

Joseph Garruba
28 Winchester Dr.
Hollis, NH 03049
August 17, 2020

To: Members of the Hollis Planning Board

RE:

Non-compliances of the proposed development of Tax Map 41 Lots 25, 28 and 44 Revision 2

Table of Contents

Purpose.....	3
Requirements for Road placement per Hollis Zoning Ordinance Sec XV F 4.....	3
Minimum Road Standards of Hollis Subdivision regulation section IV.7.....	6
Item 1 Street and Driveway location relative to topography per Hollis Subdivision Regulation Sec IV.7	8
Item 2 Cuts and Fills greater than 4ft per Hollis Subdivision Regulation Sec IV.7	9
Item 3 Num. of Cuts or Fills greater than 4ft per 1000 ft. of road per Hollis Subdivision Regulation Sec IV.7	11
Item 4 Street and Driveway variation from natural slope per Hollis Subdivision Regulation Sec IV.7	13
Item 5 Access to Building Area per Hollis Subdivision Regulation Sec IV.7	15
Building Area requirements of Hollis Zoning Ordinance section IX O	16
Park Requirements of Hollis Subdivision Regulations Section IV.6	16
Hollis Zoning Ordinance Section XXI A 1 j: Housing for Older Persons minimum open space...	17
Conclusion	18

Table of Figures

Figure 1 Developer’s slope plan of 3-27-2020 combined with the proposed site plan received July 27, 2020	4
Figure 2 Developer’s proposal titled Alternative conceptual layout does not follow the contours of the land at all	5
Figure 3 Markup of the developer’s alternative conceptual plan submitted on 7/27/2000 with deficient stream crossing.....	7
Figure 4 Developer’s conceptual site plan submitted 4-27-2020 showing proposed road crossing natural contours.....	8
Figure 5 Combined Profile from developers conceptual site plan received 7/27/2020.....	10
Figure 6 Number of cuts or fills greater than 4 ft. from Developer's Alternative site plan received 7-27-2020	12
Figure 7 Markup of the developer’s alternative conceptual plan submitted on 7/27/2000 with deficient slope modification	14

Revision History

Revision (1) 8-10-2020	Release
Revision (2) 8/17/2020	Updated Fig 6 and text on P11 regarding cut and fill greater than 4 ft.

Purpose

I am writing to explain non-compliances with proposed site plans for development of three parcels in Hollis known as Tax Map 44 Lots 25, 28 and 44. The developer for these parcels was requested to submit a proposal that does not require waivers from the planning board. On July 27th two site plans were submitted but both plans still require waivers from the board. A specific concern raised by the board was related to the amount of cut and fill required to build the access road. I will show the specific sections of our ordinance and regulations and where the submitted materials are not complainant with respect to the proposed road and other aspects of the development.

Requirements for Road placement per Hollis Zoning Ordinance Sec XV F 4

Per the design standards of the Hollis Rural Character preservation ordinance all roadways and driveways must “conform to the natural contours of the land.” Included below is the text of section XV F 4 with a rectangle added for emphasis. The intent is to provide the reader with context. This excerpt has not been selectively edited and the reader is invited to review the Hollis Zoning ordinance in its entirety so as to understand that the full context of the ordinance prohibits road placement that does not conform to the natural contours of the land. Specifically, it can be seen that this is not guidance but a hard requirement.

4. Road and Driveway Placement Design Standards

- a. Align roadways and driveways to conform to the natural contours of the land.
- b. Avoid long stretches of straight road by using gentle horizontal and vertical curves,
- c. Do not place roadways parallel to one another to avoid creating a "shelving" effect on hillsides.
- d. Use cul-de-sacs, loop streets, and common driveways to reduce the amount of impermeable surfaces, without sacrificing legitimate safety and road maintenance concerns.
- e. Reduce roadway width when such design minimizes the amount of necessary earthwork and does not compromise safety concerns.
- f. Stabilize and restore cuts and fills on slopes by using plantings and other measures approved by Town staff.

Figure 1 Developer's slope plan of 3-27-2020 combined with the proposed site plan received July 27, 2020

