

Town Of Newbury

Office of
THE PLANNING BOARD
12 Kent Way
Byfield, MA 01922
978-465-0862, ext. 312

June 17, 2020

Newbury Zoning Board of Appeals
Newbury Municipal Offices
12 Kent Way
Byfield, MA 01922

Re: The Village at Cricket Lane
Comprehensive Permit Application
Applicant: Cricket Lane, LLC
Walter K. Eriksen, Manager

Dear Members of the Zoning Board of Appeals:

The Planning Board has reviewed the Comprehensive Permit Application submitted by Cricket Lane, LLC, Walter K. Eriksen, Manager, for the proposed "Village at Cricket Lane" 40B development off of Pearson Drive. As Newbury's Housing Production Plan 2018-2022 (HPP) demonstrates, the Town has an acute need for affordable housing, particularly housing that is affordable for young families and for our elder population. However, we have serious concerns about the appropriateness of a residential development of this size and density in the proposed location off of Pearson Drive. We note that Newbury's HPP, which was approved by DHCD in 2018, identifies a number of sites in Town that the Board considers suitable for residential development, including multi-family housing and mixed-use structures in addition to single-family housing. These sites do not include the site proposed for the Village at Cricket Lane 40B project.

Under the Subdivision Control Law, the Planning Board is responsible, among other things, for ensuring that the "safety, convenience and welfare of the inhabitants" of Newbury are protected by providing adequate access to all lots in a subdivision, "securing safety in the case of fire, flood, panic, and other emergencies," and "securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment." The Board also has the responsibility for long-range planning for the Town, including development of policies and strategies to provide a balance of local housing opportunities for all citizens and for the protection and management of natural resources. We have reviewed the Village at Cricket Lane Comprehensive Permit Application with respect to these considerations and offer the following comments:

1. Public Safety:

- a. The proposed development consists of 24 single-family detached dwellings on an 845' long cul-de-sac off of Pearson Drive with two short dead-end spurs. We note that this cul-de-sac length exceeds the maximum length allowed under our Subdivision Rules and

Regulations (500') by 345' and also that dead-ends of any length are not allowed. We note further that this cul-de-sac is proposed to be constructed at the end of an existing subdivision road which is itself a non-through road, with only one connection to another road, Orchard Street. The distance from Orchard Street to the beginning of the loop at the western half of Pearson Drive is approximately 1,500'. Total travel distance from Orchard Street to the beginning of the new cul-de-sac is approximately 3,100' and from Orchard Street to the end of the proposed new cul-de-sac is approximately 3,945', or $\frac{3}{4}$ of a mile. We see construction of this proposed development on a cul-de-sac to be built at the farthest end of this existing non-through road as a major potential safety issue, particularly in case of emergency. A significant amount of consideration went into development of the maximum road length under our Rules and Regulations. Of foremost consideration is the ability and speed with which first responders can reach the residents of a subdivision. The proposed road length absent an alternative means of access poses a serious threat to public safety and significantly lengthens the time for emergency response and poses potential issues for response to traffic incidents. The length of the roadway coupled with the potential for inadequate water pressure at hydrants (see below) poses a significant public safety risk to the residents of the Town. With only one means of access and egress via Pearson Drive, these concerns will be compounded in an emergency situation which necessitates deployment of multiple emergency vehicles to the site.

