

Exeter Conservation Commission
July 12, 2022
Novak Room
Exeter Town Offices
10 Front Street
Approved Minutes

Call to Order

1. Introduction of Members Present (by Roll Call)

Present at tonight's meeting were by roll call, Chair Andrew Koff, Vice-Chair Trevor Mattera, Nick Champion, Conor Madison, Don Clement, Alternate, Kyle Welch, Alternate and Bill Campbell, Alternate.

Staff Present: Kristen Murphy, Conservation & Sustainability Planner

Mr. Koff called the meeting to order at 7:00 PM and indicated Alternates Bill Campbell, Don Clement and Kyle Welch would be active.

2. Public Comment (7:00 PM)

Mr. Koff asked if there were any questions or comments from the public related to non-agenda matters and there were none.

Action Items

1. Wetland Conditional Use Permit application for the relocation for Unitil to remove an above-ground meter station and decommission a section of buried natural gas pipe between Kingston Road and Heritage Way. Construction vehicle access to the work will require temporary impact to wetlands within the natural gas pipeline corridor
Tax Map Parcels #74-81 and #81-56

Mr. Koff read out loud the Public Hearing Notice.

Steve Herzog of Wood Environment & Infrastructure Solutions, Inc. presented the application on behalf of Unitil Granite State Gas Transmission (Unitil). Wetland Scientist Chuck Lyman was at the Site walk attended by several of the Conservation Commission members. Mr. Herzog referenced a lateral short segment of transmission pipeline between Kingston Road and Heritage Way, accessed by crossing three wetlands along their easement with temporary impacts to wetlands and work to begin around August. Tadpoles were observed in a vernal pool and were estimated to be Green Frog or Pickerel rather than Wood.

43 Mr. Campbell asked the timing of this work, whether it would be in early Spring and Mr. Herzog noted
44 that work would not begin before August, when the tadpoles would have already matured.

45
46 Mr. Clement asked how long the project would take to be completed and Mr. Herzog responded a few
47 weeks and Unitil will continue to maintain the easement area and do periodic mowing after
48 decommissioning. There is possibly a future project that would access the pipeline in a few years which
49 will include a drivable road. Mr. Clement advised the Commission would deal with that when it comes
50 up as there are no plans to be presented.

51
52 Mr. Mattera asked about the areas across Kingston Road and Mr. Herzog noted there would be removal
53 of asphalt and revegetating. The Meter and Regulating Station would be removed.

54
55 Mr. Koff asked if there would be any digging and Mr. Herzog responded that the pipe will be filled with
56 grout at both ends but not dug up.

57
58 ***Mr. Campbell motioned that the Conservation Commission have no objection to the Conditional Use***
59 ***Permit application, as presented. Mr. Clement seconded the motion.***

60
61 Mr. Koff noted he was satisfied the use was permitted in the district and questioned if there should be a
62 condition that the work be done in August or specify the dry season and Mr. Campbell recommended
63 the end of the year. It was decided the project was presented as occurring “during the dry season” so
64 no condition was needed.

65
66 ***A vote was taken, all were in favor, the motion passed 7-0-0.***

67
68 Mr. Koff noted he would draft a letter to the Planning Board.

69
70 2. Wetland Conditional Use Permit application and Standard Dredge and Fill Wetland Permit
71 Application for the construction of a 95,000 SF industrial warehouse building located at 19
72 Continental Drive
73 Tax Map 47-7-2

74
75 Mr. Koff read out loud the Public Hearing Notice and noted there was a Site Walk at 5 PM tonight and
76 several members were present.

77
78 Mr. Clement recommended doing the Wetlands Dredge and Fill Application first.

79
80 Brendan Quigley, a certified wetlands specialist with Gove Environmental, presented the application on
81 behalf of the applicant, Glerups, Inc. Mr. Quigley noted the project is to construct a 95,116 SF
82 warehouse facility with office. He referenced the location on the plan, at the end of Continental Drive.
83 He showed the locus of the project referencing Epping Road and Exit 9 of Route 101. He showed the
84 location of a cell tower lease and of the Garrison Glen subdivision which is surrounded by the Little River
85 Conservation area.