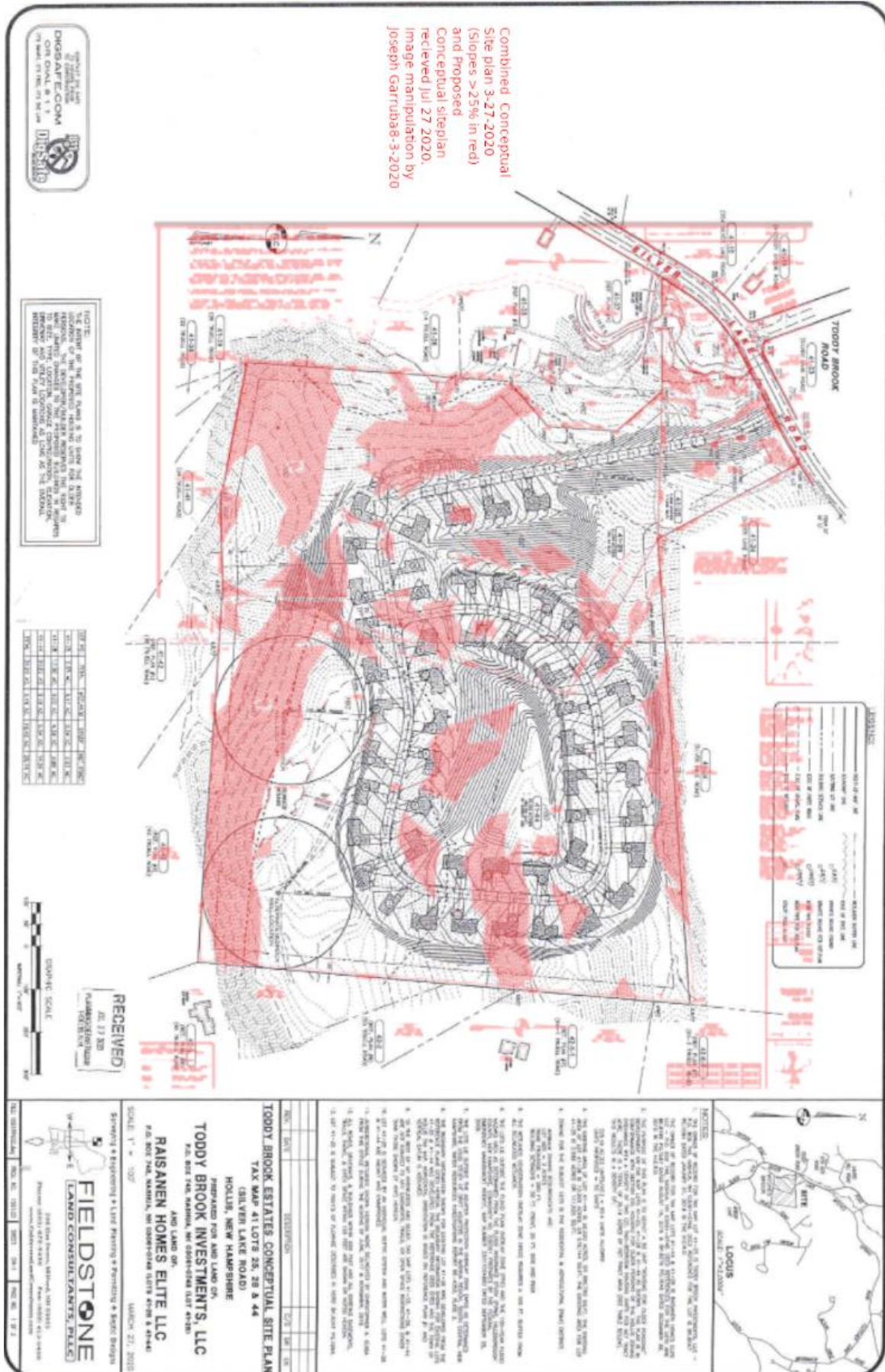
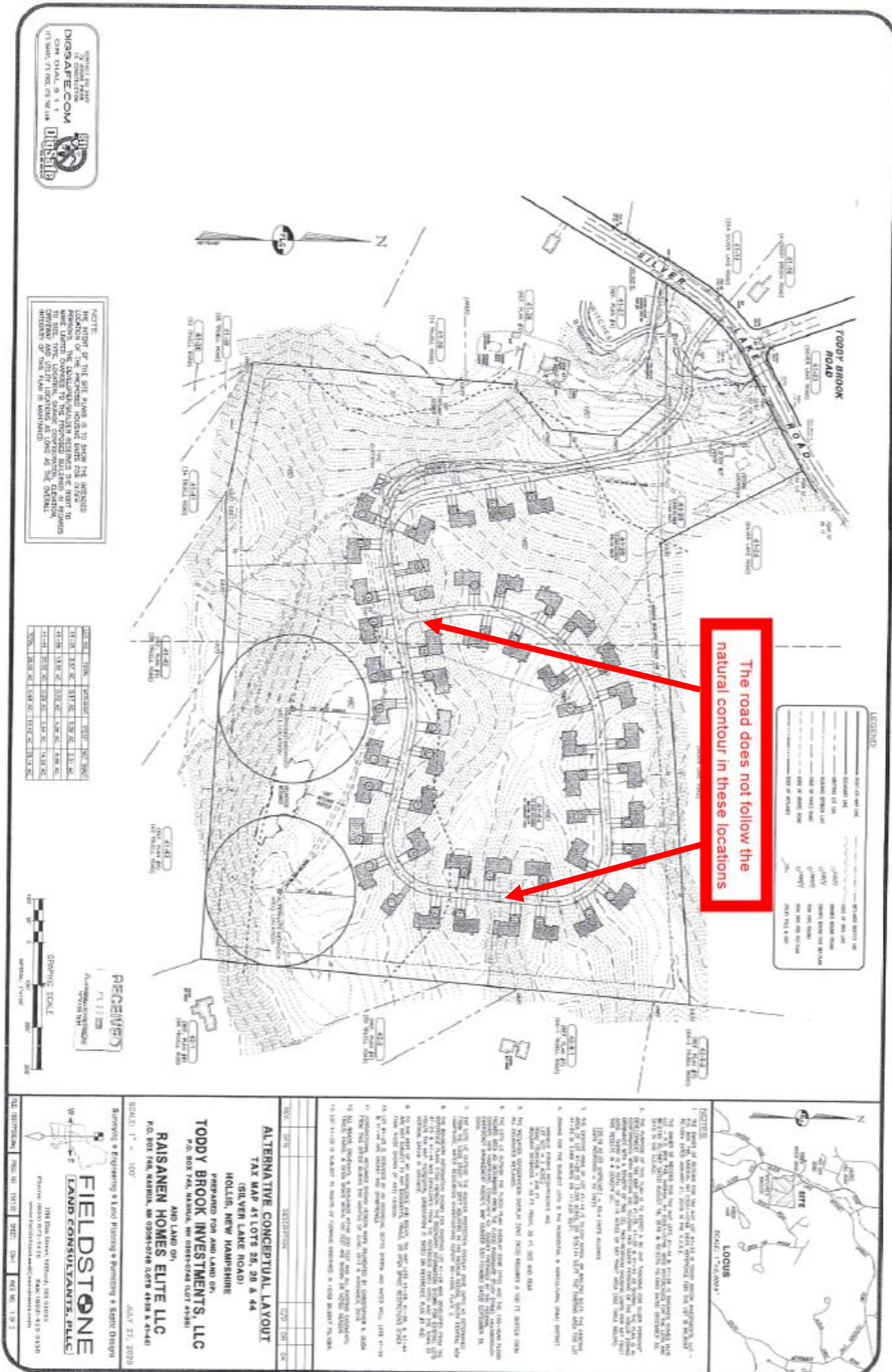


Figure 2 Developer's proposal titled Alternative conceptual layout does not follow the contours of the land at all



Considering the requirements of Hollis Zoning ordinance section XV F 4 as cited above. It is clear that the proposal submitted is not in compliance. I request that the planning board make this known to the applicant and require that the applicant submit a proposal that includes a compliant road which conforms to the natural contours of the land. This may require shortening the road, converting the loop to a cul-de-sac design and or reducing the number of units to be developed.