- b. The Town's Subdivision Rules and Regulations require a minimum roadway width of 22' feet, per request of the Fire Department, to allow two fire trucks or other large emergency vehicles going in opposite directions to pass each other. We note that the cul-de-sac width has been increased to 22' in the current Application from the 20' shown in the Project Eligibility/Site Approval Application and therefore meets the width requirement. However, the two dead-end fire lanes are still only 20' wide, further compounding the access and staging issues that these dead-ends pose for fire apparatus in the event of an emergency.
- c. The length of the cul-de-sac and the width and length of the dead-end fire lanes exacerbate the unsafe condition created by the proposed layout of the houses in the proposed development. We have serious concerns about the fact that the dwelling units are, on average, only 15' apart and the impact that this tight spacing will have on the ability of fire apparatus to go between the buildings to access the rear of the units if needed. Additionally, due to the design of the stormwater management system, many of the dwellings will not be accessible directly from the rear by fire apparatus. These conditions seriously restrict the ability of first responders to properly protect the safety of the residents. Alternative layouts and spacing between dwelling units should be explored to provide full access to all sides of each dwelling by emergency equipment.
- d. Since no public transportation is available, this new neighborhood will be automobile-dependent and will substantially increase the traffic load on Pearson Drive. There are currently no sidewalks on Pearson Drive – all pedestrians and bicyclists must share the roadway with vehicular traffic. The Application states that parking for 102 cars will be provided on site as part of the development, resulting in an estimated 283 traffic trips per day on weekdays and 269 traffic trips per day on weekends. The Traffic Assessment by TEPP LLC included in the Application states that these numbers of traffic trips will have "no significant overall traffic impact for the area." We respectfully disagree. The addition of 102+ cars traveling the entire length of Pearson Drive to reach the new development, plus any additional visitor vehicles, delivery vehicles, etc., will exacerbate existing safety concerns for pedestrians and bicyclists. This is of particular concern not only for children who currently live on Pearson Drive, but also for children from the new

development who will need to walk the length of Pearson Drive to and from the school bus stop on Orchard Street.

- e. The sight lines for cars exiting Pearson Drive on to Orchard Street are very poor, especially to the left (east). The addition of up to 283 traffic trips per day, with the Pearson Drive/Orchard Street intersection as the only point of entry to and exit from the proposed development, will increase the potential for accidents at that intersection. In addition, signage at the island at the entry to Pearson Drive will need to be improved to ensure that the entry and exit lanes are clearly marked. This condition must be addressed in any final design.
2. **Project Design:** While we commend the development team's intention to provide housing that is similar in size and scale to the existing homes on Pearson Drive, we find that the proposed design does not, in fact, accomplish this goal. The project is significantly denser than the Pearson Drive development, which when designed required a 20,000 s.f. minimum lot size and 40' front yard setback. While the number of house design options has been increased from the two shown in the Project Eligibility/ Site Approval Application to three – two for a three-bedroom unit and one for a four-bedroom unit – the limited number of options still results in a uniformity of design which is inconsistent with the surrounding neighborhood. We recommend that additional design options, as well as the possibility of reducing the density of the development, be explored.
3. **Project Impact on the Parker River and Water Supply:** Newbury, like many of the surrounding communities, has experienced periods of drier than normal weather conditions in recent years and the Byfield Water District has frequently instituted mandatory water restrictions. We note that these restrictions are in place currently. Residents of Pearson Drive have commented on frequent low water pressure, especially at times of heavy use. Both the Parker River Clean Water Association and the PIE-Rivers Partnership have noted that the Parker River is considered one of the most highly stressed rivers in the Commonwealth. The Board is concerned that the water needs of 24 new single-family homes, with a total of 79 bedrooms, will further stress the Parker River and that water pressure will be further compromised, with a negative impact on pressure at the fire hydrants and for the residences. We encourage the Applicant to explore ways to conserve water, such as capturing and recycling rainwater and gray water and installation of low-flow plumbing fixtures. Further, because of public safety concerns, we recommend that multiple additional water pressure tests be conducted at the fire hydrant closest to the project site during periods of peak water demand to ensure that adequate water pressure is provided for fire-fighting; the results of only one test, conducted in 2017, is included in the Application.
4. **Priority Habitat:** The Project Site abuts the Martin Burns Wildlife Management Area, which contains Priority Habitat for state-listed rare species, as shown in the 14th Edition Natural Heritage Atlas, dated August 1, 2017. As an unimproved parcel, the proposed project site provides an important buffer between this Priority Habitat and the existing residential development on Pearson Drive. Further, one vernal pool, identified during the previous permitting process for this project, was identified on the site and has since been certified. A second potential pool was also identified on the site, but has not been certified. We note also that as a Wildlife Management Area, Martin Burns is used actively for hunting during many months of the year; the proposed project; the proposed layout shows several houses located within 40 feet or less from the Martin Burns property line.
5. **Unit and Bedroom Mix:** Our understanding is that the affordable units are required to be substantially equivalent to the market rate units. We note, however, that while the market rate units include six 4-bedroom units and twelve 3-bedroom units, only one of the affordable units

has four bedrooms. Since 33% of the market rate units are 4-bedroom units, it would seem appropriate that 33% of the affordable units, two total, also be 4-bedroom units.