86

87 Mr. Quigley referenced the buffer impacts shown on the plan in orange and the direct wetland impacts
88 shown on the plan in blue, totaling 9,548 SF which he noted were reduced from 9,900 SF proposed
89 originally. He described the wetlands being impacted as finger wetlands. Wetlands surround the entire
90 property. He described the access area and swale like crossing easement area for access and associated
91 parking and stormwater management features in the uplands. He showed on the plan where tractor
92 trailer delivery trucks would pull up to the loading docks and then exit around the building. He noted
93 the road width and radius requiring for the drivers of those trucks to have visibility and the clearance
94 needed for the cargo to round the corners on both sides of the facility and for fire safety acces . He
95 described the parking area for the office workers. He noted they are seeking a favorable
96 recommendation to NH DES. He added that to minimize impacts there would be several retaining walls
97 and steep grading where possible.

98
99 Mr. Clement asked about any connecting wetlands and Mr. Quigley responded that all the wetlands are
100 connected eventually, showing on plan and wrap around the property and extend down to Little River a
101 few thousand feet from the property.

102
103 Mr. Clement expressed concerns with the filling of wetlands directly and the impact on the rest of the
104 wetlands, indirectly. Mr. Quigley responded that they are required to maintain hydrological connections
105 and are not severing anything. The impacts are limited to the edge of a few of these finger wetlands
106 which do not function as a habitat and the least detrimental impact.

107
108 Mr. Campbell asked what was north of the vernal pool and Mr. Quigley pointed to the road. Mr.
109 Campbell stated that 80,000 SF of buffer impact is almost two acres and buffers are set up for a reason.
110 In his opinion, Mr. Campbell stated, the building is too big and there is just under 10,000 SF of fill
111 proposed.

112
113 Mr. Clement noted that if the wetland is filled it doesn't exist anymore and therefore the buffer isn't
114 needed anymore. Mr. Quigley expanded why the plan proposed was the least detrimental compared to
115 the effect the above area would have had.

116
117 Mr. Eric Weinried from Altus Engineering discussed the vegetative bioretention (sandy loam and grass
118 with C-8 Conservation Seed Mix) and infiltration areas and buffer impacts to construct those. He noted
119 all drainage would be closed curbed to catch basins with sumps and hoods discharging to bioretention
120 areas. He discussed the lighting plan which he described as dark off pavement and showed the
121 proposed retaining walls and proposed snow storage.

122
123 Mr. Koff asked about the parking needs and if they could be reduced. There are several more spaces
124 than required and a waiver could be obtained by the Planning Board. This would reduce the impervious
125 surfaces.

126
127 Mr. Weinried showed the planting area he described to serve to break up the heat island affect and
128 noted they could bring the road which goes around the building in closer if they needed to. Ms. Murphy
129 noted she had no response to her comments to TRC, including the circulation and potential elimination

130 of the top road. However it was explained that the turning area would not be large enough. Parking is
131 83 spaces, about eight spaces over minimum requirements.

132

133 Mr. Campbell asked if porous pavement had been considered anywhere and Mr. Weinried noted it
134 would be the same criteria met by bioretention. Mr. Quigley added that the planted bioretention area
135 does provide the buffer and water quality and functions would be restored over time.

136

137 Mr. Mattera asked Mr. Quigley to describe the wetlands being impacted and Mr. Quigley described
138 them as forested wetlands, mostly Red Maple, last logged in 2014-15 with poorly drained soils and
139 relatively flat; draining to the Little River, but with no major streams or ponds aside from the vernal pool
140 which was helped to be formed by the old Garrison Lane road with wetlands in the lower areas of the
141 road. It is seasonally flooded/saturated.

142

143 Mr. Koff noted the wetlands were not particularly notable but there were a significant amount.

144

145 Mr. Koff opened the hearing to the public for comments and questions at 8:14 PM.

146

147 Laura Smailey of 15 Garrison Lane stated she was a neighbor on Garrison Lane and asked how much of
148 the woods would be taken away and how many trucks will go in and out each day. Ms. Murphy noted
149 that question is more relevant to the Planning Board and could be addressed at their August 25th
150 meeting. Mr. Koff referenced the large Little River Conservation area surrounding the parcel and
151 commented that there are other trails that avoid this parcel.