Minimum Road Standards of Hollis Subdivision regulation section IV.7

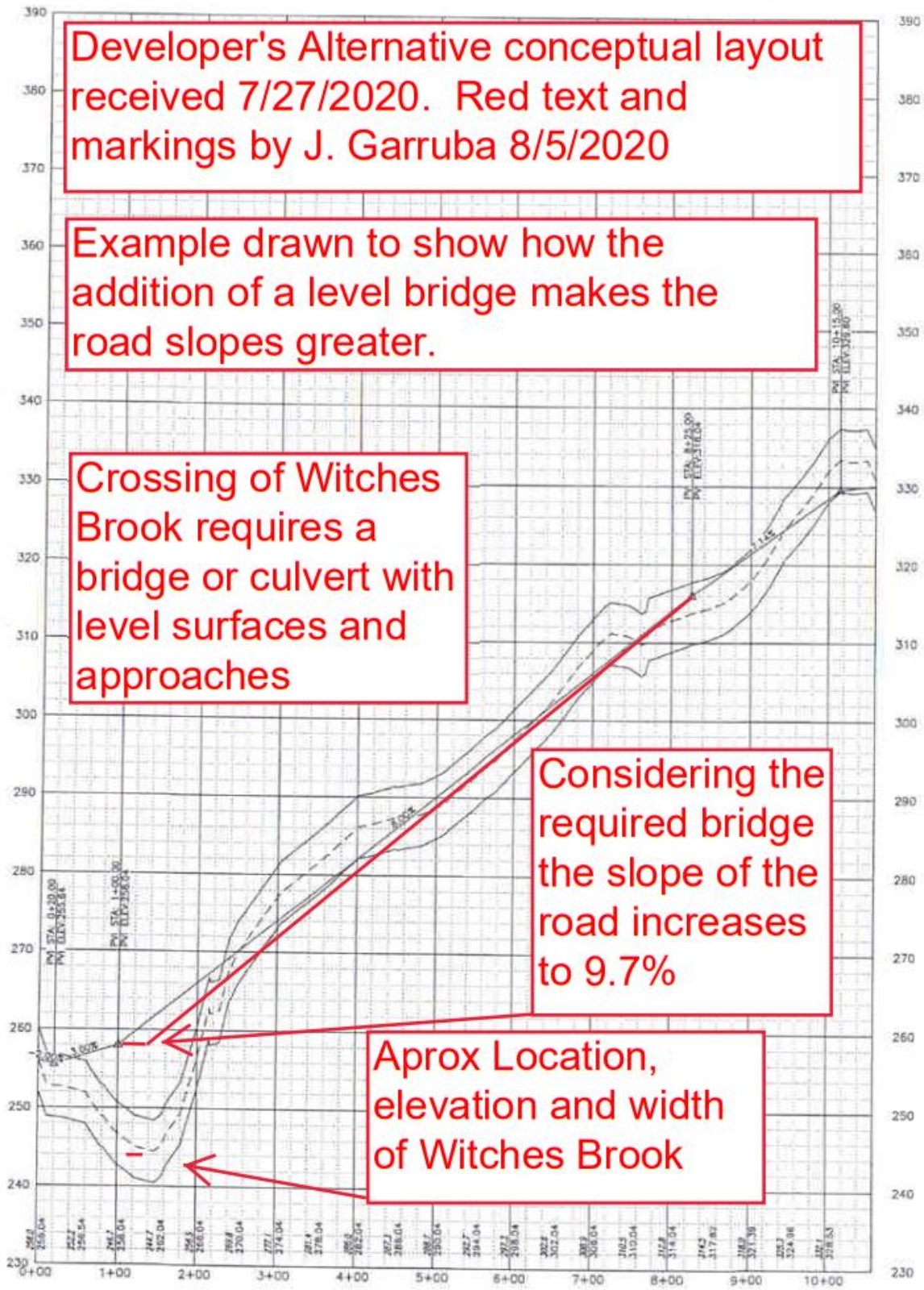
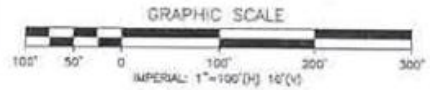
Hollis subdivision regulation section IV.7 sets out several regulations related to the construction of roads and driveways. The developer's submitted proposal has non-compliances or problems with all 5 of the requirements highlighted below. Colored rectangles have been added for emphasis

SECTION IV.7. MINIMUM ROAD STANDARDS – (SEE ROAD STANDARDS SECTION.)

- 1 To help preserve the natural character of the Hollis landscape, new subdivision streets and driveways shall be logically located with respect to the topography of the site to minimize cuts and fills and to provide for reasonable grades and safe intersections.
- 2 New streets and driveways shall not be located where cuts or fills would have to exceed 4 feet in depth, as measured from the roadway/driveway centerline to the existing natural grade, for any consecutive distance exceeding 150 feet along the length of the street/driveway.
- 3 Cuts or fills that do exceed 4 feet shall be limited to one occurrence for every 1000 feet along the length of the street/driveway.
- 4 In addition, streets and driveways shall not be located where the natural slope of the land, averaged over any 150 foot length, would need to be changed by more than 5 percent in order to achieve the maximum grade standard for new streets or driveways, as applicable.
- 5 The applicant shall demonstrate that driveway access from the lot's Frontage can be provided to the Building Area, as defined in the Zoning Ordinance, without the need for any waivers from this provision.

The applicant's alternate conceptual layout shows a roadway crossing Witches' Brook. In order to cross a stream a bridge or a culvert will be required. The road surface above a bridge or culvert will be required to be level due to icing and engineering concerns. For this reason, the submitted profile is not reasonable as the slopes will be required to be steeper than shown to accommodate a level section for the bridge / culvert and its approaches. The following page includes a markup of the developer's alternative conceptual plan submitted on 7/27/2000. The approximate location elevation and width of Witches Brook is included to help visualize the stream crossing and its impact on the proposed roadway. A sample road profile has been drawn simply to illustrate that the added level section makes it more difficult to maintain the maximum grade of the road at 8%. The board should require a realistic proposal of the developer including a bridge if a crossing is proposed in order to evaluate the developer's ability to provide a road that meets Hollis regulations.