6. Accessibility: There is no indication in the Application that any of the units will be Handicapped Accessible (ADA/AAB compliant). While accessibility may not be required by law, strong consideration should be given to incorporating Universal Design principles into both the affordable and the market rate units and to making some percentage fully accessible, especially given that Newbury's population is aging, as shown by data gathered for both the HPP and the current Master Plan update.
7. Site Design:
 - a. Stormwater Management: While Newbury's Subdivision Rules and Regulations call for use of low-impact development (LID) techniques for stormwater management, the design drawings show curbing, catch basins, and other hard structures in addition to a detention pond. The stormwater management design should be reviewed to see what additional opportunities there are for LID.
 - b. Open Space: While the project Narrative states that 74% of the site is being maintained as open space, we note that 5.31 acres, or 48% of this open space, is wetlands and therefore must remain open. The only open space that is available for active recreation (soccer field and swing set) is on top of and immediately adjacent to the leaching areas for the shared septic system.
8. Compliance with MassHousing Requirements: Page 2 of the Narrative states, under paragraph G. that the "Development will comply with the Commonwealth's Sustainable Development Principles embraced by DHCD." As the Board noted in its September 20, 2019 letter regarding the Project Eligibility/Site Approval Application, there are a number of areas in which the Application does not comply with these Sustainable Development Principles. We repeat those here:
 - a. Concentrate Development and Mix Uses: Through its Open Space Residential Development (OSRD) By-Law, the Town encourages cluster development to promote preservation of open space and associated habitat (both upland and wetland), agricultural land, etc. However, we note that the design of the proposed Byfield Estates uses virtually all the developable upland on the site. The remaining "open space," other than a grassed area over and adjacent to the leaching areas for the shared septic system, is comprised almost entirely of wetlands – open space that must be preserved in any case. Further, we note that while the proposed development may have sidewalks and therefore be considered "pedestrian-friendly," Pearson Drive itself has no sidewalks, nor does Orchard Street, to which Pearson Drive connects, nor do most of the roadways in Newbury.
 - b. Advance Equity and Make Efficient Decisions: As stated above, we note that the project does not incorporate any Universal Design principles and none of the units is designed to be handicapped accessible. Given the aging population of the town and therefore the age of those who may be interested in these units, we encourage the Applicant to design the units to Universal Design standards and develop some units to meet ADA/AAB requirements. Further, while we agree that the development will provide a few much-needed affordable units, it is unclear to us how a development of the proposed density will "improve the neighborhood," which is well-established and well-maintained.
 - c. Protect Land and Ecosystems: Again, the Applicant states that clustering the 24 single family homes will allow a "significant portion of the site [to be] left as open space." As noted above, virtually all the upland on the parcel is being developed – the majority of

the open space, other than what is over the shared septic system, will consist of wetlands. The project, rather than protecting habitat, will be removing important wildlife habitat which is adjacent to the Martin Burns Wildlife Management Area and area that has been identified by Natural Heritage as Priority Habitat for Endangered and Threatened Species. While the proposed project now identifies 4.82 acres to be deeded to the Massachusetts Division of Fisheries and Wildlife, we note that 3.40 acres of this area is wetlands and therefore unbuildable. The remainder of the site will be densely developed.

