



# TOWN OF EXETER, NEW HAMPSHIRE

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[www.exeternh.gov](http://www.exeternh.gov)

## PUBLIC NOTICE EXETER CONSERVATION COMMISSION

### Monthly Meeting

The Exeter Conservation Commission will meet in the Nowak Room, Exeter Town Offices at 10 Front Street, Exeter on **Tuesday, March 6<sup>th</sup>, 2018 at 7:00 P.M.**

#### Call to Order:

1. Introduction of Members Present
2. Public Comment

#### Action Items

1. Treasurers Report
2. Committee Reports
  - a. Property Management
    - i. Climate Action Day
    - ii. Appoint Raynes Farm Stewardship Committee Member
  - b. Trails
    - i. Trail Committee Chair
  - c. Outreach
  - d. CC Representatives Report on Other Committees
3. Approval of Minutes: February 13<sup>th</sup> Meeting
4. Other Business
5. Next Meeting: Date Scheduled (4/10/18), Submission Deadline (3/30/18)

#### Work Session

1. Work Session immediately following the meeting to review draft 2018 goal document and discuss project review guidelines

*Bill Campbell, Chair*

*Exeter Conservation Commission*

*February 21<sup>st</sup>, 2018 Exeter Town Office, Exeter Public Library, and Town Departments.*

**TOWN OF EXETER  
PLANNING DEPARTMENT MEMORANDUM**

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Date: February 23<sup>rd</sup>, 2018  
To: Conservation Commission Board Members  
From: Kristen Murphy, Natural Resource Planner  
Subject: March 6<sup>th</sup> Conservation Commission Meeting

**Work Session Documents**

1. Attached is the goals list we developed from the last meeting. Anything to add/remove? I tried to identify where there is overlap with the Master Plan Action Agenda. I also included a draft project planning calendar that captures events we have done in the past. We could go through all of them or ensure we have time for item #2 and start with just a season or two.
2. In response to your Goal #5 (education on role, regulations, etc) I have put together a draft project review guide. My hope is we have time in the work session to go through at least most of this document. This guide includes links to the electronic versions of the zoning ordinance, site plan and subdivision regulations, and NHDES wetlands application materials.

Conservation Commission

February 13<sup>th</sup>, 2018

7:00pm

**Call to Order:**

1. Intro

Present at the meeting were Sally Ward, Marie Richey, Todd Piskovitz, Bill Campbell, Virginia Raub, Andrew Koff, Alyson Eberhardt, and Anne Surman. The meeting was called to order at 7:00pm by Chairman Campbell.

2. Public Comment

There was no public comment.

**Action Items:**

3. Donation of 4.85 acres of undeveloped land at Map 22/Lot 10 by Dan and Jennifer Cole. The property is located east of Newfields Road on the Squamscott side of the railroad tracks.

Dan and Jennifer Cole are donating their property, which is bordered on either side by town land. There is a right-of-way off of Newfields Road that allows access to the lands. It had previously been separated by train tracks. With the Cole property, Exeter land along the River is protected from Route 101 up until the town line. The deed will give the land to the town of Exeter through the Conservation Commission and will need approval from the Board of Selectmen. The land is limited to preservation of the natural habitat and increasing public awareness. Some conditions include that there can be public access for non-commercial recreational activities. There can be no disturbance of the land, camping, or structures. Hunting will be allowed unless otherwise posted.

Ms. Murphy said that legal counsel reviewed the draft deed, and recommended title insurance to protect the town's interests. Russ Dean decided that the town could accommodate that.

**MOTION:** Ms. Raub moved to recommend to the board of selectmen that they accept the donation by the Cole family of 4.85 acres at Map 22, Lot 10. Ms. Eberhardt seconded the motion, and it passed unanimously.

**MOTION:** Mr. Koff moved to expend up to \$500 from the conservation fund for administrative fees for the property. Ms. Richey seconded the motion, and it passed unanimously.

Ms. Murphy also suggested a press release about the property, and the commission thanked the owners of the property for their donation.

4. HB 1104, NHDES Wetland Rule Proposed Revisions

Ms. Murphy said that these revisions need to move through the legislature, and that there are some changes to the wetland review process and other issues. NHACC had expressed some concerns about the reduced review timeframe presented in the bill. NHACC wanted to see if they are interested in submitting their concerns for the Commission, but they can also submit comments later. They wanted to

bring it to the commission's attention. Chairman Campbell asked for clarification about when the official review process begins. Ms. Murphy said that it begins when the town clerk submits it. Chairman Campbell was also concerned it would affect site walks, and that the DES would not be able to give the commission an extension for their timelines.

