



O'Leary-Burke Civil Associates, PLC

CIVIL ENGINEERING | REGULATORY AND PERMIT PREPARATION | LAND SURVEYING | CONSTRUCTION SERVICES | LAND USE PLANNING

June 20, 2025

Sharon Kelley
Zoning Administrator
Town of Essex
81 Main St. Essex Jct., VT

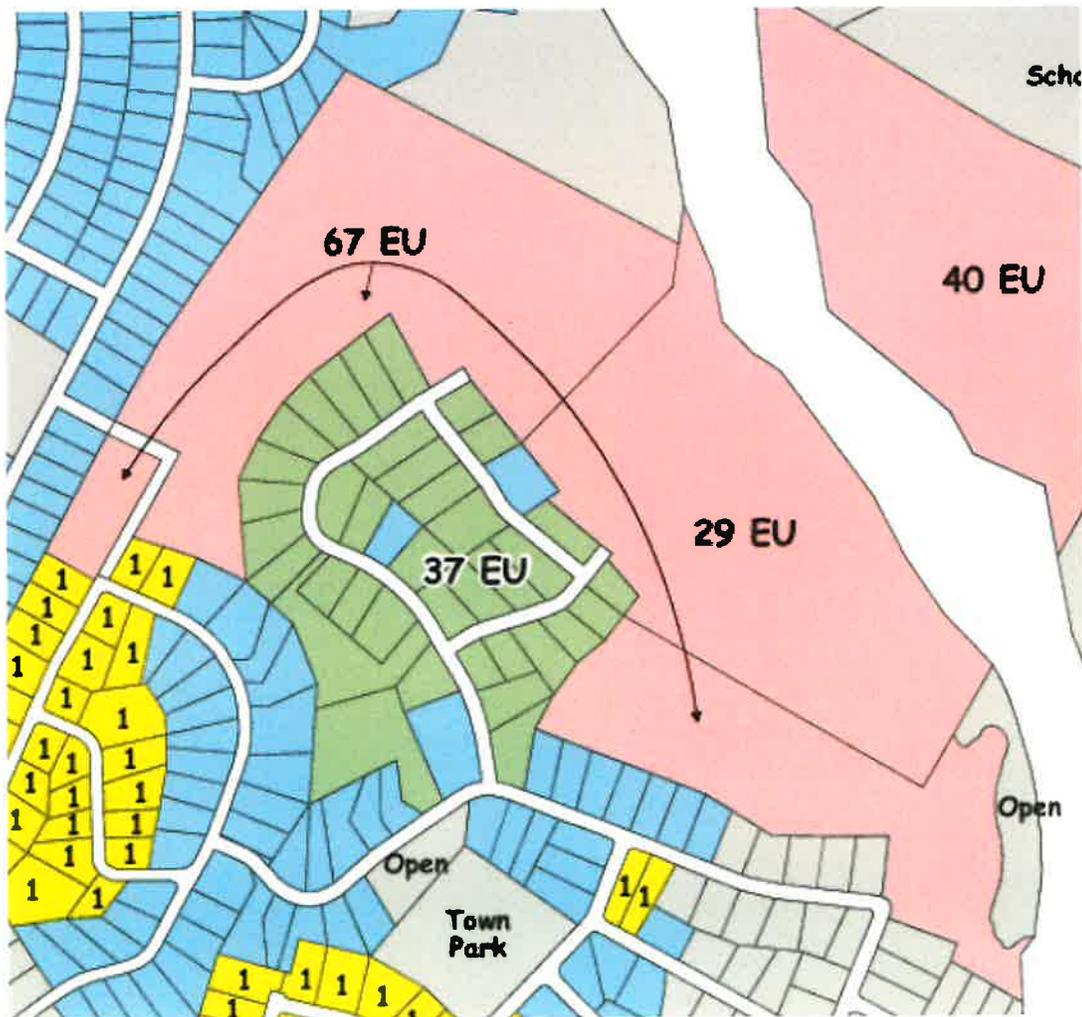
RE: Pinewood Subdivision – Section I
Preliminary Plan Application
Waiver Request

