

Huntington Planning Commission  
4930 Main Road  
Huntington, Vermont

RE: Application of Heath Cummings  
Application No. 2007-002

**FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

FINAL SUBDIVISION AMENDMENT HEARING FOR SUBDIVISION:  
Heath Cummings

Based upon the application of Heath Cummings and the testimony and exhibits presented by the applicant and the public present at the Final Subdivision Amendment Hearing convened August 14, 2007 at the Huntington Town Office in Huntington, Vermont, the Huntington Planning Commission (Commission) makes the following Findings of Fact, Conclusions of Law, and Order. As set forth below, the Commission concludes that the project complies with the Town of Huntington Subdivision Regulations (Regulations), effective November 3, 1992.

**FINDINGS OF FACT**

1. On August 20, 1997, the Huntington Planning Commission met in Preliminary Subdivision Review on an application by Mary Lou Cummings (Kenfield) for a four-lot subdivision on Cummings Drive.
2. On August 20, 1997, Heath Cummings appeared before the Huntington Planning Commission as the representative of Mary Lou Cummings (Kenfield), who had requested deferral of certain articles of the Huntington Subdivision Regulations (13-19, Section 210) as there were no plans to build on this part of the property. The HPC agreed to the request stipulating that these requirements would need to be met as an amendment review before any development could take place.
3. On December 3, 1997, The Commission approved the Mary Lou Kenfield Trust four-lot subdivision, requiring all future development (excluding Lot 1) to meet requirements deferred at this point (see FOF 1).
4. While the state (Exhibit H), referred to the lot as Lot 1, it is actually Lot 2, referred to in this document and requested on maps, and it the property owned by Heath Cummings.
5. On July 17, 2007, Heath Cummings (Applicant) filed an application (Exhibit A) for a project described as a subdivision amendment at Cummings Drive and Evergreen Drive.

6. On August 14, 2007, the Amendment Review was opened and continued to September 11, 2007 as the Applicant was not in attendance at the hearing.
7. On September 11, 2007, the Commission conducted a Site Visit and the Applicant appeared before the Commission and presented evidence in support of the project.
8. The hearing was continued on November 13, 2007 and December 11, 2007.
9. The Commission reviewed materials for completion on November 27, 2007.
10. The Applicant's project is located at Cummings Drive and Evergreen Drive, within the Village District, which is zoned for one-acre density. The project is on the west side of the Main Road, north of Hinesburg Hollow Road, and is located on tax map 05-023.800.
11. The Applicant owns the 31.6-acre parcel of land.
12. The Applicant proposes that the project would maintain the parcel as a single piece of land, with a residence on it; 0.72 acres are to be conveyed to Mark Cummings as a Boundary Line Adjustment..
13. The Applicant states that the access to the land will be from Cummings Drive.
14. The Applicant states that the existing access, observed by the Commission on the site visit on September 11, 2007, referred to as "Woods Road," will be discontinued, re-graded and seeded by the owners to eliminate run-off issues or concerns. (Exhibit N)
15. The property is bordered on the south by Bretschneider and Kiorpes; on the north by LeBrun; on the west by Corbin Cummings and LeBrun; and on the east by Mark Cummings, McNabb and Sturm.
16. The Applicant filed the following site plan materials:
  - a. under Regulation Section 320, the required detailed two-sheet site plan map as prepared by High Knob Design Associates, LLC, of Starksboro, Vermont, updated February 7, 2007. (Exhibit C); and
  - b. under Regulation Section 320, a survey by LaRose Surveyors (Ronald L. LaRose, RLS) of Bristol, Vermont, dated April 1, 2006 and revised July 9, 2007 and December 5, 2007. (Exhibit B)
17. Deeded right-of-way through property to benefit Corbin Cummings and Douglas LeBrun shown on survey map.
18. The Applicant has represented that the driveway will have a less than 16-degree grade change from Cummings Drive, a private road.