Figure 3 Markup of the developer's alternative conceptual plan submitted on 7/27/2000 with deficient stream crossing

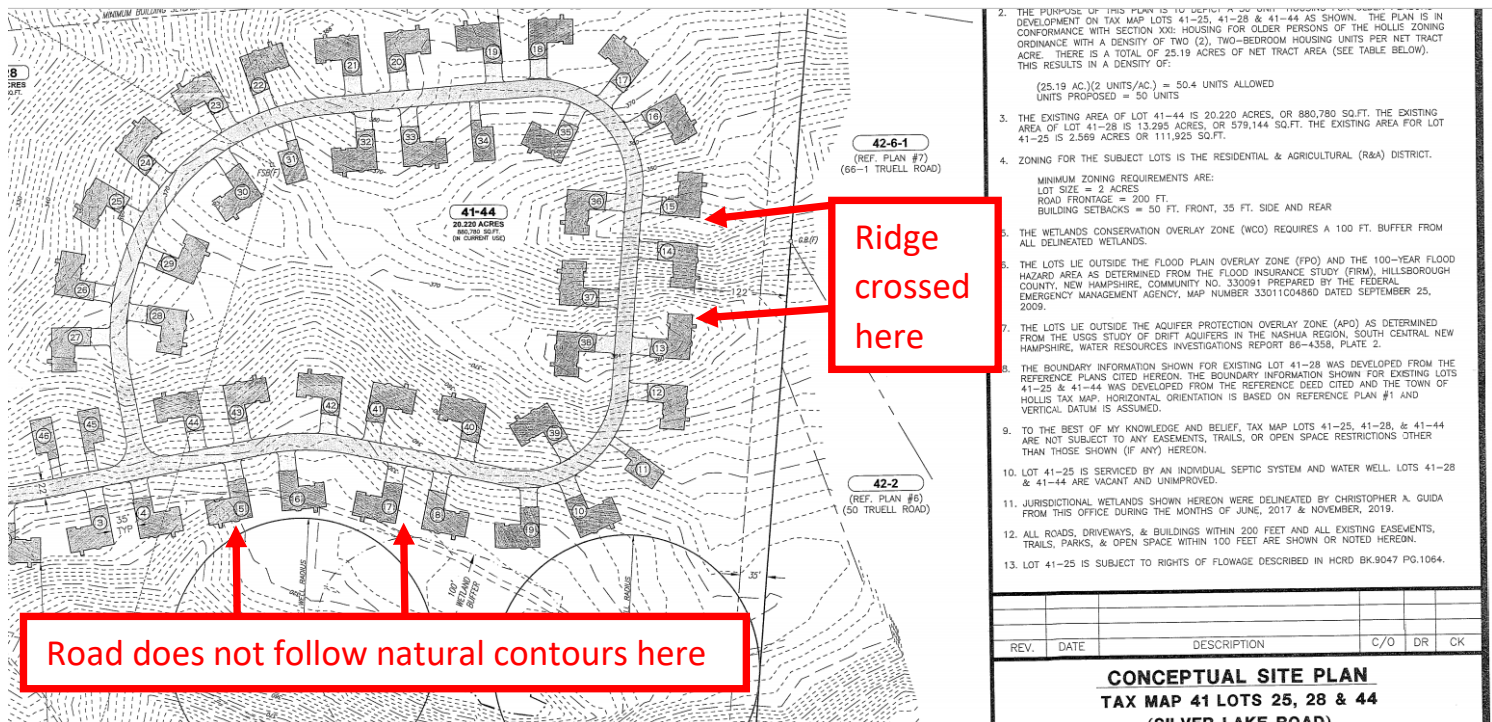


An evaluation of the alternate proposal follows, and it will be shown that even without the required bridge, there are many more non-compliances. Based on the submitted materials, it seems that a compliant road to the western side of this parcel is not viable from Silver Lake Road. The planning board should require the developer to prove that a compliant road could be built before considering any requested waivers.

Item 1 Street and Driveway location relative to topography per Hollis Subdivision Regulation Sec IV.7

This requirement of the subdivision regulation mirrors the requirement quoted above in section XV F 4 of the Hollis zoning regulations. The actual language states *“To help preserve the natural character of the Hollis landscape, new subdivision streets and driveways shall be logically located with respect to the topography of the site to minimize cuts and fills, and to provide for reasonable grades and safe intersections.”* It can be seen from the developer’s proposal that the loop road is not logically located to follow the natural topography and in 2 locations instead of avoiding natural slopes greater than 25% it actually traverses these areas. Specifically, between buildings 5 and 7, a large fill is required and between buildings 15 and 13 a ridge is completely cut. An image of the developer’s site plan received April 27th is included on the following page with text boxes and arrows added in red to highlight the non-compliant roadway sections.

Figure 4 Developer’s conceptual site plan submitted 4-27-2020 showing proposed road crossing natural contours



I am requesting that the planning board require that the developer submit revised plans that satisfy this section of the subdivision regulations by following the natural contour of the land and minimizing cuts and fills. This may require relocating the loop road or changing it to a cul-de-sac design. Due to the slopes on this property the developer may have to remove units from the proposal in order to satisfy this requirement.

