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Planning Board meeting

Exeter Planning Board

Minutes

November 5, 2015

1. Chairwoman Kelly Bergeron called the meeting to order at 7:00 pm in the Nowak Room of the Exeter Town Offices on the above date.
2. MEMBERS PRESENT: Kathy Corson (Alt) , Aaron Brown , Don Clement (BOS Rep), Pete Cameron, Kelly Bergeron (Chair), Katherine Woolhouse, Ken Knowles, Gwen English, Langdon Plumer (Alt).
STAFF PRESENT: Glenn Greenwood (Interim Town-Planner)

Ms. Bergeron stated that all regular members would be voting

PB Case #21521, application of Phillips Exeter Academy has been rescheduled for November 19, 2015 at the applicant's request.

PB Case #21523, application of Chinburg Properties - continued public hearing has been rescheduled to a pending date.

PROPOSED ZONING AMENDMENT DISCUSSION: Kristen Murphy, Natural Resource Planner

Presentation of proposed zoning amendment for fertilizer use.

The Town of Exeter received a grant from the Piscataqua Region Estuaries Partnership (PREP). PREP conducted a planning assessment of the areas around Great Bay. Exeter's top recommendation was the adoption of an ordinance for fertilizer application buffer near surface waters. Ms. Murphy explained point source and non-point source pollution. PREP helped towns prioritize non-point source pollution and quantify non-point sources. A group of volunteers established the Healthy Lawns Clean Water initiative in Exeter which is meant to educate the public to incorporate easy lawn care practices. Ms. Murphy said that fertilizer use is addressed in wetlands regulations. However, current zoning regulations don't address fertilizer application within the Shoreland Overlay Protection District or Aquifer Protection District. The initiative will develop a zoning amendment to apply to Exeter shoreland district and aquifer protection district.

Mr. Knowles commented that the zoning bylaws were not the best place; a town ordinance would be more enforceable and far-reaching. Ms. Murphy responded that this had been discussed with Glenn Greenwood; the zoning amendment would apply to all areas, even if the site was not coming before the Planning Board with a new project. Mr. Knowles asked if the amendment would apply retroactively. Mr. Greenwood responded that it would for health and safety concerns. Ms. Murphy continued that it would apply to all properties within the applicable districts. Mr. Knowles commented that it would be more enforceable as a town ordinance. Ms. Murphy explained that the primary purpose of the work was public education and a town ordinance could be developed in the future.

Mr. Garrepy, Tuck Realty, asked about the Exeter Country Club. Ms. Murphy commented that she had been in discussions with the owners.

Ms. English thanked Ms. Murphy for the great explanation. Ms. Murphy responded that they had a good effort from a group of volunteers and other board members.

Mr. Plumer asked who would govern this. There are markers for wetland delineation for property owners, but it

mostly works on an honor system right now. Ms. Murphy responded that it would be Doug Eastman's, the Code Enforcer Officer, responsibility, but he wouldn't be patrolling for violations. Ultimately it would be the responsibility of the Board of Selectmen.

Mr. Clement commented that it was a great group of concerned citizens. Ms. Murphy said that UNH had also provided assistance and will assist with developing effective messages for influencing people. Mr. Clement said that there would need to be continuing efforts with education after the zoning ordinance, including talking with fertilizer suppliers and makers. Ms. Murphy commented that they intend to talk with individual large land owners.

Jim Gove, Gove Environment Services, added that there might need to be a waiver provision for some landowners within the districts, for areas such as athletic fields or the country club. Ms. Murphy responded that as written, there wasn't currently one. However, the country club brought up a recent incidence of vandalism of the fairways and in order to return the greens to their condition, fertilize use would be important.

3. NEW BUSINESS: PUBLIC HEARINGS

Continued public hearing on the application of Tuck Realty Corp. for a mixed-use site plan review and Conditional Use Permit for the proposed construction of two (2) commercial buildings and two (2) multi-family residential buildings on the property located at 80 Epping Road. The subject property is located in the C-2, Highway Commercial and R-4, Multi-Family Residential zoning districts. Tax Map Parcel #55-3. Case #21506.