152

153 Mr. Koff noted the size and scale of the impact and uncertainty of design and potential changes. He
154 would like design considerations to minimize pavement which could be worked out with the Planning
155 Board. He noted the deadline with DES expired yesterday but Ms. Murphy called Eben Lewis and asked
156 to delay action.

157

158 Mr. Clement noted he is never comfortable with filling in wetlands but supports minimization of direct
159 impacts on protected resources; and noted the Wetlands Bureau will set conditions.

160

161 Mr. Campbell recommended reducing the size of the building, which is a three-four story significant
162 building.

163

164 Mr. Mattera asked about the NHB Assessment and Mr. Quigley confirmed here were no plants, no
165 habitats and identified species of concern were Black Racer (snake) and Wood Turtle. Fish & Game
166 would require a wildlife study as part of AoT and that drainage designs do not entrap snakes or turtles.

167

168 **Mr. Mattera recommended approval of the State Dredge and Fill Wetlands Permit as presented. Mr.**
169 **Clement seconded the motion. A vote was taken, all were in favor, the motion passed 7-0-0.**

170

171 Mr. Mattera noted the finger wetlands are not hugely valuable wetlands and the buffer becomes null
172 and void once those fingers go away.

173

174 Mr. Koff went over the criteria for the CUP answered in Gove Environmental’s letter. Mr. Koff noted the
175 applicant discussed the constraints of the parcel and presented there is no alternative design with less
176 impact that is feasible. Mr. Koff noted he would like to see impervious surface minimized via parking
177 and impervious surfaces around building in select locations.

178

179 Mr. Koff continued reading the criteria including functions and values impact not being detrimental to
180 the hydrological system which Mr. Quigley described. Mr. Clement added that the hydrology of Little
181 River would not be impacted.

182

183 Mr. Campbell noted the design could be minimized to lessen effect of impact to wetland or buffer with a
184 smaller building, but he did not know how much or where. He noted he was struck by the amount of SF
185 of buffer impact and filling of wetlands.

186

187 Mr. Clement asked about other building sizes in the area. Mr. Koff noted Unitil had a large building and
188 Gourmet Gift Basket was even bigger and has a driveway all around, but parking is limited to one side.
189 He noted stormwater treatment and the bioretention system seems adequate although gravel wetlands
190 would be better in his opinion. He talked about minimizing the flow around the building already.

191

192 Mr. Koff noted the use would not cause a hazard due to loss of wetland and did not see an issue there.
193 Mr. Mattera agreed. Restoration proposals were discussed as well as retaining walls, grading and seed
194 mix. The surrounding 200 Acres were received for protection by Conservation as part of the Garrison
195 Glen subdivision. The applicant is obtaining all other local and state permits. Mr. Quigley noted as
196 referenced in the Altus Engineering letter the use is permitted in the zone.

197

198 **Mr. Campbell motioned that the Commission has reviewed the application criteria and recommends**
199 **the CUP application be approved with the condition that the parking and roadway be reduced to the**
200 **extent feasible with the goal to strategically reduce buffer impacts on the peripheral part of the**
201 **development in order to reduce the extent of impact. Mr. Maddison seconded the motion. A vote was**
202 **taken, all were in favor, the motion passed 7-0-0.**

203

204 Mr. Koff noted he will draft a letter recommended approval with the suggested conditions.

205

206 Mr. Madison asked the due date of TRC deadline because he felt there were good comments that didn’t
207 seem to be addressed and Ms. Murphy noted she would get that deadline to him.

208

209 3. Correspondence

210

211 DTC Lawyers – Request for Rehearing on the recommendation to the Planning Board at the June 14,
212 2022 Conservation Commission Meeting. Application to be heard at the July 14, 2022 Planning Board
213 Meeting.

214

215 Ms. Murphy provided the Board with a hyperlink to the recoding of the June 14, 2022 meeting, the
216 memo from the Conservation Commission to the Planning Board, the email from Town Planner Dave
217 Sharples to Attorney Justin Pasay at DTC and the 7-1-22 submission from DTC.