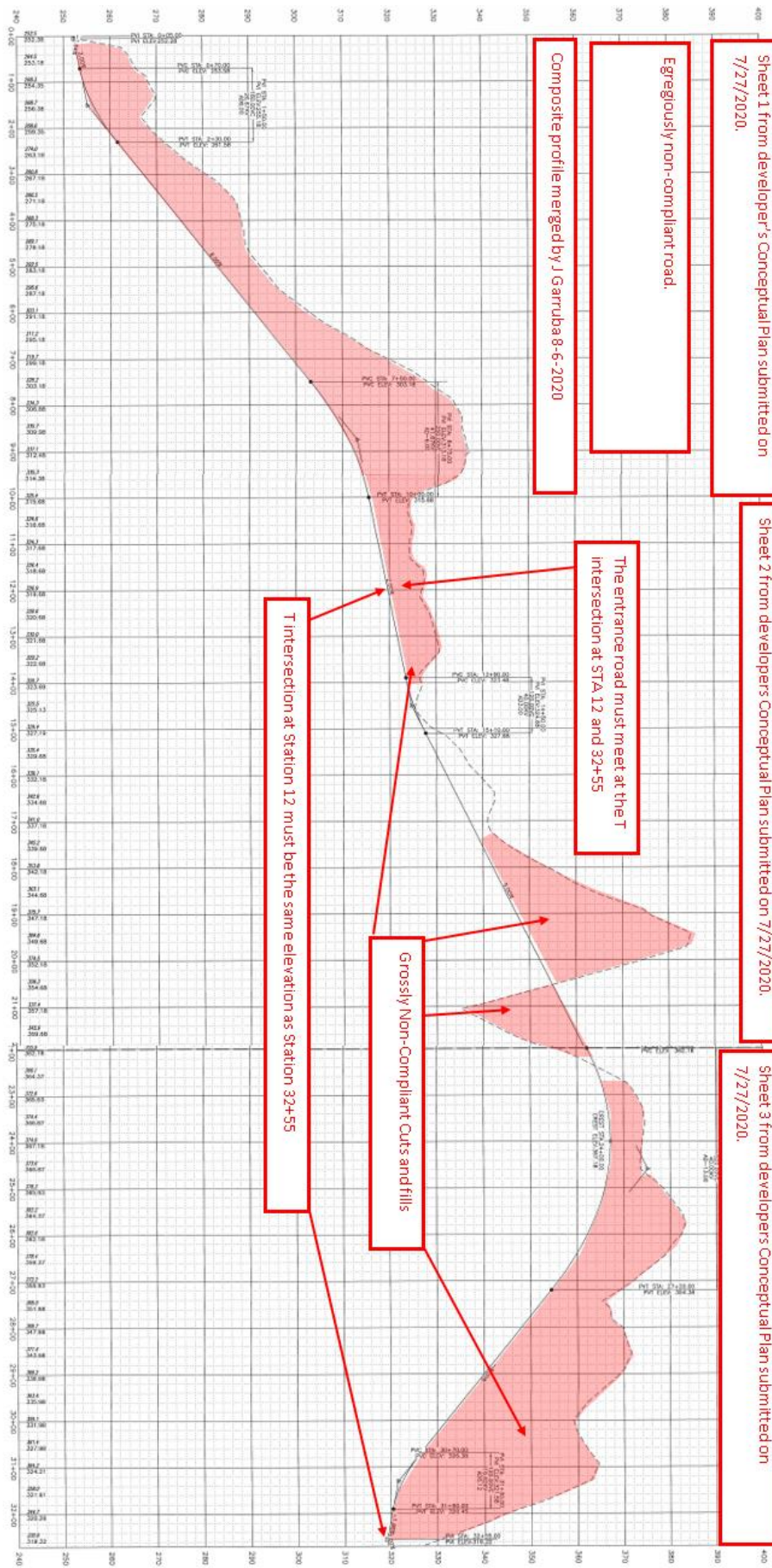
Item 2 Cuts and Fills greater than 4ft per Hollis Subdivision Regulation Sec IV.7

Section IV.7 of the Hollis Subdivision regulations imposes the following requirement. *“New streets and driveways shall not be located where cuts or fills would have to exceed 4 feet in depth, as measured from the roadway/driveway centerline to the existing natural grade, for any consecutive distance exceeding 150 feet along the length of the street/driveway.”* After reviewing the developer’s proposed road profile submitted as Alternative Conceptual Layout on 7/27/2020. I found that although the developer is proposing a road of approximately 3300 feet in length, road profile information was only provided for the first 1300 feet. It is not clear why the developer chose not to provide information on more than half of the road. By reviewing the topographic contours of the site plan it is likely that there will be non-compliances in the areas that were omitted since the proposed roadway crosses areas of slopes greater than 25%.

The alternate proposal profile provided also shows the road crossing Witches Brook but does not include the proper bridge or culvert which directly affect the road profiles since the current plan shows an 8% grade crossing over the stream which is not reasonable. Since the submitted profile is not complete, not realistic and cannot be built as presented, the developer has not provided a proposal that is compliant with the language of this requirement. The planning board should require that the developer submit a proposed road plan that complies with our regulations without the benefit of waivers. If it is not possible to build 50 units in a compliant manner, the developer should downsize the project so it is compliant.

Review of the developer’s proposed conceptual plan road profile shows many egregious non-compliances. On the following page is a composite image of the road profile as provided on 7/27/2020. Sheets 2,3 and 4 have been combined to provide the reader with a continuous view. It can be seen that there are 4 areas where cut or fill is proposed at 4 foot depths for more than 150 feet.

Figure 5 Combined Profile from developers conceptual site plan received 7/27/2020

