

Exeter Conservation Commission  
November 12, 2019 7 PM  
Town Hall  
Final Minutes

**Call To Order**

1. Introduction of Members Present

Present at tonight's meeting were Bill Campbell, Carlos Guindon, Andrew Koff, Todd Piskovitz, Lindsey White, Sally Ward, Trevor Mattera, Ginny Raub, and Kristen Murphy.

Members Absent: Andy Weeks, Alyson Eberhardt, and Dave Short were not present.

Mr. Piskovitz called the meeting to order at 7 PM.

2. Public Comment

- a. There was no public comment at this meeting.

**Action items**

1. Subcommittee Consideration: Tree Committee (Eileen Flockhart, Sally Ward)

Eileen Flockhart said the tree group has been working towards a Tree City USA certification. This involves four criteria: a Tree Committee, an Arbor Day celebration, a \$2 per capita expenditure for trees and tree maintenance, and a tree ordinance. In order to get the Arbor Day piece, they partnered with Lincoln Street School to have a celebration in October. The other pieces are already in place. They've come to the Conservation Commission to ask if they can be an official subcommittee. They currently have seven members. Being a Tree City would raise public awareness and the visibility of tree efforts.

Mr. Piskovitz asked if the subcommittee would need more than one member of the Conservation Commission. Ms. Murphy said no. The Trail Committee only has a single Conservation Commission member. Ms. Ward is willing to be the representative.

Ms. Raub asked if their expenses would come through the DPW budget. Ms. Flockhart said they won't really have expenses at first, it would be more about raising awareness and getting donations.

**MOTION:** Mr. Campbell moved to form a Tree Committee as an ad-hoc subcommittee of the Conservation Commission. Ms. Ward seconded. All were in favor.

2. NHDES Major Impact Wetland Dredge and Fill Application and Wetland Waiver application for a proposed Mixed Use Development for Gateway at Exeter LLC on Epping Road (Tax Map 47 Lots 6 and 7). Planning Board Case #19-12. (Jim Petropulos, Brendan Quigley)

Jim Petropulos of Hayner/Swanson and Brendan Quigley of Gove Environmental Services spoke on behalf of owner Tom Monahan and Gateway at Exeter LLC. The project is

seeking input for the Planning Board and NHDES for a major permit application. Mr. Petropulos mentioned that they'd had a sitewalk with Ms. Murphy, Mr. Campbell, and Ms. Ward.

Mr. Petropulos said this is a 60 acre property along Epping Road, the former King property, which has 600 feet of frontage on Epping Road. The wetlands were mapped in 2018 by Mr. Quigley's team. There is a smattering of wetlands through the site, and on the western part of the site, there are 10 documented vernal pools. In spring 2019, they received a zoning variance to do multifamily residential housing, but with conditions: the remaining back land remains undeveloped; 25% of the units should be workforce housing; the workforce housing and rental model will last for at least 30 years; and there will be not more than 224 units. They decided to focus the development along Epping Road and away from the vernal pools, and this plan leaves 43.6 acres undeveloped. There would be a two story, 48,000 square foot commercial building, possibly containing a daycare facility, plus offices and retail space. There are two access points from Epping Road. There would be three four-story multifamily residential buildings with 75 units each. There's a small connector building of one story.

For the dredge and fill application, there is a wetland impact on the east part of the site of 2.9 acres, a major impact, and buffer impacts of about 5 acres. The mitigation proposal is a big part of the state permit process. 43.5 acres would be conveyed to the town, plus the ARM fund of \$176,000. The town gets a key piece of undeveloped property, and the state gets mitigation for the balance.

Brendan Quigley said that the wetlands are very characteristic of the Continental Drive area. It's a red maple dominated wetland; it's not a red maple swamp, just poorly drained soils. There's not a lot of relief on the property, since fingers and pockets are situated throughout. They drain towards Bloody Brook and Little River. Further back on the property, there are some more obvious flow paths towards the conservation land in the back. A full mapping was done in 2015, when they identified 10 vernal pools in the back and none toward the front, other than a semipermanent pond area - not a vernal pool - which would be untouched in the current scheme.

Regarding function and value, the Water Quality component, these wetlands serve to accept and release drainage to the more valuable resources of Bloody Brook and Little River, but they're lacking the deeper ponded area that could sequester materials away from those bodies of water. The habitat is characteristic of this area, more like woods than wetland. The most significant value is the food sources present, a vibrant shrub and bramble community. The site has really regenerated in the last five years since logging has stopped.

The waiver guidelines ask why the use cannot reasonably be carried out outside the buffers, and that's clear in the layout of the wetlands in this property. There's not much that can be done on this site without impacting some wetland and buffers. They tried to avoid that by focusing the development up front. Other proposals would have fragmented the wetland habitats. For mitigation, they're offering something meaningful to the town beyond the ARM funds. This land can be added to a large block of existing conservation land.