218

219 Ms. Murphy summarized that the Commission had four votes and one abstention to recommend
220 approval of the CUP application and recommended denial of the Shoreland criteria citing water quality
221 impacts. Typically rehearing requests are reserved for Land Use Boards such as ZBA and the Planning
222 Board, but the Commission could reconsider its recommendation. Ms. Murphy explained how a new
223 hearing would work, if granted, they would begin from scratch as if hearing it for the first time and the
224 Planning Board would be notified.

225

226 Mr. Koff noted he strongly disagreed with the content of the DTC letter stating some comments were
227 exaggerations and taking tone of the discussion out of context.

228

229 Mr. Clement recused himself on the basis of not being present at that meeting.

230

231 Mr. Mattera noted he was not at the meeting but went back and watched the tape. He felt that
232 Attorney Pasay may be misinterpreting or misconstruing the role and authority of this Commission. He
233 noted the Planning Board has the authority to make decisions and the Commission is giving
234 recommendations to that Board. He noted the question before him is not whether he agrees with the
235 outcome of the vote but whether he feels the process held during that meeting was incorrect and
236 should be re-done. It is not about his feelings on whether the vote was correct or how he would have
237 voted. He responded that there is no hierarchy of shoreland protection zones. The presence of a
238 perennial wetland is not a 'catch all' as represented by Brendan but gives the Commission a very specific
239 way of encompassing this under the jurisdiction that they can look at and they don't have value them
240 any higher or lower than anything that is specifically called out in the regulations. Mr. Mattera
241 questioned how DTC stated there was no "relevant participation by other members." He pointed out
242 that there is nothing inherently wrong with that. There is no requirement that everyone needs to
243 participate in any discussion and, there is no need for a 'robust discussion'. Their decision could have
244 been based on their own knowledge, experience and observations. Each member of the Commission
245 had the opportunity to participate to the extent they desired. He saw nothing wrong with how this
246 process was carried out knowing that their concerns, opinions and recommendations are a part of the
247 evidence going to the deciding body.

248

249 Mr. Madison expressed agreement and questioned the benefit to rehearing the application.

250

251 Mr. Mattera suggested they not re-hear this application on the basis of process. He expressed a concern
252 that they should not be bound to rehear an application every time there is an unfavorable
253 recommendation, until the applicant is satisfied. This is not how this Commission is structured or the
254 level of decision making in the Town is structured.

255

256 Mr. Campbell noted that unless there was some new information to consider he agreed with what was
257 said already.

258

259 Mr. Koff addressed the claim that the Commission "ignored uncontradictory expert testimony" and felt
260 that phrase is not fair. He went out for a site walk and reviewed the project in 2017, went out for a site
261 walk for an hour and reviewed it last month and spent the better part of 2 hours discussing it. He does

262 not feel he ignored uncontradicted expert testimony. He stated he disagreed with the testimony
263 provided, that was clearly in favor of the application. He stated perhaps he could have contradicted
264 what was said by the applicant more clearly or concisely, but that does not mean he ignored what they
265 said, but rather he disagreed with what they said and decided to have a different conclusion than what
266 their experts provided. He noted the only way they could have 'expert testimony' that could contradict
267 with the applicant's testimony, would be for the commission to hire a 3rd party wetland scientist or
268 consultant to review these projects and present an alternate case before them. He state the phrase
269 repeated throughout the document that Commission erred by ignoring uncontradicted expert
270 testimony, he feels is a misrepresentation of the process. Mr. Campbell pointed out that some of the
271 Commission members have sat on the Commission for 30 years or are in the business and have a
272 background in wetland science and doesn't believe they are uneducated. He said, we disagreed and he
273 thinks with a good background.

274
275 **Mr. Campbell motioned to deny the request for reconsideration of the Commission's recommendation.**

276
277 Mr. Mattera added his observation after watching the video of the meeting was whenever the applicant
278 benefitted from raising the alternative design of Building D, they did so freely but when the Commission
279 considered any alternative designs it was frowned upon by the applicant because the standard doesn't
280 take into account alternative designs.

281
282 **Mr. Mattera seconded the motion. With Mr. Clement recused and Mr. Campion abstaining, the**
283 **motion passed 5-0-1**

284
285 Mr. Koff noted he would like to attend the Planning Board meeting himself to answer any questions that
286 come up about the Commission's letter. Mr. Campbell agreed that was an excellent idea. Mr. Madison
287 also agreed.