Mark West of West Environmental is working through RCCD as a subcontractor to help address the ordinance that indicates the proposed conditional use permit in the shore land protection district that the "the proposed use will not result in undue damage for spawning grounds and wildlife habitat"

The requested items from Gove Environmental Services included a site inspection. M. West said that he prioritized habitats to understand impacts. The proposed project is surrounded by development north, south and across the pond. The first 200 feet from the pond is the most important and outer parts less critical to protecting the pond. Mr. West stated that there's no question that the project has impact to habitat. Grading does infringe on the buffer. The buffer prevents damage to the habitat and 9 acres are protected. Ms. English said if that his charge was to review what had already been done, does he feel that being on site filled in gaps in the report. M. West said along with the site review, he reviewed photographs and an aerial photo of the area. Because of existing activity around the pond, this project may not drive away wildlife. Ms. English asked if there are areas on site that could be improved. Mr. West said it is important to preserve the forested canopy adjacent to the pond. There are some invasive shrubs at the site, but it is better to protect and leave intact than disturb. There is a lot of fill in the restricted area of the site; not sure it is worth removing invasive species from this area. It is better to protect woods and keep them protected.

Mr. Knowles asked if the 200 foot was a general guideline or site specific. Mr. West said it was more of a guideline. The topography of the site is pretty up and down (no specific features related to 200'). The valuable habitat falls within the 200'. Mr. Knowles asked if there are actions in the proposed plan to decrease impacts to habitat loss. Mr. West said that he would have developed in the other undeveloped lot. Mr. West said he mentioned in his report minimizing grading behind the building. Mr. Clement said his concern was that there will be encroachment into the buffer over time.

Mr. Brown quoted Mr. West from a previous letter to the planning board stating that there had been limited time constraints in the review of the wetlands assessment but that more time would not have changed his

opinion. Mr. West concurred with Mr. Brown. Mr. West added he apologized for not attending the last meeting but was told he did not need to be present.

Mr. Plumer asked about the impact of the proposed trails. It was explained that trails have been removed from the plan.

Mr. Greenwood said he had no further comments.

Mr. Garrepy said that the applicant could tighten up the grading close to the buffer. He added that the project is in compliance with the recommendations from the Healthy Lawns Clean Water initiative.

Ms. Woolhouse recalled advice from Mr. West that the most important thing to preserve the forested canopy adjacent to the pond and this relates to waivers from documenting trees below a certain diameter.

Ms. Bergeron stated waiver sections 7.4.7 and 9.6.2 that requires the survey of trees over 9 " in diameter. Ms. Woolhouse clarified that the Planning Board should consider a survey of the trees in the forested canopy adjacent to the pond following Mark West's suggestions. M. West said that in a conservation easement there is usually baseline documentation report. Photos can be taken to document conservation land. Ms. English suggested mitigation as a possibility to the loss of mature trees.

Mr. Knowles said he would like to see a sidewalk built even if connections are not yet present.

Mr. Brown asked about the distance of the closest building to the pond. Mr. Garrepy replied from the corner the distance is 248'. Mr. Brown related the variance from the ZBA meeting minutes. The motion was moved to amend language from 275 feet from Colcord Pond to 250 feet from Colcord Pond. Ms. Bergeron corrected that there was an omission from the ZBA motion of the words Colcord Pond Neighborhood. Mr. Garrepy said the intent was for the buildings and parking included in the variance. Mr. Brown said that the minutes don't reflect parking. Mr. Brown interpreted the variance as including parking. Ms. English said that moving the building away from the shore land protection area was better.

Mr. Garrepy said he was concerned about the intent of the ZBA minutes and re-engineering the plans would take more time and money to move parking. Mr. Brown maintained that moving parking while keeping the same amount of units is not a high demand given the impacts to the shore land buffers. Mr. Garrepy said that if they had known these issues would come up now, they would have started redesigning months ago.

Mr. Clement said it was unclear in the past that the area in question was un-developable. The zoning interpretation from the code enforcement officer could speak to the zoning board decision.

Mr. Greenwood suggested going back to the ZBA to receive interpretation and thought the intent was to maximize the distance from the Colcord pond neighborhood and the new development. Mr. Greenwood said that a redesign would be a major undertaking. The size and scope of this development needs to be a compromise.