- d. Use Natural Resources Wisely: It is not clear from the Application documents to what degree “alternative technologies” and “innovative” techniques are being used to conserve natural resources. As previously noted, the project site contains significant wetland resources and is located in a stressed watershed. The proposed stormwater system appears to rely heavily on conventional stormwater management strategies, such as curbing, catch basins, and other hard structures. Further, there is no mention in the Application of potential alternative technologies for wastewater management and water conservation measures, such as recycling of gray water and rain water, use of low flow plumbing fixtures, etc.
- e. Expand Housing Opportunities: We note that the project site is not near any employer of any size, other than Triton and the Governor’s Academy, or near any regularly scheduled public transit. While the Applicant has stated that the affordable units will be priced to be affordable to households earning 80% of the median income for the area, we note that none will be priced to be affordable to low income households.
- f. Provide Transportation Choice: The proposed development is not walkable to any regularly scheduled public transportation. Further, it is not walkable to local amenities, which are, on average, at least 1.5 miles away and accessible only by rural roads with no sidewalks. Travel to and from the proposed development will require, rather than reduce, dependence on private automobiles, and the development will not increase or promote bicycle and pedestrian access. This will be an automobile-dependent neighborhood.
- g. Increase Job and Business Opportunities: We would like an explanation of how the project “Re-uses or recycles materials from a local or regional industry’s waste stream,” how it will “support manufacture of resource-efficient materials, such as recycled or low-toxicity materials,” and how it will “support businesses that utilize locally produced resources such as locally harvested wood or agricultural products.” Adequate explanation has not been provided.
- h. Promote Clean Energy: More explanation is needed on how the project will maximize energy efficiency and renewable energy opportunities. The homes could, for example, be built to meet the Stretch Energy Code, not just Energy Star standards, and/or could incorporate renewable energy systems in addition to the proposed roof-mounted solar panels.
- i. Plan Regionally: We note again that while Newbury’s Housing Production Plan 2018-2022 identifies a serious need in Town for affordable housing, the site of the proposed project is not one that is identified in the HPP as appropriate for a subdivision or residential development of this density.

9. Site Control:


- a. The Narrative states that “the developer is the owner and applicant for this Development” and refers to a deed for the property attached to the Application as “Exhibit O.” Exhibit O, however, does not contain a deed for the property. Rather, it contains two Purchase and Sale Agreements between Byfield Estates, LLC, and Walter K. Eriksen, Jr., one for the home and lot at 55 Pearson Drive and one for the “approximately 16 acres” which comprise the project site and which are identified in the Application as 55R Pearson

Drive. It therefore appears that the Applicant is not yet the owner of the property. In addition, we note that both of these Purchase and Sale Agreements stipulate that a "closing must take place no later than 6/1/2020 and, failing that, this Agreement shall become null and void... unless both parties mutually agree to extend said time period further in writing." If it has not already been provided, we recommend that the ZBA request written confirmation that these two Purchase and Sale Agreements are not null and void, but have been extended as required, or that the closings have taken place. Further, as noted in our previous letter regarding the Project Eligibility/Site Approval Application, the Town would like assurances that Mr. Haralambos Katsikis, who signed the Purchase and Sale Agreements on behalf of Byfield Estates, LLC, will not be involved in the proposed project in any way or at any time other than as the Seller of the property, due to his failure to disclose felony indictments on the previous Byfield Estates Comprehensive Permit Application for this site.

- b. We continue to question the Applicant's assertion that the subject property, identified as "55 Rear Pearson Drive" in the Comprehensive Permit Application, is in fact a separate buildable lot. The Application identifies the area to be developed as a 15.08 acre parcel of land at 55 Rear Pearson Drive. However, referencing an ANR Plan that was endorsed by the Planning Board on December 21, 2005, and recorded at the Southern Essex District Registry of Deeds on February 21, 2006 (Plan Book 396, Plan 5), the "affected" parcel is not a standalone parcel, but was created and merged with 55 Pearson Drive through that ANR Plan. What the Applicant calls 55 Rear Pearson Drive is identified on this Plan as Parcel B, and is described thus: "Parcel B is not a buildable parcel by itself, but is to be combined with Map R-20, Lot 75, to form one continuous parcel containing 16.36 +/- acres." Our Assessors database contains only 55 Pearson Drive, with an area of 16.36 acres. It does not contain any parcel identified as 55 Rear Pearson Drive.

Thank you for your consideration of these comments and observations with regard to the proposed Village at Cricket Lane 40B development. Should you have any questions, please contact me or Martha Taylor.