They're here for recommendations to the Planning Board for the wetlands impact, and hopefully for favorable recommendations to the state of New Hampshire.

Ms. Raub asked about the timeline, since it hasn't yet been to the TRC. Mr. Petropulos said they hope to file with TRC on Tuesday of next week. There are other divisions of DES that

they have to file with, such as AOT. They hope to have this in front of the Planning Board in January.

Mr. Campbell asked if they'd considered pervious paving. Mr. Petropulos said they're looking at stormwater basins and recharge areas for roof water. They can't sweep stormwater "under the rug" into tightly packed glacial till soils. If they did try to do recharge, it wouldn't be able to take the large storms. They did find some locations where they can promote recharge, but porous pavement is not an ideal option for this site.

Ms. Raub said there is sloping in the back part of the site, and asked if they were filling to raise the elevation. Mr. Petropulos said the back of the site goes down 6 - 7 feet, and they're adding an earth slope with a conservation seed mix.

Mr. Guindon said the parking footprint is bigger than the building footprint, and building the parking up could reduce the impacts. Mr. Petropulos said they could do podium parking, but if the goal is workforce housing, the expense of that type of parking is \$30,000+ a space. They're putting forth a shared parking approach to the Planning Board; zoning requires 520+ spaces, but they'll try to convince them that 450 is appropriate given the non-coincidental peaks of parking usage.

Mr. Piskovitz asked if the footbridge at the back of the site is for access. Mr. Petropulos said it's for the public to walk on. Mr. Piskovitz said he's supportive of public access to the back, but wouldn't want to create more impacts with that parking. Mr. Petropulos said the parking would be in the uplands.

Ms. White said that in the DES application, it mentions that there are hits in the Natural Heritage Bureau for species of concern, and asked if the coordination had been done with NH Fish and Game and NHB. Mr. Quigley said no, the impacts came as a surprise with this application, as previous review requests in the area have come up with nothing. The species of concern are a snake and several turtles. They will take protective or preventative measures for those species, but it's unlikely that they constitute a population on the site.

Mr. Mattera asked if the stormwater specifics would not be available until after the AOT process, and Mr. Petropulos said yes.

Ms. Ward said she likes the combination of conservation and workforce housing.

Mr. Piskovitz asked them to address the 20 questions for the wetlands waiver.

Mr. Quigley said the need for the project is relatively clear, to make use of the property and add workforce housing. The alternative is the least impacting to wetlands on the site: this goes back to the layout, which is designed for the least impact. The type and classification of wetlands is seasonal saturated forested wetlands. The relationship to nearby waters: Bloody Brook, Little River, and the large wetland complex are 2500 feet away. Rarity of the wetlands: they are not rare, they're quite common in this area. The surface area of wetlands to be impacted is 2.9 acres. Impacts to rare plants, fish, and wildlife: there are a number of species of concern and plant communities of concern, and they will be addressing those with Fish & Game and Natural Heritage. Mr. Campbell asked what the species are. Mr. Quigley said swamp white oak, but he knows its habitat does not appear on the property; the slender bearded iris, which is only located around the pond; and for animal species, the northern black racer snake and wood turtle. The animals will be dealt with by specifics of the drainage design to be protective, and not allow juvenile turtles to get trapped. The impact of the project on public commerce, navigation and recreation: for recreation, there's very little impact, and no navigation impact, as that's

related to waterways. The project would have a positive impact on public commerce, through the creation of workforce housing and the addition of commercial space. Aesthetic interests: there would be some impact through clearing, but it's consistent with the zoning and surrounding uses, and it's not wetland specific. Deals with the right of public passage or access: this is a private site which currently has no public access, so it will be enhanced with passage through the property to the back. Impact on abutting owners: there are not many abutting owners that would be impacted, certainly not through the wetland impacts themselves. This is consistent with other uses and the zoning. Benefits to public health and well-being: this will add workforce housing and childcare, which are linked to public well-being. Impact of proposed project on water quality: water quality is within the realm of stormwater management, which will comply with state standards. Risk of flooding, erosion, and sedimentation: this will be addressed by stormwater management. During construction, there will be erosion and sedimentation control. They're not dealing with flooding; these wetlands are associated with surface water but are well above the wetland complex. Redirection of wave energy: this does not apply. The cumulative impacts if all abutting parties were permitted these alterations: their impact is relatively small, but he's not sure how to quantify the proportional ownership or impacts in that area. Function and values impact: there is some loss of habitat, and some small loss of water quality function, which is largely compensated for by the proposed drainage. The protection of 43 acres in the back will compensate for the small loss of habitat. National Register/National Landmarks: no such areas have been identified. National Rivers or wilderness areas: he's not aware of any. Redirection of water will not be occurring.