Dear Sharon:

We are writing on behalf of Pinewood Manor, Inc. c/o Brian Marcotte to request the Development Review Board consider a waiver to minimize impact to slopes considered steep according to the Town of Essex Zoning Regulations; Section 5.6 Site Plan Review, Item 2; *“Steep slopes – Development is discouraged on slopes of 15 percent or steeper due to the likelihood of erosion and stormwater runoff problems. Development shall be prohibited on slopes of 20 percent and steeper due to the likelihood of environmental damage.”* The Applicant is asking for consideration of this waiver under Town of Essex Subdivision Regulations Section 2.1 Waivers; *“Where the Planning Commission finds that extraordinary and unnecessary hardships may result from strict compliance with these Regulations, or where there are special circumstances of a particular subdivision, it may make the minimum modifications to the Regulations necessary to afford relief without nullifying or adversely affecting the intent and purpose of the Town Plan or the Zoning Regulations.”* It should be noted that the Applicant does not believe a formal waiver request is necessary to approve the Pinewood Section I preliminary application as proposed and providing a waiver request was not a condition of approval nor required from the Planning Commission at the project’s Sketch Plan approval on December 8, 2022. The condition of approval from the sketch plan application #2 (a) states the preliminary plan shall; *“Demonstration that the proposal will adequately avoid, minimize, and mitigate potential erosion and stormwater impacts resulting from construction on slopes greater than 15% grade.”* This formal waiver request is being provided to satisfy a request from the Town’s Planning and Zoning Staff and keep the project moving forward. The Applicant requests the Development Review Board consider the following, in determining if the Pinewood Section I Preliminary Application should be granted a waiver for achieving minimized impacts to “steep slopes” under Section 2.1 noted above:

Pinewood Manor is a long-established subdivision built out in various phases by the Marcotte family since the 70s and makes up a significant number of middle class / “missing

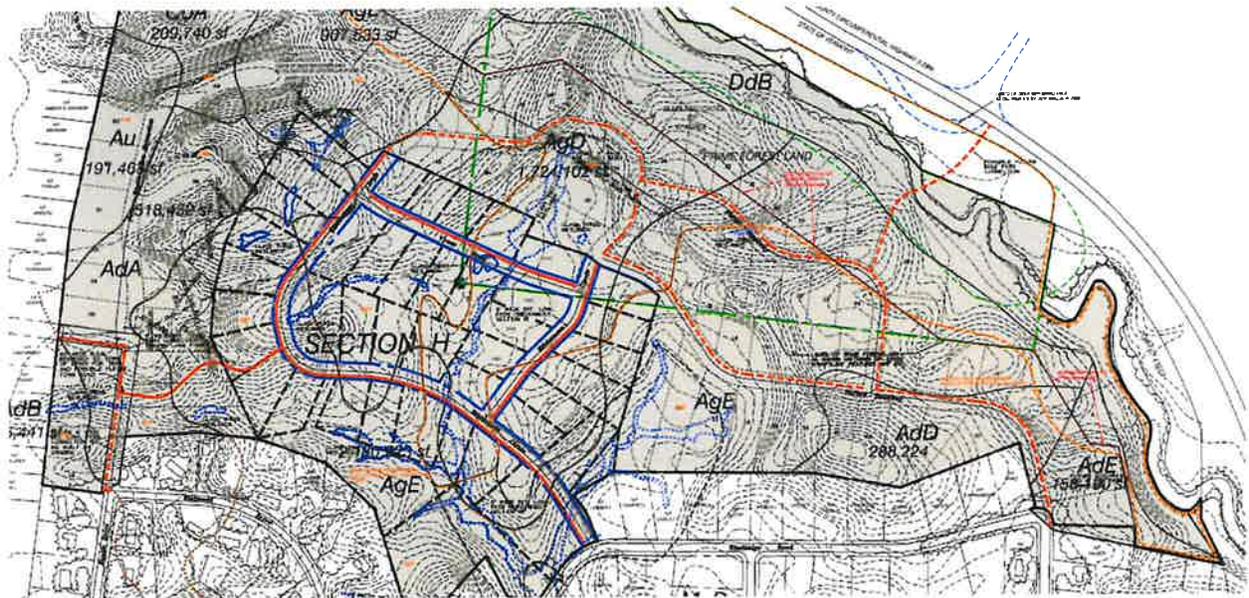
middle” housing choices within the Town of Essex. The subdivision started with Section A, and has applied for Preliminary approval of Section I. As part of the phased build-out of Sections H-J a Master Plan was approved by the Town of Essex in 2002 as part of the Section H application. A copy of the Master Plan has been included in the Applicants preliminary application. The plan shows a total of 73 traditional lots (non-PUD) and thousands of feet of public roadway for the final phases of the Pinewood Manor Development. To complement the approved Master Plan, the Town’s zoning regulations show the remaining lands of Pinewood Manor Zoned R2, where its purpose is described as, *“The purpose of the Medium Density Residential District is to facilitate residential development in areas inside the “Sewer Core Area” as defined in the most recently adopted Town of Essex Sewer Allocation Policy”*. In addition, the Town’s sewer core map allocates up to 96 EUs (EU=Equivalent Units or Single-Family Homes 2+ bedrooms), see below:



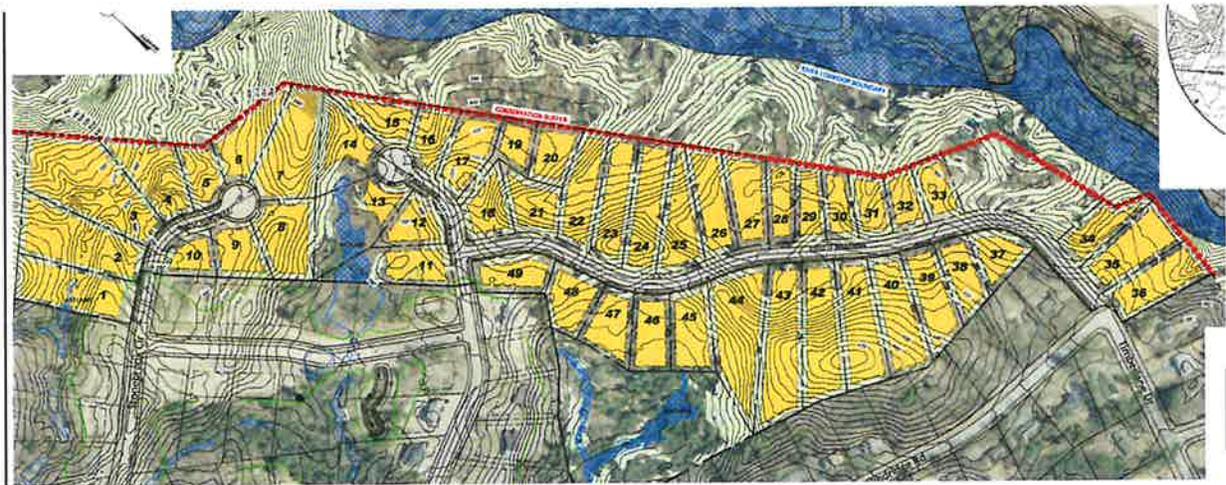
The Applicant has relied on the Master Plan, Zoning Regulations, and Sewer Core map to make significant investments in the property to date including; the construction of Section H and two

right of ways to Section I where public roadway (Stonebrook Cir), water, and sewer infrastructure was stubbed out to the adjacent property, a right of way for a public roadway connection on Timberlane Drive was also included in a previous phase of Pinewood Manor, and the purchase of 40+ acres in 2006 from BLMW Associates (allocated 29 EU in the sewer core map on the previous page).