Sincerely,



Peter Paicós, Chair
Newbury Planning Board

Attachments: 55 Pearson Drive, Property Record Card
55 Pearson Drive, Parcel Map
Approval Not Required Plan, Plan Book 396, Plan 5, Sheets 1 through 3 of 3

PROPERTY LOCATION

No	Alt No	Direction/Street/City
55		PEARSON DR, NEWBURY

OWNERSHIP

Owner 1:	BYFIELD ESTATES LLC	TR
Owner 2:		
Owner 3:		
Street 1:	2 DEARBORN WAY	
Street 2:		

Town/City: MIDDLETON

St/Prov: MA	Country	Own Occ: N
Postal: 01949		Type:

PREVIOUS OWNER

Owner 1: SMITH - JEFFREY J	
Owner 2: MCLAUGHLIN - MICHAEL S	
Street 1: 1 ASHLEY LANE	
Town/City: MERRIMAC	
St/Prov: MA	County
Postal: 01860	

NARRATIVE DESCRIPTION

This parcel contains 16.36 ACRES of land mainly classified as ONE FAM with a SPLIT ENT Building built about 1983, having primarily CLAPBOARD Exterior and 1096 Square Feet, with 1 Unit, 1 Bath, 0.34 Bath, 1 HalfBath, 6 Rooms, and 3 Bdrms.

OTHER ASSESSMENTS

Code	Descrip/No	Amount	Com. Int
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PROPERTY FACTORS

Item:	Code:	Description	%	Item	Code:	Description:
Z				water	3	WATER
D				Sewer	0	SEPTIC
n				Electr		
Census: 2681				Exempt		
Flood Haz:						
D	2	2	100	Topo		
s				Street		
t				Gas:		

LAND SECTION (First 7 lines only)

Use Code	Description	LUC Fact	No of Units	Depth / Price/Units	Unit Type	Land
101	ONE FAM	1.0	43560		SQUARE FSITE	
101	ONE FAM	1.0	15.36		ACRES	EXCES

IN PROCESS APPRAISAL SUMMARY

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value
101	16.360	191,300	1,900	322,600	515,800

	Market Adj. Cost	Total Value per SQ unit/Card	P/Parcel
Total Card	16,360	191,300	515,800
Total Parcel	16,360	191,300	515,800

PREVIOUS ASSESSMENT

Tax Yr.		Use	Cat.	Blg Value	Yrd Items	Land Size	Land Value	Total Value	Assesd Value	% of Total
2019	101	FV		195,900	500	16.36	322,600	519,000	519,000 Y	
2018	101	FV		175,600	500	16.36	300,800	476,900	476,900 Y	
2017	101	FV		175,600	500	16.36	300,800	476,900	476,900 Y	
2016	101	FV		176,400	500	16.36	300,800	477,700	477,700 Y	
2015	101	FV		188,300	500	16.36	261,600	430,400	430,400 Y	
2014	101	FV		188,300	500	16.36	261,600	430,400	430,400 Y	
2014	101	10		188,300	500	16.36	261,600	430,400	430,400 Y	
2013	101	FV		164,800	500	16.36	272,500	437,600	437,600 Y	

SALES INFORMATION

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	Y	Tst V
SMITH,JEFFREY J	36892-493		5/3/2018	PRIV SALE	775,000	No	No
SMITH,JEFFREY J	34428-106		10/7/2015	CONVENIENCE	100	No	No
SMITH,JEFFREY J	27941-42		7/25/2008	CONVENIENCE		No	No
OLJEY TIMOTHY L	24682-254		9/28/2005		390,000	No	No
OLJEY TIMOTHY L	07223 0126		9/22/1983		85,000	No	No
PEARSON MARY M	06574 0767		9/22/1983			Yes	No

BUILDING PERMITS

Date	Number	Description	Amount	C/O	Last Visit	Fed Code	F. Descrip

ACTIVITY INFORMATION

Date	Result	By	Name
10/26/2018	MEASURED	427	DEREK P
8/12/2010	MEAS DENIED	372	PAT WELCH
12/22/2005	MEASURED	197	MIKE CASSIDY
11/17/1995	MEASURED	197	MIKE CASSIDY
10/23/1988	MMC CONV	500	CONVERSION

Sign:

Type	LT Factor	Base Value	Unit Price	Avg	Neigh Inflr	Neigh Mod	Infl 1 %	Infl 2 %	Infl 3 %
		0	5.	1.00 NG	1.00				
SS		0.15,000.		0.46 NG	1.00	WET	-35		

Alt	%	Spec	J	Fact	Use Value	Notes
Class		Land	Code			
					217,800	
					104,800	

Total:	322,632	Spl. Credit	Total:	322,600
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Database: AssessPro - Newbury