Mr. Cameron expressed that the Board needs to decide on whether to vote in favor or not in favor and not change the design this far into the process. Mr. Plumer said he asked about relocating a building a few meetings ago. Mr. Knowles said the one way to reduce parking is to put it under the base of the building as brought up by Ms. Corson in preliminary talks.

Mr. Garrepy said in addition to the cost the height of the building would change so it is not economically feasible. Mr. West said a retaining wall behind the building could regain another 15 feet of woodland.

Ms. Bergeron reviewed that the applicant agreed on an extension to tonight and either work through CUP waivers site plan or request applicant extend plan again.

Mr. Greenwood asked if anyone needed Mark West to be present or let him leave the meeting. The Board agreed they no longer needed his presence.

Mr. Gove reviewed article 9.3.1 Shore Land Protection District and the applicant's responses which can be found on file at the Exeter Town Offices.

Ms. Bergeron announced that there will be a roll call vote on anything the Planning Board votes on.

Mr. Brown moved to approve the CUP for 9.3.1, Exeter Shoreland Protection District; second by Mr. Cameron.

Roll call vote:

Mr. Brown: Yay

Mr. Clement: Nay

Ms. Bergeron: Yay

Ms. Woolhouse: Yay

Mr. Knowles: Yay

Ms. English Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

2 Against; 5 In Favor - The motion was carried.

Mr. Garrepy read through Article 9.1.6 b., Wetlands Conditional Use Permit which can be found on file at the Exeter Town Offices.

Mr. Greenwood requested to look at the ordinance. He said the Wetlands Conditional Use does not match up with what he has. Mr. Greenwood had the amended 2015 version. Mr. Garrepy was reading from the 2014 version of the CUP that was missing 9.1.6 b. 3.

Jim Gove from Gove Environmental Services responded to B. 3 which states: "The proposed impact has been evaluated in the context of the relative "value" of the wetland, including its ecological sensitivity, as well as its function within the greater hydro logic system. To the extent feasible, the proposed impact is not detrimental to the value and function of the wetland(s).

Mr. Gove referred to the report from Mr. West that stated the direct impacts are small. Areas in the buffer have been minimized by reducing road width grading and detention areas. He believes that they have looked at relative value and proposed impacts dramatically and reduced potential impacts to the wetlands.

Mr. Clement clarified that the applicant changed the area of dredge and fill. Mr. Gove said that a new permit was submitted. Mr. Clement said that the applicant filed for a State Shore land Protection Permit. Mr. Gove replied that Exeter's permit and the state permit is different. There are a few square feet of impervious service impacted and as well as cutting. Mr. Clement expressed frustration at last minute permit applications.

Mr. Knowles said he is struggling with b.3 [in applicant's version, actually b.4] in the conditions. The

only way to reduce impact is to put parking underneath the buildings. Mr. Greenwood corrected that the section is actually b.4 in the plans. Mr. Garrepy referred to the plans where page C5 contain the buffer and direct impacts. The buffer areas impacted are not high functioning wetlands. Mr Garrepy said that the applicant has done its best to minimize impact. Mr. Knowles stated he was not convinced that the applicant could not further minimize wetland impact.

Mr. Clement said it may make sense to look at the CUP for the shore land. Mr. Garrepy stated that they knew there would be wetland buffer impacts as a result of putting the project into a smaller area. Mr. Gove said as he looked at the plan and envisioned which buffers would be saved; the buffer encroachment would be where there are man-made wetlands. Mr. Knowles clarified that there would be less buffer impact on the north side of building 1 and west side of building 2. Mr. Garrepy argued that the project does not have detrimental impact on the wetland with shown storm water management.

Mr. Cameron moved to approve the wetland conditional use permit, second by Ms. Bergeron.

Roll Call vote:

Ms. English: Nay

Mr. Knowles: Yay

Ms. Woolhouse: Yay

Mr. Cameron: Yay

Ms. Bergeron: Yay

Mr. Clement: Nay

Mr. Brown: Yay

Ms. Corson: Non-voting member

Mr. Plumer: Non-voting member

2 Against; 5 In favor - The motion was carried

Waivers:

1. 7.4.7 Natural Features

Mr. Clement moved to approve, 7.4.7 Natural Features, second by Mr. Cameron.