288
289 **Mr. Koff motioned for the Commission to authorize him to attend the Planning Board meeting to**
290 **represent the views they discussed here and at the last meeting. Mr. Campbell seconded the motion.**
291 **A vote was taken, with Mr. Campion and Mr. Mattera abstaining, the motion passed 4-0-2.**

292
293 Mr. Mattera explained his reason for abstaining was it was the 4 other members who were present for
294 the discussion at the prior meeting. Mr. Clement rejoined the meeting at 9:24 PM.

295
296 Ms. Murphy continued to report on correspondence received.

297
298 She noted the AoT and wetland permit was received for Rose Farm and the AOT permit for the PEA
299 Facility on High Street and a request for more information for the shoreland permit. There were two
300 violation letters from DES to investigate: on Hobart Street and Cornwall Way. Ms. Murphy looked at
301 the sites, no action is required. Photos of Hobart Street were sent to the State.

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303 4. Committee Reports

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305 a. Property Management

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i. Garrison Lane

Mr. Murphy noted winter/spring ATV/snow mobile use complaints were received throughout the winter coming from Garrison Lane heading into the Little River and she inspected but found no evidence of tracks. After phone calls DPW tried installing boulders which were moved and then Jersey Barriers which was removed after a complaint by a property owner. She sent a letter to all residents on Garrison Lane outlining the restrictions on the property. There may have been confusion over who owned what property as someone stated they had been given permission by a property owner. She noted you cannot access Garrison without crossing Town property and Lane Road was discontinued at 2015 or 2016 Town Meeting and provided a property ownership map to the person who indicated they had permission. Signs will be put up, although the kiosk already says no motorized vehicles.

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ii. Raynes – Haying

Ms. Murphy noted no Bobolink re-nesting behavior was observed at Raynes yet likely due to the hay being too short. There was a request from Kathy Norton to fund David O’Hearn mowing behind the stone wall to the north corner of the property.

Mr. Clement motioned to approve the request by Kathy Norton to have Dave O’Hearn mow behind the stone wall to the north of the property. Mr. Campbell seconded the motion. A vote was taken, the motion passed 7-0-0.

b. Trails

Ms. Murphy received notice from Unitil for the powerline work within the Watson Road corridor. The Captains Way portion will have trail network impacts. The work is expected to start by July 25th, the trail network will be rerouted, and will post on Facebook. She will send the date to Bill and Kyle. Kyle suggested signage be placed at the trailheads. Bill added the Morrisette signs had been taken down. Kyle indicated the permittees for the trail race did a great job of cleaning up.

c. Outreach Events

i. Geocaching Event Planning – July 16, 2022 – 9 AM to 10 AM

Mr. Welch discussed the Geocaching Event planned for Saturday morning. He described the route as a ¾ mile course through Henderson Swasey which will pass by the climbing rock. There are three geocaches to find and participants should bring athletic footwear and bug spray and be sure to set up the app. The event should be about one hour. 23 people clicked interested on Facebook.

ii. Raynes – “Raptors of New England” sponsored with the Word Barn

Ms. Murphy reported on the Raptors event proposed by Ben Anderson of the Word Barn for July 23rd from 10:30 to 11:30. On the Wing will display live birds. There will be a fee to attend with a portion of the proceeds to the Commission. Parking will be head in at the stone wall.

Mr. Koff motioned to approve the event seconded by Mr. Mattera. A vote was taken, and the motion passed 7-0-0.

5. Approval of Minutes:

i. June 14, 2022 Meeting - Tabled

6. Other Business

365

366 7. Next Meeting: Date Scheduled (8/9/22), Submission Deadline (7/29/22)

367

368 Mr. Koff noted concerns with attendance for the next meeting and proposed a survey or poll. Mr.
369 Campbell and Mr. Clement will also be away.

370

371 Adjournment

372

373 MOTION: Mr. Koff moved to adjourn the meeting at 9:44 PM seconded by Mr. Mattera. A vote was
374 taken, all were in favor, the motion passed unanimously.

375

376 Respectfully submitted,

377

378 Daniel Hoijer, Recording Secretary

379 Via Exeter TV

380

381 This meeting was also offered via Zoom 838 7536 1756