2020

SKETCH

8	WDK (144)	18
24	FEL LIV (1086)	30

24	4	10
FFL (24)		FFL (10)

AREA		SUB AREA DETAIL			
Description	Area - SQ	Rate - AV	Under Value	Sub %	% Type
1ST FLOOR	1,098	129,630	142,079		
LOWR LEVEL	1,056	51,850	54,757		
WOOD DECK	144	12,940	1,864		
Net Sketched Area: 2,296		Total:	198,700		
Ad	1096: Gross Are	2296	FinAre	1096	

IMAGE

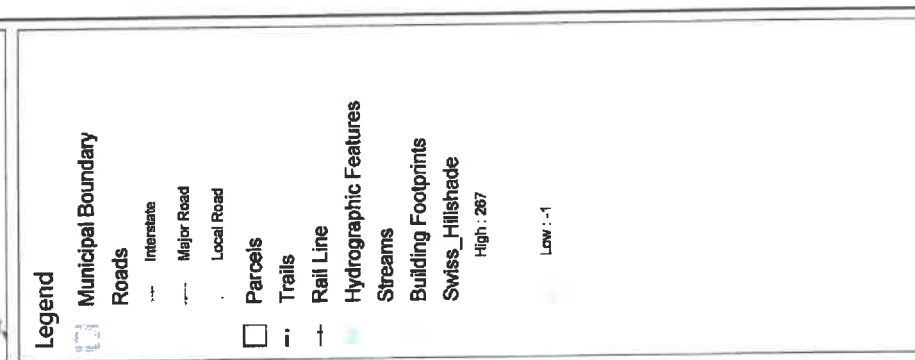
AssessPro Patriot Properties

Month:	75
Units Value	500
	1,400



AssessPro

IMAGE



1:2,974

Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the Town of Newbury & MassTDS/MSO. The information displayed on this map is for planning purposes only. It may not be adequate for legal boundary/district or regulatory interpretation. THE TOWN OF NEWBURY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE TOWN OF NEWBURY DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.