Roll Call Vote:

Mr. Brown: Yay

Mr. Clement: Yay

Mr. Cameron: Yay

Ms. Bergeron: Yay

Mr. Knowles: Yay

Ms. Woolhouse: Yay

Ms. English: Nay

Mr. Plumer: Non-Voting member

Ms. Corson: Non-voting member

The motion carried unanimously

2. 9.7.5.4 Curbed Traffic Control Island

Mr. Clement moved to approve waiver 9.7.5.4, second by Ms. Bergeron.

Roll Call Vote:

Ms. English: Yay

Mr. Knowles: Yay

Ms. Woolhouse: Yay

Ms. Bergeron: Yay

Mr. Cameron: Yay

Mr. Clement: Yay

Mr. Brown: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

Mr. Garrepy referred to a revised waiver request letter from 10/8/15. It was submitted in early October. 9.5.1.4 grading within five feet of exterior property line (wasn't in the packet rec'd)

3. 9.5.1.4 grading within five feet (5') of exterior property line

Mr. Knowles moved to approve waiver 9.5.1.4, second by Ms. Woolhouse

Roll Call Vote:

Mr. Brown: Yay

Ms. Woolhouse: Yay

Mr. Clement: Yay

Mr. Cameron: Yay

Ms. English: Yay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

Ms. English noted this waiver is not in the plan set. Mr. Garrepy said he will add it to the plans.

4. 9.7.5.5 Curbed planting islands

Mr. Knowles moved to approve 9.7.5.5, planting Islands in the long rows of parking, second by Ms. Woolhouse

Roll Call Vote:

Mr. Brown: Yay

Ms. Woolhouse: Yay

Mr. Clement: Yay

Mr. Cameron: Yay

Ms. English: Yay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

5. 9.7.5.6 Curbing for all traffic control/planning islands shall be granite or concrete

Mr. Brown motioned to approve 9.7.5.6 curbing for traffic islands

Mr. Knowles asked for clarification. Mr. Garrepy pointed out the traffic islands that would not have curbing. Mr. Knowles did not think this waiver would apply and cause landscaping to be affected.

Mr. Brown withdrew his motion. Mr. Brown motions to deny the waiver request for 9.7.5.6, second by Mr. Knowles.

Roll Call Vote:

Mr. Brown: Yay

Ms. Woolhouse: Yay

Mr. Clement: Yay

Mr. Cameron: Yay

Ms. English : Yay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

6. 9.9.2 Wetlands Setbacks

Mr. Cameron moved to approve 9.9.2 wetlands setbacks specific to the R4 setbacks, second by Ms. Bergeron.

Roll call vote:

Ms. English: Nay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Ms. Woolhouse: Yay

Mr. Cameron: Yay

Mr. Clement Yay

Mr. Brown: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

1 Against; 6 In favor - The motion was carried

7. 9.13.17 Parking area construction

Mr. Knowles moved to approve 9.13.7 parking area binder pavement, second by Mr. Brown

Mr. Clement asked what the town engineer had to say. Mr. Greenwood said the engineer was in agreement.

Roll call vote:

Ms. English: Yay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Ms. Woolhouse: Yay

Mr. Cameron: Yay

Mr. Clement Yay

Mr. Brown: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

8. 9.1.4.9 Roadway/fire lane width

Mr. Knowles moved to approve 9.1.4.9 Roadway and fire lanes less than 24 feet in width.

Second by Mr. Clement.

Roll Call vote:

Ms. English: Yay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Ms. Woolhouse: Yay

Mr. Cameron: Yay

Mr. Clement Yay

Mr. Brown: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

Site Plan - Potential Conditions of Approval

Ms. English reviewed the possible conditions to the plan

Mr. Knowles did not see the benefit to the retaining wall. Decision between retaining wall or 2:1 slope. It was decided the condition to be: grading non maintained 2:1 slope with appropriate seed mix plantings

Mr. Greenwood asked if the sidewalk condition should be shown the plan for a sidewalk. There was discussion on the holder of the conservation easement. All required state and federal permits must be approved Ms. English asked about pedestrian access to Aroma Joe's.