Ms. Murphy said that there will be meetings in the future allowing for public comment. She pointed out some of the positive changes occurring, such as a new certification program for wetland scientists. The comment period will close in April. Mr. Koff said that he works at DES, and could act as a contact point between them and the Commission.

## 5. Committee Reports

### a. Property Management

Chairman Campbell talked about the possibility of creating new signs for trails, and had a person in mind to do it. He also suggested that the sign at Henderson-Swasey and perhaps the Oaklands be replaced as well. The lumber cost would be about \$12-15 for the trail signs, and the sign at Henderon-Swasey would cost about \$115-125. There is no labor charge.

Selectwoman Surman suggested naming more of the trails so that people don't get confused when they are walking. The trail maintenance budget has \$600 budgeted. There is also additional lumber stored for bridge work on trails if needed. Mr. Koff suggested that the trail subcommittee should bring up the issue at their next meeting, and suggested a more locally sourced wood than red cedar. Ms. Richey said she knows people who may be able to source local wood.

**MOTION:** Mr. Koff moved to expend up to \$200 from the trail maintenance budget for new signage. Mr. Piskovitz seconded the motion, and it passed unanimously.

Ms. Richey suggested using different colors for the names of the trails, because anything more complicated might be confusing. Also, on the maps they are listed as colors.

Chairman Campbell brought up the seedlings that would be planted in empty areas. They need to be ordered soon, and he would like to get them in time to use for PEAs Climate Action day. Ms. Raub suggested using tube stock plants because they have longer roots and are better established. Ms. Richey said she was concerned about whether or not the seedling would be effective and whether it makes sense to spend money on them. Chairman Campbell said that they wanted to plant shrubs to provide food for wildlife and shelter for small animals. The commission had agreed to use a mix of three tree species and one shrub species. They also do not want the seedlings to be overcrowded by invasive species.

### b. Outreach

Chairman Campbell said that Bob Kelly had wanted to do a demonstration of the Snow-Dog machine, but the weather has not been ideal. On 2/24/18, there will be the Hullabaloo race and they will check afterwards to make sure the trail is cleaned up. Also, 2/17/18 will not work for the Open Barn event because of the weather. The Moonlight Snowshoe event will be on 3/2/18, and the new director of the YMCA is excited to partner with the commission to help spread the word. David O'Hearn said that he could lead the walk. They are worried there will not be enough snow. Chairman Campbell suggested

using luminaries. Ms. Eberhardt said they should asked the YMCA for volunteers to help set up. They also want the fires to be in open spaces for safety.

6. Approval of Minutes: January 9th Meeting

There was a missing verb, and in one place in the minutes the name “Mcdonnell” was misspelled.

**MOTION:** Ms. Ward moved to approve the minutes as amended. Ms. Raub seconded the motion, and it passed unanimously.

7. Other Business:

There was no other business to discuss.

8. Next Meeting: Date Scheduled (3/13/18), Submission Deadline (3/2/18)

The next meeting was schedule for 3/13/18, but Chairman Campbell and Mr. Guindon would not be able to attend. The commission decided to change the next meeting date to 3/6/18.

**Work Session:**

1. Work Session immediately following the meeting to establish the Commission annual priorities and goals

**MOTION:** Mr. Piskovitz moved to adjourn the meeting. Ms. Eberhardt seconded the motion, and it passed unanimously. The meeting was adjourned at 8:00pm.

Respectfully submitted by recording secretary Samantha Cave.

## 2018 Goal Setting Session

**Goal 1:** Deeper partnership with Parks and Rec, YMCA and other community groups. (Relates to Master Plan Support, 3, 8)

**Goal 2:** Have focused/goal oriented outreach events. For example, prioritize Raynes farm in prep for CIP and LCHIP application, prioritize events that also help to meet Town's MS4 and AOC requirements. (Relates to Master Plan Support, 7)

**Goal 3:** Develop and maintain a list of conservation related activities going on by other groups in town so the Commission members are informed and can be a point of reference for the public. (Relates to MP Support, 8)

**Goal 4:** Incorporate higher quality public events that utilize experts and require a donation by participants to supplement the conservation fund (Relates to MP Support, 8)

**Goal 5:** Improve Commission education on their role, the regulations, communication with the Planning Board, and development of effective recommended conditions. (Relates to MP Communicate, 2?)

