*Signed as to the accuracy of the vote as reflected in the minutes:*

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Julie D. Mercier, Community Development Director

Date

*Cc: Applicant, Town Clerk, CPDC, Development Review Team, Building Inspector, planning file*