The Applicant has taken significant steps to minimize impact to “steep slopes” throughout the permitting process of Section I, from the 2003 Master Plan showing 73 single family lots (see below) including the following:



The permitting/design process started in Sept 2020 with a unanimous sketch plan approval from the PC for a 49-lot traditional subdivision of the Section I property (see below), which was more consistent with previous Pinewood Manor phases.

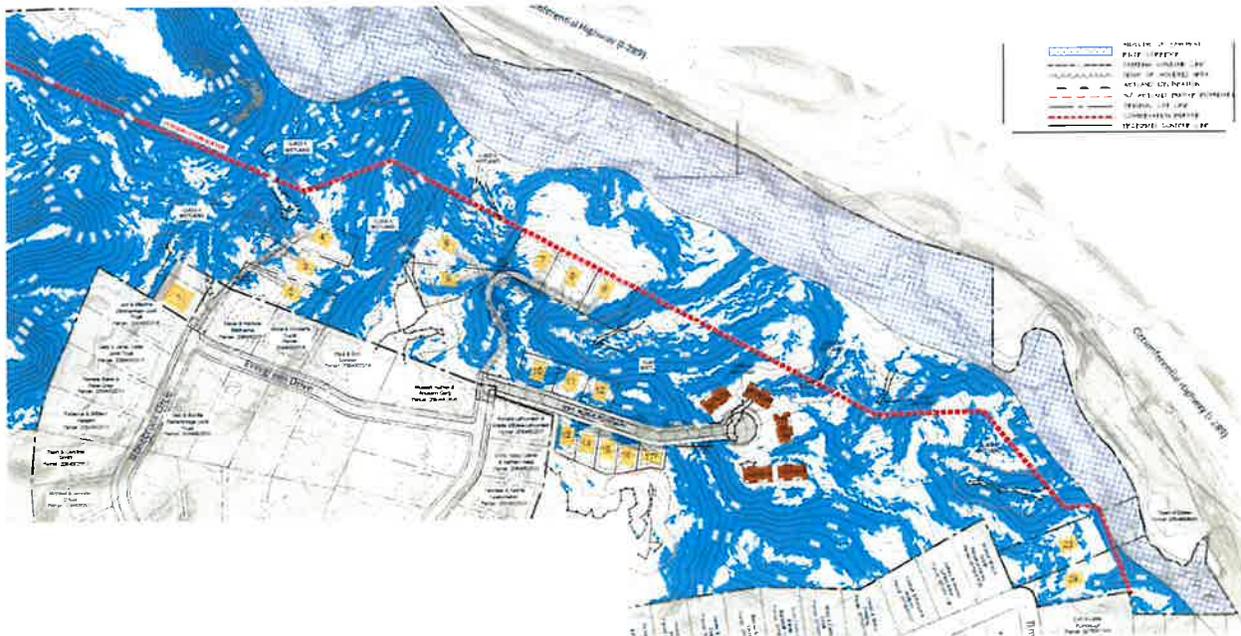


A preliminary application was submitted in July 2021 with a 49-unit development that included a small PUD component off the Stonebook Circle ROWs with single family condo units proposed around two private cul-de-sacs designed to public roadway standards (see below).