**Goal 6:** Maintain trails on conservation lands open to the public. (Relates to MP Steward, 11 and could relate to MP Steward 12)

**Goal 7:** Work to ensure a resilient community in both the short and long term. (Relates to MP Prepare, 3, 4, 5 and Steward, 1)

## 2018 Project Planning

### Late Winter/Early Spring

- Open Barn – Raynes
- Full Moon Snowshoe – Morrissette
- Raynes Stewardship Committee Meeting (Outreach, LCHIP)
- Trails Committee Meeting (Spring Trail Project Planning)
- Walk Potential Future Conservation Lands

### Spring

- LCHIP Grant Workshop (EARLY MAY)
- LCHIP Intent to Apply Form Submission (MID-LATE MAY)
- Vernal Pool Program – Forest Ridge
- Spring Tree Seedling Prep (prior to Arbor Day 4/27)
- PEA Climate Action Day (4/27)
- Invasive Plant Study-HSTF (4/29)
- Woodcock Walk – Morrissette / Raynes
- Rain Barrel Program (CC or Healthy Lawns Clean Water)
- Spring Lawn Care Clinic (Healthy Lawns Clean Water?)

### Summer

- Trail Blazing – Oaklands, Henderson Swasey
- Trail Signage – Garrison Ln., Skate Park, Internal Forest Signs, Passport Rejuvenation?
- LCHIP Application Submission (MID-LATE JUNE)
- CIP Project Submission
- Budget Request to Town Manager
- National Trails Day
- VRAP Sampling
- Summer Fest?

### Fall

- Property Inspections
- Fall Trail Projects
- Raynes Fall Outreach Event w/ Parks and Rec
- CIP Project Presentation
- Budget Process Involvement

INTERNS?

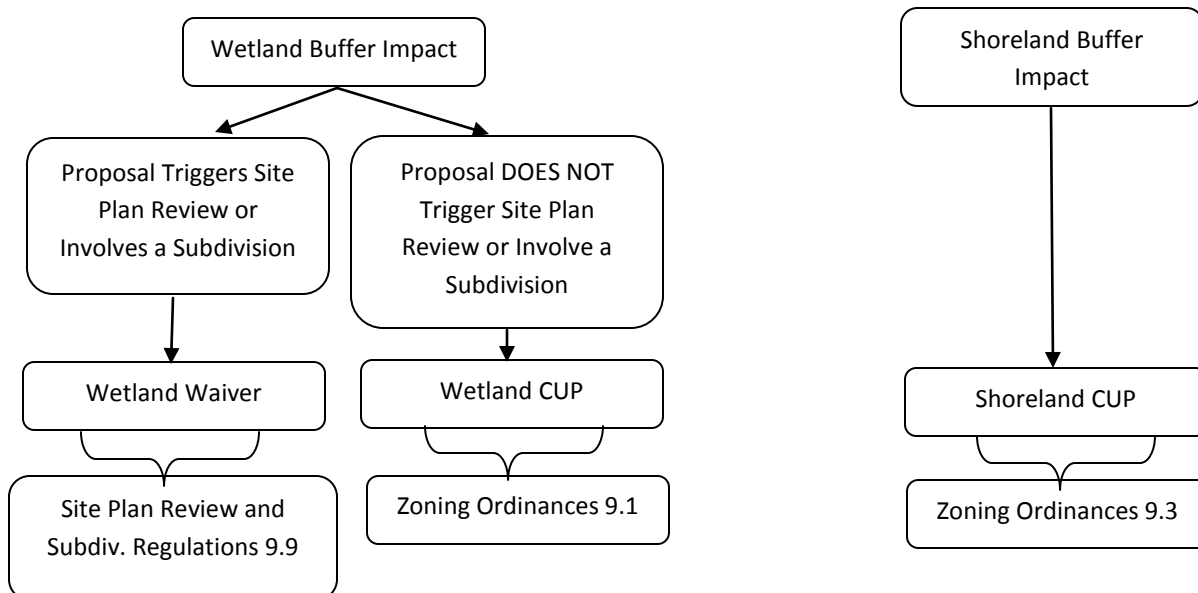
## ROLE OF THE EXETER CC IN THE PROJECT REVIEW PROCESS

With project review, the Conservation Commission has 2 main advisory roles. One is to the State for **Wetland Dredge and Fill** applications that addresses direct impacts to wetlands. The State does not provide protection to the upland around wetlands (ie. wetland buffers). The State also will look to the Commission to make recommendations on [wetland mitigation](#), should it be required.