Miles

Projection: NAD_1983_StatePlane_Massachusetts_Mainland FIPS 2001

PLAN BOOK 356 MAP 5
 5/30/96

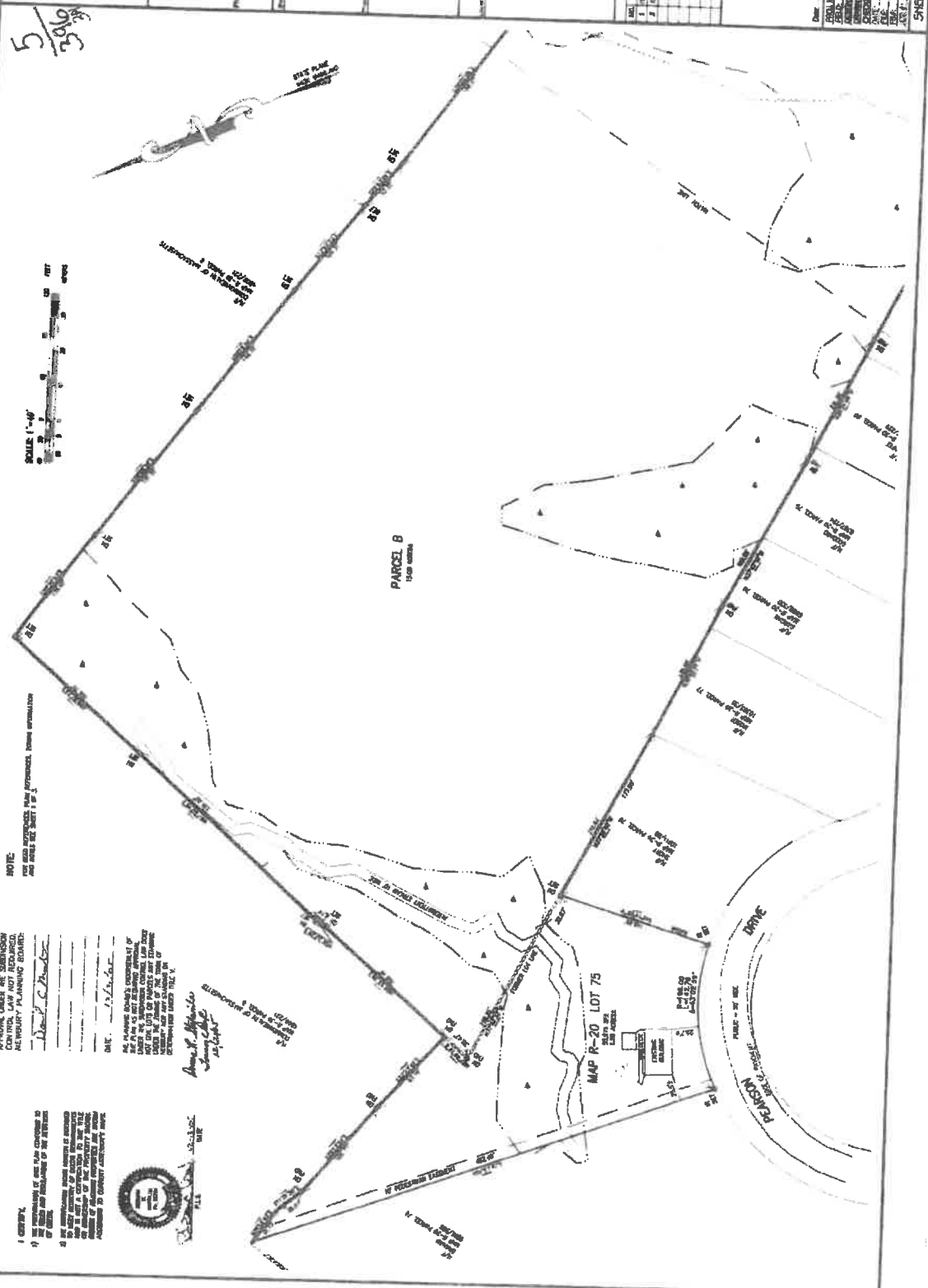
CE
 207 GLEN STREET, AUBURN, MA
 Phone: 617/883-4377 Fax: 617/883-4378
 CONSULTING ENGINEERS &
 LAND SURVEYORS MASS REG.
 No. 10740 State Registration

APPROVAL
 NOT REQUIRED
 PLAN
 PIKE
 DEVELOPMENT
 LLC
 ORCHARD STREET
 NEWBURY, MA

PIKE
 DEVELOPMENT
 LLC
 1 ASHLEY LANE
 AUBURN, MA 01501

NO.	DATE	DESCRIPTION	BY	CHKD.
1	11-10-95	200' ASHLEY DRIVE	CE	CE
2	12-11-95	200' ASHLEY DRIVE	CE	CE

DATE: 11/10/95
 DRAWN BY: J. SMITH
 CHECKED BY: J. SMITH
 SCALE: 1" = 40'
 SHEET 3 of 3



NOTE:
 FOR AREA REFERENCES, PLANT REFERENCES, TOWN INFORMATION
 AND AREA SEE SHEET 1 OF 3

1. CERTIFY:
 a) THE INFORMATION OF THIS PLAN CONFORMS TO
 THE REQUIREMENTS OF THE MASS REGISTRATION
 ACT AND THE REQUIREMENTS OF THE ATTORNEY
 GENERAL.
 b) THE INFORMATION OF THIS PLAN CONFORMS TO
 THE REQUIREMENTS OF THE MASS REGISTRATION
 ACT AND THE REQUIREMENTS OF THE ATTORNEY
 GENERAL.

CE
 207 GLEN STREET, AUBURN, MA
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APPROVAL
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 PLAN
 PIKE
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 NEWBURY, MA

PIKE
 DEVELOPMENT
 LLC
 1 ASHLEY LANE
 AUBURN, MA 01501

NO.	DATE	DESCRIPTION	BY	CHKD.
1	11-10-95	200' ASHLEY DRIVE	CE	CE
2	12-11-95	200' ASHLEY DRIVE	CE	CE

DATE: 11/10/95
 DRAWN BY: J. SMITH
 CHECKED BY: J. SMITH
 SCALE: 1" = 40'
 SHEET 3 of 3