19. The Applicant has represented that power will be supplied from underground cables from existing poles located on the property.
20. Site plan indicated wastewater disposal areas and proposed well site.
21. Based on the Commission's review of the Flood Plain Map and testimony of the Applicant, subdivision is not located in a flood plain. Wetlands are indicated on survey.
22. This area is characterized by single family residences.
23. The Applicant represents that a well will provide sufficient water supply.
24. No changes will be made to the existing access to the Main Road. Cummings Drive, a private road, will serve this residence as well as existing residences on Cummings Drive and Evergreen Drive.
25. The Applicant represents (Exhibit N) that culverts will be maintained in a standard to achieve regular annual drainage and prevent excessive runoff and erosion to the adjoining roadway and properties.
26. Deer Wintering Area is shown on survey map. According to the state resource maps, there are no deeryards located within the proposed building site.
27. Wetland areas are excluded from the building envelope as shown on the survey map.
28. The Commission has reviewed and relied upon the following documents filed with the Commission by the Applicant which are hereby incorporated herein by reference:
  - a. Application for Subdivision Permit, Town of Huntington (Exhibit A).
  - b. A Plat Survey by LaRose Surveyors (Ronald L. LaRose, RLS) of Bristol, Vermont, dated April 1, 2006 and revised July 9, 2007 and December 5, 2007. (Exhibit B)
  - c. Detailed site plan map as prepared by High Knob Design Associates, LLC, of Starksboro, Vermont, updated February 7, 2007. (Exhibit C)
  - d. Act 250 School Impact Questionnaire from James Massingham, CESD Superintendent of School, dated October 24, 2006, addressing school services capacity. (Exhibit D)
  - e. Letter from Huntington Fire Chief Tate Jeffrey, dated November 4, 2007, outlining requirements for access to residence and addressing town's ability to provide services. (Exhibit E)

- f. Letter from Huntington Fire Chief Tate Jeffrey, dated November 26, 2007, outlining requirements for access to revised residence and addressing town's ability to provide services. (Exhibit F)
  - g. Huntington Planning Commission approved minutes of December 13, 1997. (Exhibit G)
  - h. Letter from John Gobeille, Wildlife Biologist, Vermont fish and Wildlife Department, dated January 10, 2007, and undated map of deer wintering area and buffer, addressing protection of deer wintering habitat. (Exhibit H)
  - i. Land Use Permit Amendment (Case # 4C1017-3), dated July 24, 2007, signed by Kate Purcell, from State of Vermont District 4 Environmental Office. (Exhibit I)
  - j. Exhibit list for Application 4C1017-3; Exhibits 1-22. (Exhibit J)
  - k. Act 250 Notice of Minor Application, signed by Peter E. Keibel, dated June 21, 2007. (Exhibit K)
  - l. Project Review Sheet signed by Peter E. Keibel, dated November 26, 2007, addressing relocation of proposed house site. (Exhibit L)
  - m. Letter from Jeffrey Keeney, Licensed Designer, High Knob Design Associates, LLC, dated November 26, 2007, addressing relocation of proposed house site. (Exhibit M)
  - n. Letter from Heath Cummings, dated November 26, 2007, addressing concerns raised by neighbors and members of the Commission in earlier hearing dates. (Exhibit N)
29. The following members of the Planning Commission were present during the deliberations on January 8, 2008, constituting a quorum: Dori Barton (chair), Jeanine Carr, Everett Marshall, Bill Hegman, Lucinda Hill, Eric Silman and Tom Bailey.

## CONCLUSIONS OF LAW

### I. SECTION 320

Under Section 320 of the Regulations, the Applicant is required to provide certain information in support of the application. The Application filed on July 17, 2007 meets the requirements of Section 320. The Commission incorporates the application materials into this FINDINGS OF FACT, CONCLUSIONS, AND ORDER and are attached hereto.

## II. SECTION 400

Under Section 400 of the Regulations, the Commission may approve or deny an application, require modification or phasing of a subdivision, or impose conditions to mitigate adverse impacts.

The Commission reviewed the proposed subdivision according to the criteria enumerated in the Regulations. Those criteria include consideration of drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which could reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.

The Commission concludes the project is suitable for subdivision, based on the application materials, site visit and testimony, and supported by the Findings of Fact.