The other role the Commission has is to make recommendations to the Planning Board for impacts to the upland area (buffer) abutting wetlands or what we refer to as shorelands. These buffer impacts require the approval of a **Wetland or Shoreland Conditional Use Permit (CUP)** as defined in our [Zoning Ordinances \(9.1 and 9.3\)](#). When a development involves a subdivision (lot is divided into smaller parcels) or involves fairly [substantial](#) site improvements, the development requirements are defined in our [Site Plan and Subdivision Regulations \(Section 9.9\)](#). When a project is substantial or for recommendations on **Wetland Waiver Requests** as defined in our [Site Plan and Subdivision Regulations \(Section 9.9\)](#). These are locally defined and each town is different.

When wetland buffers are involved, there are two possible approval paths. A wetland CUP (defined in our zoning regulations) is required if the project will not be creating new lots or it involves development on a single lot but involves fairly minor changes to the site but has impacts to wetlands. For developments that require both a wetland CUP and site plan review or involves a subdivision, rather than filing both a wetland CUP and a wetland waiver request, Zoning 9.1.6.C says the applicant need only apply for a wetland waiver.

### PLANNING BOARD BUFFER IMPACT PROCESS





# STATE WETLAND DREDGE AND FILL

Applications are classified as either Expedited Review or Standard Review.

**Expedited Review** is for [projects of a lower impact threshold](#) for wetland impact. For these, they present the application and are hoping that you will support signing the application at the meeting. This shows NHDES you support the application having a shorter review time frame. If you do not sign, the application takes the standard review timeframe. Should you choose not to sign, you should say why and also provide any comments you want considered when the project is evaluated by NHDES because it will not come back to you for feedback.

**Standard Review** has three thresholds: [Minimum Impact, Minor Impact and Major Impact](#). In all cases, they are presenting to you to obtain your recommendation to NHDES. These are the applications you see most often and include NH Fish and Game Recommendations, NH Heritage Database Check, and answers to the 20 Questions. The recommendations you make on these are sent to NHDES in a letter after the meeting. This letter indicates whether you recommend approval/denial (or your standard language is object/do not object) and any conditions. The second is to the Planning Board in making recommendations on the wetland and shoreland conditional use permit process defined in our [Zoning Ordinances](#)

## QUESTIONS AND THINGS TO CONSIDER DURING WETLAND APPLICATION REVIEW

- Look for the wetland scientists stamp on plans.
- What standards did they use? Look for a certification note on plan.
- How long ago were the wetlands delineated? Long enough that they be re-delineated?
- How much time between when the wetland scientist delineated and surveyor plotted the boundary? If long did they have wetl sci refresh the flags?
- Is there a report that accompanies the delineation / plan?
- Are the individual flag locations and letters/numbers identified on the plan? This is helpful for reference during site walk.
- How were the flags located and plotted on the plan? By GPS (less accurate) or by instrument survey (more accurate - and more important the closer the proposed work or if direct impact is proposed)?
- Were wetlands delineated with snow on the ground? (Winter delineations deserve a closer look.)
- Did they look at a time when vernal pools could be detected?
- Is this a natural wetland boundary or a manmade wetland boundary (created by fill or other activity)?
- Was the fill legally permitted? (before 1969 without permits or after 1969 with permits) If no permit it can be considered a violation.
- If they assert that the fill was placed before 1969....Can you provide documentation... such as aerial photographs?
- Has Heritage provided comments? NHFG? To make sure their concerns are included it may make sense to include their comments in a condition.

## KEY ZONING ORDINANCE REGULATIONS

Article 7 Open Space Regulations. These are to allow some flexibility in dimensional requirements for lots to preserve sensitive resources. Lots can be smaller and squished into less sensitive areas.

7.7.1.A The Open Space regulations offer up density bonuses as an incentive. They can receive a 10% density bonus if they conserve 50% or more of the land upon written notice by the ConCom of agreement to accept land.