Mr. Piskovitz asked if the public had comments, but there were none.

Mr. Piskovitz said they should discuss the conservation land proposal. Mr. Guindon said this design is better for conservation value than what they've seen in the past. The Little River complex forms a corridor, and the 101 project was designed to favor wildlife. He has concerns about access and the public use of the conservation area. The extensive trail system in Henderson Swasey is great for the public but is likely having a negative effect on that forest. Letting light or sound pollution into the area would also be of concern. They should landscape with non-invasive, local plants.

Mr. Campbell said this is the best design for this area he's seen, and they should pursue the conservation land.

Mr. Piskovitz asked if the Commission had any further comments on the wetlands waiver, but there were none.

**MOTION:** Mr. Campbell moved that the Commission is in support of the concept of the town holding the conservation interest in this land as proposed, with details on the deed term to be developed prior to acceptance. Mr. Guindon seconded. Mr. Piskovitz said they should consider getting a phase 1 environmental assessment of any land that they acquire. All were in favor.

Ms. Murphy said there are other things that acquisition requires: an accurate survey with the bounds and descriptions, a baseline documentation of human impact, etc; potential stewardship fee requirements; and a follow-up walking of the boundaries to ensure markers are in place. A lot of them can be worked out when they meet to discuss the deed.

**MOTION:** Mr. Guindon moved to send a memo to NH DES that they have no objection to the project as proposed. Mr. Campbell seconded. All were in favor.

Regarding the wetland waiver, Ms. Raub said that she didn't feel they had enough information on the project plans. Ms. Murphy said in the past when projects hadn't been through the TRC process, if there were any changes to the wetland buffer impacts, the project would need to come before them again.

**MOTION:** Ms. Ward moved that they have reviewed this application and have no objection to the approval of the wetland waiver as proposed. Mr. Campbell seconded. Mr. Guindon said he wanted to make sure any parking areas were minimized to reduce impacts. The parking for the trails may not be necessary. Mr. Guindon and Mr. Koff voted nay and the motion passed 4-2.

3. Applicant is seeking Commission input on design layout and utilization of adjacent open space for a conceptual single family open space development off Tamarind Lane (Tax Map 96-15 and 81-53). Planning Board Case #19-11. (Brian Griset, Jim Gove)

Brian Griset and Jim Gove were present to speak about the proposal. This is a 63.74 acre property off of Tamarind Lane. The property is two separate parcels. They are going before the ZBA on November 19<sup>th</sup> for a zoning adjustment. All of the other multipurpose zones in town have frontage, but this parcel is deep without much frontage. There are wetlands on the site, and two vernal pools. There would be 16 or 17 single family homes on a private drive. They propose to leave 42 acres of open space. The remaining two lots are private lots. There's an area of common space which would be a conservation area for the HOA.

Mr. Gove of Gove Environmental Services discussed the sitewalk that members of the Commission had done. Wildlife is moving through the site, but there will continue to be access for them. Mowing of the open field will allow it to remain a habitat feature. Impacts have been minimized by this plan.

Mr. Piskovitz said they're only voting on the land acquisition, not discussing the project in general. Mr. Griset said they're looking for a comment for the ZBA as part of the special exception project. They have eliminated all other wetlands impacts but are trying to balance the roadway with the wetland, and may have a minor impact of less than 2,500 square feet. After the ZBA, they will come back to the Conservation Commission and Planning Board.

Mr. Campbell said that lot 9615 is 23 acres, and the Mendez piece is 30.76 acres, so about 54 acres. Where are they getting the 66 acres? Mr. Griset said there is a deeded parcel which they're using towards the yield plan.

Mr. Campbell said the Mendez plot seems virtually wet. Mr. Gove said there are large areas of upland. Mr. Guindon said the uplands and wetlands are connected in their biology. Mr. Griset said both wooded areas and open meadow would be maintained, so they will have marshland connected to highlands.

Mr. Mattera said that ecologically, he's in favor of this type of higher density conservation development, and that this was a thoughtful plan. Mr. Griset said when they go into the engineering, drainage, and house siting, they'll continue that preservation approach.

Mr. Piskovitz asked if the public wished to speak.

Anne Flaherty of 8 Tamarind Lane said that the proposed access point is across her property. She is in favor of the open space. There's a pond the road would go directly by, so

there may be impacts, even if the siting of the homes is in the uplands. She also had questions about the role of the Conservation Commission, ZBA, and Planning Board in this approval.

Lisa Bleicken of 11 Tamarind Lane spoke about the neighbors' concerns regarding the density issues within this low-density neighborhood. They started a petition expressing their concerns about the wildlife impact and drainage issues.