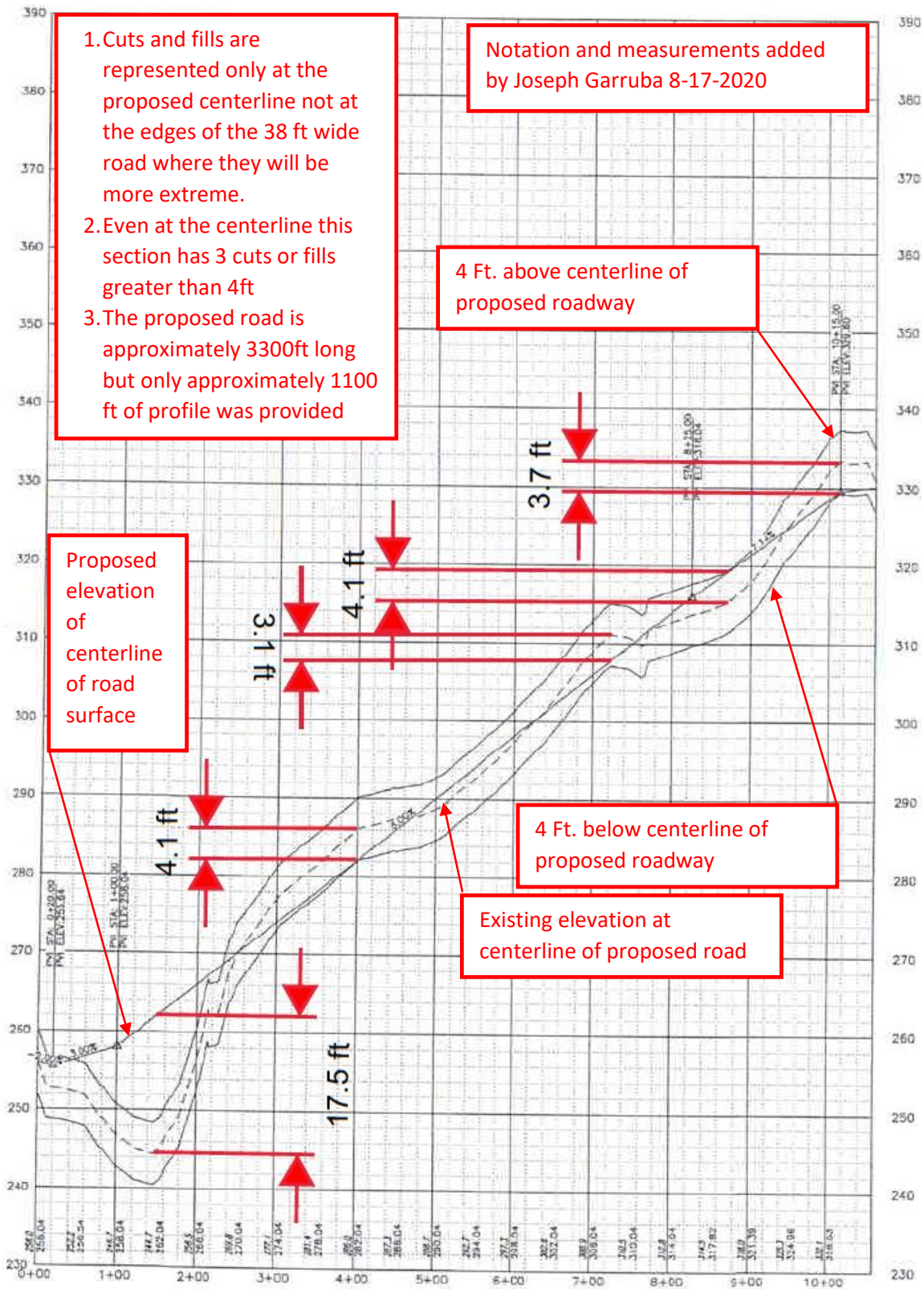
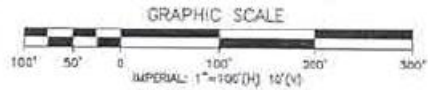


The amount of material removal proposed is astounding. This same developer is presently having difficulty completing a project of much smaller scale in the Keyes Hill development. What could justify granting a waiver of this magnitude? How many cubic yards of earth are proposed to be removed? The amount of noise and truck traffic from an operation of this scale will be tremendous. Will the developer be able to complete this project? They have been waylaid by “unusually hard” rock at the Keys Hill project. Why would we as a town put the abutters of another project through the ordeal that the Keys Hill abutters are suffering through? I am requesting that the planning board not consider a waiver of the road requirements of our subdivision regulations for these reasons. The developer should be required to present a compliant project without waivers.

[Item 3 Num. of Cuts or Fills greater than 4ft per 1000 ft. of road per Hollis Subdivision Regulation Sec IV.7](#)

This requirement is separate and distinct from the requirement preceding it in Section IV.7 which allows for a measurement from the centerline only. The fact that centerline is not included in this requirement indicates that it represents the absolute value across the width of the entire roadway. Although they are not labeled, the developer represents only centerline projections in the road profiles provided including on the alternative site plan submitted on 7/27/2020 as follows. This requirement speaks to the absolute value of the cuts or fills which is likely to be greatest at the edges of the road when the roadway follows a contour line as it does between stations 8 and 9. In addition, the proposed road is approx. 3300 ft. yet the developer did not represent even centerline cuts and fills beyond 1100 ft. An omission of approx. 2000 ft. most certainly does not demonstrate compliance. It can be seen that there are 3 cuts or fills from the centerline to the existing grade greater than 4ft in the first 1300 ft section of road depicted. The developer did not identify the lines on the drawing, but verbally indicated that the lines are all referenced from the centerline of the proposed roadway. Our ordinance does not specify the measurement to be made this way. In fact, our ordinance refers to the absolute amount of cut and fill which would need to be measured at the edges of the 38 ft. wide road and shoulder require. If the profile was drawn correctly, the noncompliance’s would be even more evident. On the following page is an image showing the number and size of the cuts and fills at the centerline in only the first 1300 ft. of roadway provided in the developer’s alternative conceptual plan submitted on 7/27/2020. Measurements and comments have been added in red for emphasis.

Figure 6 Number of cuts or fills greater than 4 ft. from Developer's Alternative site plan received 7-27-2020