9.1.3.F Should you question validity of wetland delineation, you can request the Planning Board to call for independent wetland scientist to delineate the area in question and report findings to the PB.

### [WETLAND CUP CONDITIONS \(ZO 9.1.6\)](#)

These are the conditions that are required to be met in order to issue a wetland CUP. Not meeting any one of these conditions is grounds to recommend denial or require modifications in design.

1. That the proposed use is permitted in the underlying zoning district;
2. That the use for which the permit is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Wetlands Conservation Overlay District;  
*Can this use be accommodated elsewhere on the lot w/o impacting the buffers OR with less of a buffer impact?*
3. 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 hydrologic system. To the extent feasible, the proposed impact is not detrimental to the value and function of the wetland(s).  
*This is helpful for ensuring you are provided the wetland scientist’s function and values assessment required under NHDES regs during CUP review (this way you have the meat of the report even if you are reviewing CUP prior to the wetland application has been filed).*

*You could also read this as referring to the general value of the wetland and/or ecological system and have them explain their evaluation of how the proposal may affect the larger system and any of the functions that wetlands provide (habitat, flood storage, water quality, etc).*

*Another thought here is, should you feel one buffer is less valuable, this could justify a position for shifting away from a more sensitive buffer and toward a less sensitive buffer.*

4. That the design, construction and maintenance of the proposed use will, to the extent feasible, minimize detrimental impact on the wetland or wetland buffer and that no alternative design which does not impact a wetland or wetland buffer or which has less detrimental impact on the wetland or wetland buffer is feasible;

*This is your key to ensuring whether the proposal is the least impactful alternative and is quite strongly worded (no alternative design with less impacts is feasible). Could access routes be moved to another location with fewer impacts, could lots be re-arranged, could a better BMP like a gravel wetland or pervious pavement be used, could snow be required to be trucked offsite, were retaining walls used to reduce temporary impacts from slope grading, etc.? With the more stringent requirements that have been placed on the town to minimize nitrogen and impervious cover through our MS4 Permit (Stormwater Permit) and our Administrative Order of Consent (Wastewater Treatment Plant) there is a very strong argument for the use of the best BMPs possible unless something about the site makes them ineffective or impossible to install.*

*The PB has the ability to grant reductions in things like parking for the conservation of open space and buffers. If you feel parking is excessive, you could recommend they consider less parking.*

*Another way this could help is in the event redesign would trigger a waiver from a Site and Sub condition. This could be your reason to the PB to explain why you feel a waiver is justified. One good example of this is we have a mandatory 50' perimeter buffer around developments. Sometimes this is important to protect abutters, sometimes (frankly) it just frankly eats up perfectly dry developable space.*

5. In cases where the proposed use is temporary or where construction activity disturbs areas adjacent to the immediate use, that the landowner agrees to restore the site as nearly as possible to its original grade and condition following construction.

*This is justification for requiring full restoration of temporary impacts—in both grade and condition.*

6. That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater, or other reasons;

*The most obvious ways that loss of wetlands could create a hazard is flooding or reductions in water quality. Consider whether the wetland is near/adjacent to an impaired water body, FEMA flood zone, etc. This is often easily dismissed because we require them to model pre- and post- development conditions in a drainage analysis to ensure they are not creating a problem. We hire out review of this document to Underwood Engineers and they ensure their models meet our regulations. You could ask them to explain what their models showed, what they considered for watershed boundaries (particularly if you know something about the connectivity of the surrounding area to be sure their models included it), the results of pre- and post-development models, and what storm event did they use to model those.*

7. That all required permits shall be obtained from the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division under NH RSA §485-A: 17, the New Hampshire Wetlands Board under NH RSA §483-A, and the United States Army Corps of Engineers under Section 404 of the Clean Water Act.