1. The development will follow the existing topography and the proposed subdivision shows due regard for the preservation and protection of existing natural features, trees, brooks, rock outcroppings, water bodies, or other natural and/or historical resources.
2. Erosion control plan for construction is satisfied as outlined in the amended Act 250 Land Use Permit and in a letter from the applicant, dated November 26, 2007. There is minimal potential for erosion into nearby surface waters and for this reason, this provision has been met. (Exhibits I and N)
3. Commission determines that the subdivision amendment complies with the Huntington Town Plan and the Huntington Zoning Ordinance.
4. Commission determines that none of the subdivision is located in a flood plain, based on the Commission's review of the Flood Plain Map and testimony of the Applicant.
5. The subdivision meets the minimum lot size of one acre for the Zoning District.
6. The Commission concludes the project complies with the provision of compatibility with surrounding properties.
9. Based on the site location, the lot size, and density of surrounding structures, the subdivision is suitable for the proposed site density and complies with this provision.

10. Based on the below information, the Commission finds the town and schools will be able to provide adequate services and this provision to have been met:

- a. The Commission reviewed a correspondence (Exhibit D) from CESU Superintendent James Massingham, which gave testimony that the project will not place an unreasonable burden on the school district's ability to provide services or facilities.
- b. The Commission reviewed correspondences (Exhibit E & Exhibit F), from the Huntington Fire Chief. Based on this correspondence, compliance with its requirements, the driveway shall be of adequate structure to support emergency vehicles year-round.

11. There will be sufficient water to meet the needs of the proposed residence for the reasonably foreseeable future.

12. The Commission determines that this subdivision amendment will not cause highway congestion or unsafe conditions as no changes will be made to the existing private road as it enters the Main Road.

13. The Commission determines, based on the Applicant's representation, state resource maps and correspondence from John Gobeille, Wildlife Biologist, Vermont fish and Wildlife Department, dated January 10, 2007, that protection of deer wintering habitat has been addressed. (Exhibit H).

14. The Commission determines, based on the Applicant's representation (Exhibit N) that the property referred to as Lot 2 on the 1996 LaRose survey revised and filed in the Town Land Records in 2001, and revised on December 5, 2007 is the parcel owned by Heath Cummings.

Based on the evidence before it, the Huntington Planning Commission finds this project meets all requirements in Sections 320 and 400 of the Huntington Subdivision Regulations subject to the conditions set forth herein.

### **ORDER**

Final Subdivision Approval was granted on January 8, 2008 by a vote (7 - 0) of the Huntington Planning Commission with the following conditions:

1. By acceptance of this decision, the Applicant agrees to allow representatives of the Town access to the lots, at reasonable times, for the purpose of ascertaining compliance with the Regulations and the conditions of this permit.
2. The project shall be completed, operated and maintained in accordance with: (a) these Findings of Fact, Conclusions of Law, and Order; (b) the

plans and exhibits on file with the Commission; and (c) the conditions of this permit.

3. Within 60 days of the issuance of this decision, the Applicant shall file two<sup>1</sup> maps with the deeds to the property, to be described as
  - a. the required detailed site plan map as prepared by High Knob Associates, LLC, of Starksboro, Vermont, (Exhibit F), Vermont; and
  - b. a survey by LaRose Surveyors (Ronald L. LaRose, RLS) of Bristol, Vermont.
  
4. Survey map shall have the following:
  - a. tax map ID
  - b. notes indicating proposed location of driveway dirches
  - c. removal of note regarding exact location of driveway, etc.
  
5. Applicant shall obtain all necessary local, state and federal permits.
  
6. Copies of the state water supply and wastewater permit for both lots are to be provided to the Town for the file.
  
7. Appropriate erosion control measures shall be implemented during construction.
  
8. No clearing will be done outside the building envelope.
  
9. The applicant shall pay the recording fees associated with the filing of the subdivision Final Plat (18" x 24") and permit decision with the Town of Huntington



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Dori Barton, Chair  
Huntington Planning Commission

Dated this 13 th day of January 2008.

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1. <sup>1</sup> The Commission waived the required 11 copies and reduced the number to be filed to two.