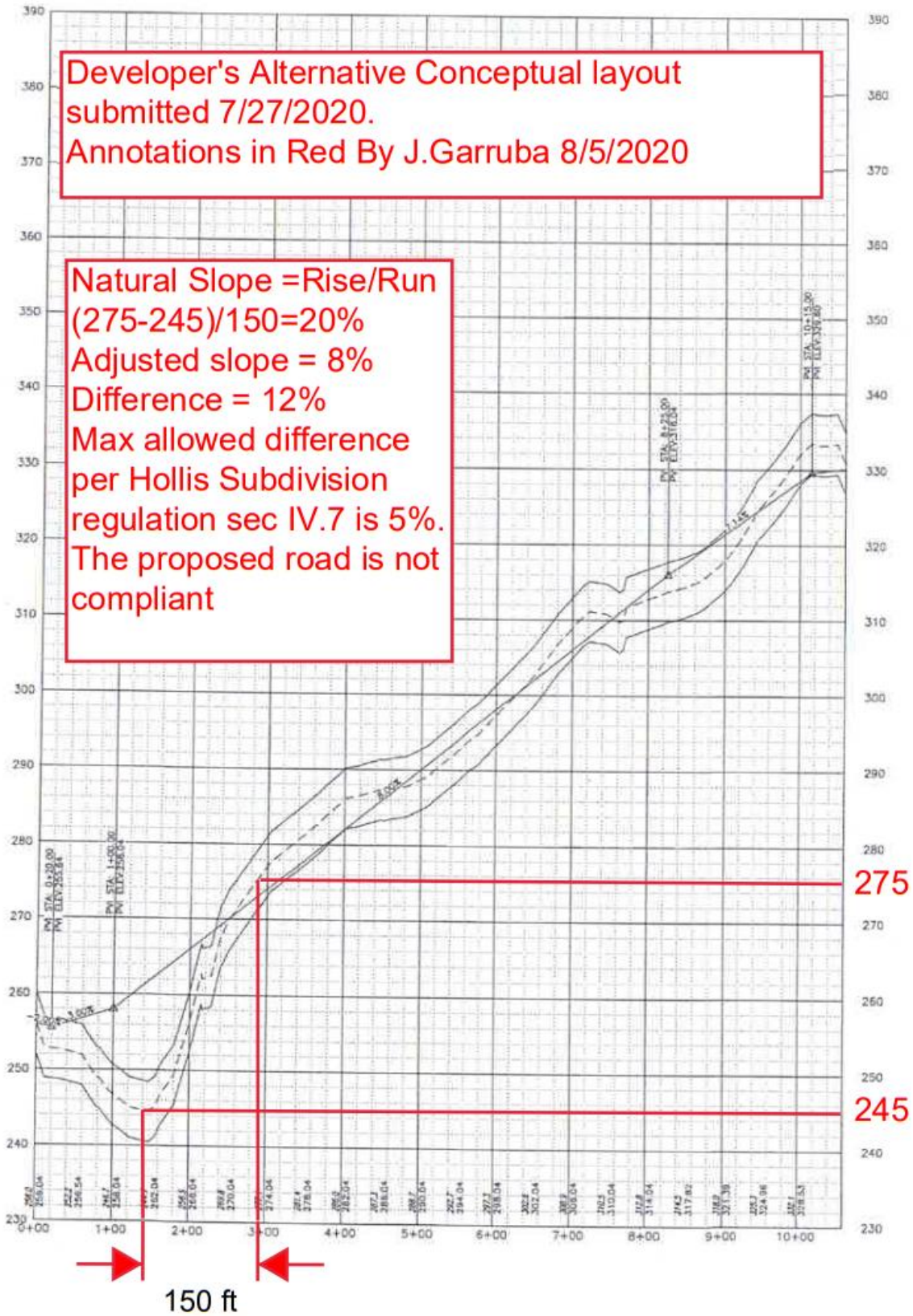
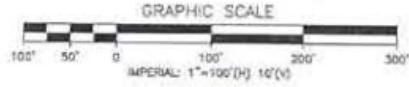


Considering that the developer was requested to present a proposal that did not require waivers for the construction of the proposed development, it is disappointing to see that the submitted material is both incomplete and non-compliant. The board should require the developer to submit a profile for the entire width of the roadway and required shoulder. Our regulations require a minimum of 38 feet including the shoulder. The access road for 50 units is a roadway, not a common driveway. In either case, the profile needs to be provided to the limits of the shoulder for the entire length of the proposed roadway. If the developer cannot prove a compliant development can be constructed, the planning board should request that the number of units be dramatically reduced before considering a waiver.

[Item 4 Street and Driveway variation from natural slope per Hollis Subdivision Regulation Sec IV.7](#)

The language of the fourth requirement of Hollis subdivision regulation in section IV.7 is as follows *“In addition, streets and driveways shall not be located where the natural slope of the land, averaged over any 150 foot length, would need to be changed by more than 5 percent in order to achieve the maximum grade standard for new streets or driveways, as applicable”* The information submitted by the applicant does not address this requirement directly and it is difficult from the submitted profile information to make an assessment of this requirement. Using a very basic method from the profile provided shows that the proposed alternative slope is not close to compliant.

Figure 7 Markup of the developer's alternative conceptual plan submitted on 7/27/2000 with deficient slope modification



The proposed roadway is approximately 3300 ft. long. In order to assess this requirement two sequences of slopes along the outer edges of the required 38-foot-wide road and shoulder are required. These slope points should be taken at 2 foot intervals so that the averages along any 150-foot stretch can be computed and compared against the requirement. I am requesting that the planning board withhold approval of this plan until the developer submits data that will allow the project to be verified against this requirement as written.

[Item 5 Access to Building Area per Hollis Subdivision Regulation Sec IV.7](#)

Section IV.7 of the Hollis subdivision requires that the developer demonstrate access to the Building Areas from the lot's frontage. The specific reference is quoted here. *"The applicant shall demonstrate that driveway access from the lot's Frontage can be provided to the Building Area, as defined in the Zoning Ordinance, without the need for any waivers from this provision."* The materials submitted to date do not show any building areas or how the access will be provided

The requirement is further reinforced by section VIII of the Hollis Zoning Ordinance shown below

BUILDING AREA: An area on a buildable lot that is capable of accommodating a house site (or commercial structure if so planned) and all required utilities such as water supply and wastewater disposal. The Building Area shall be made up of Acceptable Land and may be either a rectangle measuring one hundred (100) feet by two hundred (200) feet or a circle with a diameter of one hundred sixty (160) feet. No portion of the Building Area may be located within a building setback or wetland buffer or on altered/unaltered slopes greater than 25%. The home or building is not required to be placed within the building area. Rather, the building area is intended to ensure that the lot is capable of meeting all Town of Hollis zoning requirements. The applicant shall demonstrate that driveway access from the lot's Frontage can be provided to the Building Area without the need for any waivers. Said driveway shall lie entirely on the subject lot.

Considering the amount of steeply sloped land and wetland on the subject property it is incumbent in the planning board to request that the developer provide a drawing showing how each of the required building areas can meet this requirement.

It is true that Housing for Older Persons developments are exempted from the requirement that only one dwelling unit may be constructed on each lot. Section XXI A d is shown below.