#### SHORELAND CUP CONDITIONS (ZO 9.3.4.G.2)

This section of our ordinance is a challenge to interpret frankly. In addition to having a very complicated definition for what the shoreland district is, there are requirements stashed in odd places like within the definitions (example: contiguous wetland requirement). Just as with the Wetland CUP, the proposal has criteria it is required to meet. Use regulations define things like impervious surface limits and building setbacks etc. The conditions for the CUP are below:

- a. The proposed use will not detrimentally affect the surface water quality of the adjacent river or tributary, or otherwise result in unhealthful conditions.  
*Think stormwater runoff, flood control. The UNH stormwater center provided a comparison of stormwater infrastructure pollution removal. See p 11 [HERE](#).*
- b. The proposed use will discharge no waste water on site other than that normally discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of hazardous or toxic wastes as herein defined.
- c. The proposed use will not result in undue damage to spawning grounds and other wildlife habitat.  
*They should be providing their justification for how they conclude a lack of impacts.*
- d. The proposed use complies with the use regulations identified in Article 9.3.4 Exeter Shoreland Protection District Ordinance – Use Regulations and all other applicable sections of this article.  
*Review impervious surface limits, building setbacks, surface alteration, veg buffer, etc.*

- e. The design and construction of the proposed use will be consistent with the intent of the purposes set forth in Article 9.3.1 Exeter Shoreland Protection District Ordinance – Authority and Purpose.

## **SITE PLAN AND SUBDIVISION KEY REGULATIONS**

6.5 Technical Review Committee includes a representative from ConCom. The recommendation for conducting an Environmental Impact Statement should come out at the TRC. If you feel it should be required but was not included, bring it up. The EIS is discussed 9.1.7 (zoning) and 9.8 (site and sub)

### [Wetland Waiver Guidelines \(SS 9.1.6\)](#)

1. The relative “value” of the wetland, including its ecological sensitivity, as well as its function within the greater hydrologic landscape shall be compared to the proposed impact.
2. A wetland scientist has conducted a “function and values” study of the wetlands and deemed that the wetlands under consideration will not be negatively impacted by the development.
3. The Applicant has demonstrated that the use cannot be reasonably carried out on a portion or portions of the lot which are outside of the buffer.
4. The applicant has made a substantial effort to minimize the impacts to the buffer.  
*Note this differs in wording from wetland CUP process requires.*
5. Consideration of waivers requested for constructed drainage facilities within the no-disturbance buffer should be determined by all of the following: a) Assurance that the drainage facility has the most current water quality features that would provide measured reductions in potential pollutants typical to the proposed development, b) That a reasonable effort has been made to keep the disturbance to a minimum, c) Not more than 50% of the drainage structures are within the required buffer.
6. Recommendations from Exeter’s Conservation Commission should be reviewed and considered.
7. The applicant has prepared a mitigation proposal, including revegetating any disturbed area within the buffer to mimic preconstruction conditions or better. The applicant may also propose an increase in wetland buffers elsewhere on the site that surround a wetland of equal or greater size, and of equal or greater functional value than the impacted wetland.

9.6.2 The Planning Board may request your advisory opinion on watercourses, water bodies, floodplains, wetland areas, steep slopes, aquifer recharge areas, wildlife habitats, large or unique trees, and scenic views. IMO offering your opinion on these when a project is before you (even if there isn’t an official request yet) can save the application (and you) a repeated trip back to the next CC meeting.

9.6.3 The Planning Board considers whether the recreational space meets intent, one of which is how accessible it is to conservation lands. The CC knows best where trails and connectivity is so your opinion here could be valuable.

9.7.4. Tree Planting: At its discretion, the Board may require the developer to plant shade trees within the rights-of-way of a subdivision layout. The developer shall supply planting plans to the Board who will seek an advisory opinion on said plans from the Conservation Commission.

Some other things I think about when reviewing are:

- Has a site walk been conducted?
- Should PB require wetland boundary disks?
- Is lighting dark-sky compliant?
- Natural bottom culverts?
- Crossings to bank full span?
- Any habitat for protective species?
- Does the plan set with any trails show grading lines so understand how contours affect trail use?
- If the plans include trails is there a note describing the trail and/or a trail spec?
- If the applicant includes a connection to the trail is there signage proposed?
- Is maintenance responsibility addressed?
- Prior to accepting conservation land be sure the following happens:
  - Has the CC walked the property?
  - Any potential for contaminants? If any potential, require environmental review.
  - Is layout conducive to monitoring? Odd shapes, or disjointed parcels are more work.
  - Any existing encroachments, invasives, dumping?
  - Any special conditions (bikes, hunting, trails, etc)
  - Require a baseline document
  - CC (or rep) confirm boundary markers prior to issuance of CO
  - Consider a one-time (or annual) stewardship fee
  - Does accepting this land place an undue burden on CC? Are there circumstances that make it likely to have enforcement issues? Consider requiring boundary discs along residential lots.