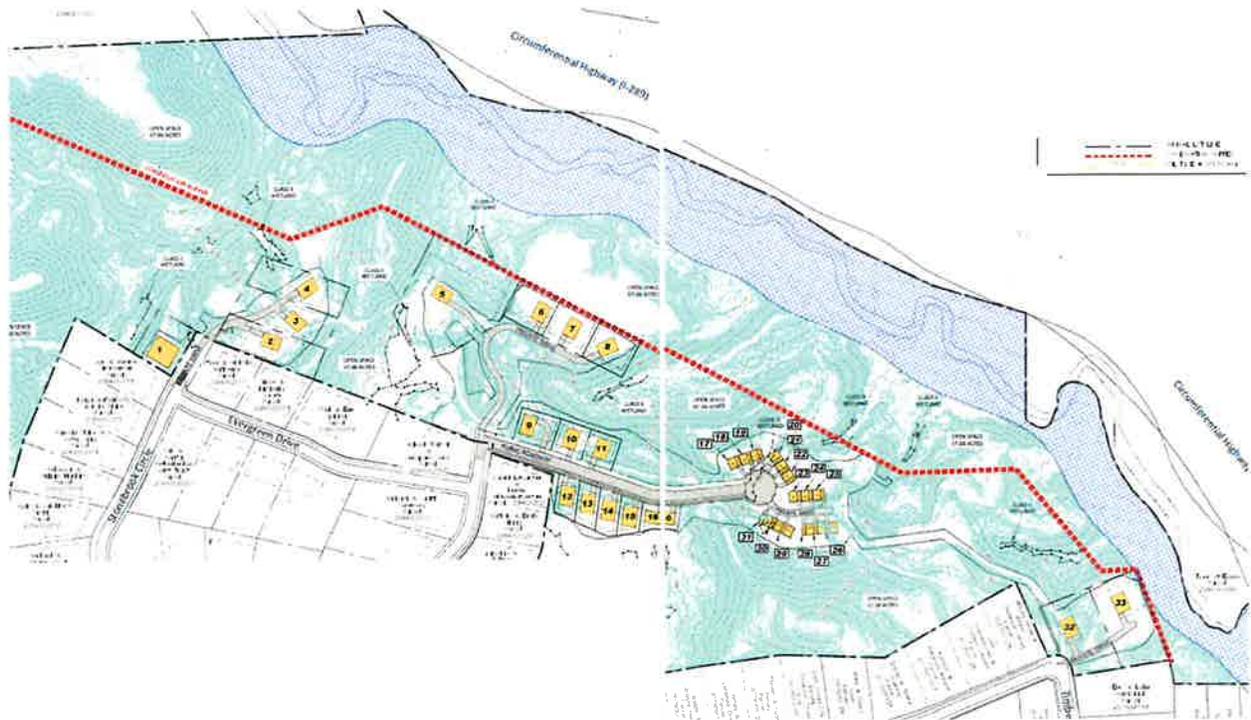
The preliminary application was eventually withdrawn as the Applicant felt the Planning Commission wanted to see the PUD potential explored further and possibly a decrease in units (or type), to facilitate the reduction of impacts to “steep slopes”.

Prior to submitting a revised sketch plan application for 34-units in July of 2022 (see below), the Applicant met with the Town Department Heads and P&Z Staff in May 2022 to get feedback on a much more PUD oriented development proposal for Section I including; clustering units on the flattest portions of the site possible to preserve natural features, access primarily with driveways rather than more impactful public roadways, building less than half of the public roadway previously proposed from Stonebrook Circle to Timberlane Drive, 15 triplex units were proposed off the end of a cul-de-sac to cluster density on the flattest area of the site (a first for Pinewood Manor), and limiting the amount of units off the shared driveways on both Stonebrook Circle ROWs and Timberlane Drive to 4 units clustered in the flattest areas possible. In an email dated May 26, 2022 the former Town Planner acknowledges support for the revised layout (see attached) and recommends proceeding with a formal sketch plan application. The sketch plan was unanimously approved by the Planning Commission in December 2022 after multiple meetings and discussion, primarily surrounding how the layout minimized impact to “steep slopes” and the number of units served off a residential driveway.