- d. [Housing developments for older persons shall be exempted from the provision, which allows only one dwelling unit to be constructed on each lot.](#)

It can be seen that this exemption does not relieve the developer from proving that the Building Area requirements are met. In addition, this requirement cannot be waived by the planning board. The Building Area requirement is a means of ensuring that there is enough acceptable land to allow for a dwelling. It is particularly important in this proposal due to the amount of steep slopes and wetlands. I am requesting that the planning board require the developer to demonstrate driveway access to each unit's proposed building area.

Building Area requirements of Hollis Zoning Ordinance section IX O

The Hollis Zoning Ordinance in section IX O specifically requires that the developer of a condominium subdivision is required to demonstrate compliance with the Building Area requirements of the ordinance. The site plans submitted by the applicant do not show any of the 51 required building boxes. Considering the amount of slopes greater than 25% on the property, finding space for the building areas will be difficult. The language of the ordinance is quoted below. The rectangle has been added for emphasis.

O. DETERMINATION OF DENSITY FOR CONDOMINIUM DEVELOPMENTS.

The number of permissible dwelling units in a condominium subdivision shall be the same as that which would be applicable for a conventional subdivision of the contemplated housing type. Similarly, any buildings proposed to be built as part of a condominium development shall be required to demonstrate compliance with the Building Area requirements set forth herein

Since this development is proposed as Housing for Older Persons it is exempted from the provision that only one dwelling unit may be constructed on each lot, but it is not exempted from the requirements of section IX O as quoted above. Considering this, I am requesting that the planning board require the developer to demonstrate compliance with the building area requirements of Hollis Zoning Ordinance. Considering the amount of steep slopes and wetlands on the property, this may require a reduction in the amount of units permitted if there is not enough acceptable land for compliant building areas.

Park Requirements of Hollis Subdivision Regulations Section IV.6

Development of a property for sale individually as condominiums is subject to the Hollis Subdivision Regulations. In particular section IV.6 which requires an open space set aside proportional to the number of units to be developed. The regulations specifically require that a buildable area be set aside as a park. Below is an image of the referenced section with rectangles added for emphasis.

SECTION IV.6. OPEN SPACE REQUIREMENTS

- A. In designing a subdivision, the subdivider shall show due regard for all natural features such as large trees, water courses, scenic points, historic spots and other community assets which, if preserved, will enhance the value of the subdivision and enrich the neighborhood.
- B. One suitably located, buildable area shall be set aside as a park or playground equal to one (1) acre for every sixteen (16) house lots or major portion thereof, or five percent (5%) of the total area subdivided, whichever is larger. Area set aside for parks and playgrounds shall be dedicated to public use or reserved for the common use of all property owners in the subdivision by covenant in the deed. Whenever such dedication of land is required, the land shall be left in natural state, clear of construction debris. The Planning Board may consult with the Recreation and Conservation Commissions as to the suitability of proposed park or playground areas.

The developer proposes 50 residential units on 50 house lots for the 36.09 Acres of this project. Calculating the set aside based on house lots results in 50/16 rounded down or 3 acres. Calculating 5% of 36.09 Acres results in 1.8045 Acres. This means that the minimum set aside for this property is 1.8045 Acres. If more than 24 units are built the set aside will be 2 acres. If more than 40 units are built the set aside will be 3 acres.

Considering that this project is a Housing for Older Person's development, it would be appropriate for the set aside to be a park that is dedicated to the town. In the future, this could be a good site for a senior center since there are already 52 retirement homes located just to the north of this project. At the least, the planning board must enforce the requirement that the set aside be **buildable** land. This requires it to be level and to have road access. It is important to note that the town relies on the planning board to enforce the zoning ordinance as written and to act in the interest of the residents of the town by requiring the set asides that were voted for by town residents. I request that the planning board enforce the required set aside in the interests of the residents of our town.

Hollis Zoning Ordinance Section XXI A 1 j: Housing for Older Persons minimum open space

Hollis zoning ordinance section XXI A 1 j requires that developments include a minimum of 40% open space. The proposed site plans submitted by the developer do not address this requirement. It is not possible to evaluate the proposals with respect to this section. An image of the relevant ordinance language is provided below with a rectangle added for emphasis.

- f. No more than fifteen (15%) percent of the tract may be covered by impermeable surfaces.
- g. The design and site layout of the development shall emphasize the rural character of the Town, maximize the privacy of the dwelling units, preserve the natural character of land, provide for the separation of parking and living areas, and consider such factors as orientation, energy usage, views.
- h. The development shall be landscaped so as to enhance its compatibility with the Town with emphasis given to the use of existing, natural features where possible.
- i. The perimeter of the development shall be treated with a landscaped buffer strip to minimize its intrusion on neighboring land uses.
- j. The development shall provide for 40% open space, exclusive of wetlands, surface waters, hydric soils, flood plain, and unaltered steep slopes greater than 25%.

The planning board should have the town's Engineering consultant Michael S. Vignale compute the required areas and independently confirm the material submitted by the developer.

Conclusion

The developer was requested to submit a proposal that met the town's requirements without the benefit of waivers and the materials submitted do not show that 50 units can be developed on the site without waivers. The Planning board should require the developer submit a compliant proposal. This may require that the developer reduce the number of units proposed, but it is incumbent on the planning board to make sure that the ordinances approved by the voters are followed. Allowing the developer to waive requirements of the regulations and ordinances will subject the neighbors to years' worth of construction noise traffic and dust. Judging by the problems that the developer is having with the road that was allowed at the Key's Hill development, they may not be able to complete such a huge undertaking at all. How could a waiver be justified considering what we have learned from prior developments?

The Hollis subdivisions require a park set aside. This park set aside is to serve the existing residents and proposed residents of our town. A community park at this location could be a good location for a senior center or other facility in the future. What purpose would it serve **not** to reserve this land as our regulations require?

The planning board is under no obligation to issue any waivers for this development. In fact, this area of town certainly does not need more senior housing. This corridor from Cobbett hill up through into Amherst already has 4 retirement communities within a mile or so. I request that the planning board hold fast to our ordinances and regulations which are written to ensure that our town retains the natural beauty we love it for. The planning board should require a compliant proposal which may mean that less units are built here.

Regards,

Joseph Garruba