PUBLIC COMMENT: No public comment

Mr. Knowles moved to close the Public hearing from case number 21506.

Mr. Cameron had a comment on the egress and ingress to the property and traffic on the roadway.

Ms. Corson commented said there could be a condition to come in at a later date to talk about traffic impact after the project is complete.

Mr. Greenwood said he didn't think this was necessary if the traffic engineer signed off on the plans.

Conditions of Approval:

- 1. *The following requests of the Planning Board be addressed***
 - a) *DPW approved side walk be installed along at the Epping road frontage of the property***
 - b) *Grade a non-maintained 2: 1 slope to the rear of the north gabled end of building 1 with appropriate seed mix plantings***
 - c) *All required permit information waivers and conditions of approval be put on the plans***
 - d) *All on site improvements to be completed per building in phased plan to be approved by town staff prior to issuance of certificate of occupancy (CO)***
- 2. *All final revisions of the plans required by town departments, town council and their consultants be addressed***
- 3. *All appropriate fees be paid including but not limited to performance bond, sewer, water connection, inspection feeds recording fees and other agreed upon improvements***
- 4. *Site review agreement signed***
- 5. *A pre-construction meeting to be arranged by the applicant and contractor with the town engineer prior to any site work***
- 6. *The applicant shall meet with the town assessor to develop a list of location addresses for all new units***
- 7. *All conditions to be met within one year and all site improvements to be completed within two years of approval.***
- 8. *The defined conservation area depicted on the plan shall not be developed in perpetuity and a conservation easement or deed restriction be placed on the property***
- 9. *Applicant to arrange for any future successor- in- interest to meet with the Planning Department staff to discuss all conditions of approval.***

Mr. Greenwood had asked about the disposition of the conservation easement to be included as a condition. Condition number 9 was added as seen above.

Discussion ensued about a responsible party to hold the easement for condition number 8.

Mr. Cameron moved to approve the site plan with conditions, as outlined above, for PB Case

21506, second by Mr. Knowles.

Roll Call vote:

Ms. English: Abstained

Mr. Knowles: Yay

Ms. Bergeron: Yay

Ms. Woolhouse: Yay

Mr. Cameron: Yay

Mr. Clement Yay

Mr. Brown: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

6 in favor; 1 Abstention - Motion was carried

OTHER BUSINESS:

AVESTA HOUSING (The Meeting Place) Phase 3 - PB Case #2526 - Bond Release Request

Mr. Clement moved to release the bond in the amount of \$295,492.60 for PB case 2526, second by Mr. Knowles

Roll Call vote:

Ms. English: Yay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Ms. Woolhouse: Yay

Mr. Cameron: Yay

Mr. Clement Yay

Mr. Brown: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

BOATOFGARTEN, LLC (COBHAM Expansion) – PB Case # 21112

Mr. Clement moved to release bond in the amount of \$935, 930 for PB Case #21112; second by Mr. Knowles.

Roll Call vote:

Ms. English: Yay

Mr. Knowles: Yay

Ms. Bergeron: Yay

Ms. Woolhouse: Yay

Mr. Cameron: Yay

Mr. Clement Yay

Mr. Brown: Yay

Mr. Plumer: Non-voting member

Ms. Corson: Non-voting member

The motion carried unanimously

2016 Planning Board Schedule

Ms. Bergeron said that Barbara McEvoy, deputy code enforcement officer, released the 2016 calendar and asked the Board to choose which meeting date they would prefer for the second December meeting, the 22nd, 29th or possibly just schedule one meeting for December 2016. ***The Board decided to meet on December 29, 2016.***

Mr. Clement reported from the BOS meeting that Cliff Sinnott (Rockingham Planning Commission) gave an update on the master plan to the Board of Selectmen. Mr. Clement said the Planning Board needs to start the public engagement portion. Mr. Clement passed out copies of the update.

Next meeting of the Planning Board is scheduled for Thursday, November 19th, 2015.

Mr. Knowles moved to adjourn second by Mr. Cameron. VOTE: Unanimous

The meeting was adjourned at 10:26 pm

Respectfully Submitted,

Sarah McGraw, Recording Secretary

(Revised and amended by Katherine Woolhouse and Barbara McEvoy)