Laura Knott of 15 Tamarind Lane was concerned that this is a high-density project. She added that no development has the least impact.

Mr. Koff said he's supportive of the overall concept. The land seemed to be of interest for conservation purposes.

Mr. Piskovitz said that the subdivision process involves seeing how many lots the space could hold, and then condensing them with open space. If residents have concerns, they should raise them with the Planning Board.

John Elliott of 6 Tamarind Lane said there had been a lot of talk about yield plans and he doesn't think that's the Commission's purview. The Planning Board hasn't determined that this is a valid yield plan, and he doesn't think it is. Mr. Piskovitz responded that he brought up the yield plan to address the resident concerns. The commission's interest in approving the conservation portion of the proposal is what's under discussion.

**MOTION:** Mr. Guindon moved to express their support of the town holding conservation interest in the land under a deed similar to what's being proposed, with a surveyed plan of that area, baseline documentation, and boundaries confirmed with a walk, and with a look at stewardship fees. Mr. Piskovitz added that they would like a Phase 1 of the property by a consultant that this commission chooses paid for by the applicant. Mr. Campbell seconded. All were in favor.

Mr. Griset asked for them to comment on the appropriateness of doing the subdivision for the ZBA, and Ms. Murphy said it's not the Commission's place to advise the ZBA on those matters.

#### 4. Proposed Zoning Amendment: 9.1 Wetlands Conservation District

Ms. Murphy said that currently, the wetland waiver process states that it's duplicative of the conditional use permit process, but if you look at the criteria, there are substantial differences between them. She and Mr. Sharples have been talking about redoing the zoning ordinance to eliminate the wetland waiver and have one set of criteria for these approvals. The wetland waiver states that the Planning Board "should" consider the proposal, which is a loophole they want to address. These changes would go to the Planning Board as a public hearing in December in order to be a warrant article. Nothing in this changes the level of protection of the wetland districts, this is just for clarification. She explained in detail the changes reflected in the redlined document. The Commission agreed that the changes were acceptable.

#### 5. Committee Reports

##### a. Property Management

Ms. Murphy said the McDonnell Property, met with Bruce Page from the Police Department, Jay Perkins from Public Works, and the property owner. The owner has

experienced further issues and has had enough; she wants to put up additional barriers. Mr. Perkins was able to find a cheap gate, which they can put up now, but they don't have the ability to open and close it, although the property owner may be willing to do so. Ms. Murphy suggests putting up a gate and seeing what the public response is. It could be a temporary measure, she's not sure. Mr. Guindon said that they should add a sign with a phone number for public suggestions. Ms. Murphy thought a letter to the editor from the Commission may help. Ms. Ward said signs and a letter to the editor are not going to deter the people responsible.

b. Trails

Ms. Murphy said Luke Tyner finished his Eagle Scout project and she will go take a look tomorrow.

c. Outreach Events

Ms. Murphy said the goal is to pick a date for an event at the Irvine property for Parks and Rec. Mr. Koff said February 8th could work, and the Commission generally agreed.

6. Discussion for March 2020 Meeting Date Change

Ms. Murphy said the March meeting falls on Town Meeting day on March 10th. The Commission agreed to change it to March 17th.

7. Approval of Minutes: October 8 meeting

**MOTION:** Mr. Campbell moved to approve the minutes of October 8, 2019 as submitted. Mr. Guindon seconded. All were in favor.

8. Correspondence

Mr. Piskovitz said he had an email from David O'Hearn, who was a proponent of sponsoring a kid for camp, but they didn't get any applicants last year. Mr. O'Hearn would like them to consider doing it again. They could consider not having an essay requirement. Ms. Murphy said they can put it on the December agenda and talk about money at that time.

Ms. Murphy said that the state shoreland application from the Library project is on her desk, if anyone would like to review it.

Ms. Murphy said they received some publications, a newsletter from SELT, and a memo from the Great Bay Stewards seeking funding contributions.

Mr. Campbell said he received an email about the Climate Change Summit on December 4th. Ms. Murphy said they may have the funds to send someone.

9. Other Business

- a. No other business was discussed at this meeting.

10. Next Meeting

- a. Date Scheduled 12/10/19, Submission Deadline 11/27/19

11. Non-Public Session

- a. Non-public session pursuant to RSA 91-A:3,II(I) for the consideration of legal advice.

**MOTION:** Mr. Koff moved to enter into non-public session pursuant to RSA 91-A:3,II(I) for the consideration of legal advice. By a roll-call vote, all were in favor, and the meeting went into non-public at 10 PM.

**Adjournment**

Respectfully Submitted,  
Joanna Bartell  
Recording Secretary