In July 2023 a preliminary PUD application for 33-units was submitted to the Town Planning and Zoning Office and was later deemed complete in October 2023 (see next page). From July-October a geotechnical 3rd party review was sought by the Applicant from M&W Soils Engineering, Inc c/o Randall Rhoades, PE a geotechnical engineer licensed in Vermont. The report has been provided as an attachment. The report concludes, *“In summary, I have reviewed the proposed Site Plans for this project, including relevant profiles and construction details, with regards to the disturbance of steep slopes. Based on my 30 years of Geotechnical Engineering practice and commercial construction inspection, it is my opinion that these Plans are appropriate as presented. The sections of steep slopes proposed for development appear to*

be stable in terms of slope soil structure, and new slopes are designed to be well within "safe limits." In addition, the Applicant applied for coverage under the State of Vermont Construction General Permit (Erosion Control Permit) as a Moderate Risk Project, permit #8531-9020 attached. The Town of Essex relies on the State Construction General Permit (CGP) for compliance with erosion control measures. Conditions of the CGP include; only disturbing 5 acres at one time; all areas of disturbance must have temporary or final stabilization within 14 days of initial disturbance, weekly inspection, and full compliance with the 5 sheet Erosion Prevention and Sediment Control (EPSC) plan submitted as part of the preliminary application to the Town. The EPSC plans include; phasing, limit of disturbance marking, silt fence limits, mulching specifications, construction entrances, inlet protection, final vegetation stabilization requirements, etc. Many of the EPSC measures included in the plan set and required by the State Construction General Permit were not part of the Section H subdivision approval in the early 2000s.



Despite minimizing proposed impacts to steep slopes and a favorable geotechnical report, Planning & Zoning Staff has continued to recommend denial of the above 2023 preliminary PUD application and the previous version of this waiver request due to impacts to steep slopes. As such, Pinewood Section I has since been redesigned as a 10-Unit PUD (see below) consisting of only the private shared drive portions of the project, while the public cul-de-sac road and the units it would have served have been removed entirely. The private drives and the lots they serve have been relocated slightly and/or reduced in size to further minimize proposed impacts to steep slopes. The revised 10-Unit layout was well received by the DRB at the February 6, 2025 hearing and a site visit was recommended.



The Pinewood Section I parcel is 100+ acres and the project’s total limit of disturbance is 5.3 acres. In addition, the parcel contains approximately 47 acres of areas considered “steep slopes” by the Town of Essex Zoning Regulations (15%-20% discouraged / steep >20%) that do not lie within a Floodplain/River Corridor or a wetland. Of the 47 acres of steep slopes within the developable area, the current Section I proposal will impact approximately 2.9 acres. To give context where other design parameters compare with the 15-20% slope defined as steep by the Town Zoning Regulations include; VTrans driveway standard is 15% max grade, Town of Essex driveway standard is 14% max grade, and the maximum constructed side slopes according to the Town of Essex DPW Specifications, Section 506.1 Excavation – Side Slopes (Appendix A – Street Sections and Details) are 1V:2H (50%) to 1V:3H (33%). For maintenance purposes, a 1V:3H slope is considered a mildly mowable slope, while 1V:2H is likely maintained with a weed wacker, while a 1V:1H slope is typically rip rapped with stone. All slopes proposed within Section I are within the 1V:3H-1V:2H threshold.

Prior to submitting the redesigned sketch plan application for Section I in 2022 David Burke conducted a review of all Town of Essex Regulatory Planning Documents (Zoning Regulations, Subdivision Regulations, Town Plan, Public Works Specification), not just what was contained within Section 5.6 (2) of the Zoning Regulation, as it pertains to impacting what the Town identified as “steep slopes” and the entirety of the Pinewood Manor Development. The report has been included as a supplemental attachment.

We are hopeful the Development Review Board will agree that the unprecedented mitigation and minimization work done over the past 5 years with the Section I design warrants significant consideration to grant a waiver to allow minimal impacts to the “steep slopes” identified on the preliminary plan set.

Please find the following information attached:

- 1) Email from P&Z Following May 2022 Meeting with Applicant Team
- 2) M&W Soils Engineering Review Letter December 2023
- 3) Construction General Permit – Moderate Risk #8531-9020
- 4) Section I Regulatory Review – David Burke 2022

If you have any questions or need additional information, please let me know.

Sincerely,



Bryan Currier, PE