



TOWN OF EXETER, NEW HAMPSHIRE

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709

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, August 9th, 2022 at 7:00 P.M.**

Call to Order:

1. Introduction of Members Present
2. Public Comment

Action Items:

1. Review of draft warranty deed for the conveyance of 6.31+- acres from Exeter Rose Farm LLC.
Possible vote on recommendation to Exeter Select Board on acquisition.
2. Committee Reports
 - a. Property Management
 - b. Trails – \$268 Donation from Acidotic Racing
 - c. Outreach Events
3. Approval of Minutes: June 14th (deferred), and July 12, 2022 Meetings
4. Correspondence – NHDES Rocky Hill Brook culvert
5. Other Business
6. Next Meeting: Date Scheduled (9/13/22*), Submission Deadline (9/2/22*)
****note: 9/13 is the Primary. Discuss whether to keep the date or shift the meeting***

Andrew Koff/Trevor Mattera

Exeter Conservation Commission

Posted August 4th, 2022 Exeter Town Website www.exeternh.gov and Town Office kiosk.

ZOOM Public Access Information:

Virtual Meetings can be watched on Channel 22 and on Exeter TV's Facebook and YouTube pages.

To participate in public comment, click this link: <https://exeternh.zoom.us/j/88688969737>

To participate via telephone, call: +1 646 558 8656 and enter the Webinar ID: 886 8896 9737

Please join the meeting with your full name if you want to speak.

Use the "Raise Hand" button to alert the chair you wish to speak. On the phone, press *9.

More instructions for how to participate can be found here: <https://www.exeternh.gov/townmanager/virtual-town-meetings>

Contact us at extvg@exeternh.gov or 603-418-6425 with any technical issues.

**TOWN OF EXETER
PLANNING DEPARTMENT MEMORANDUM**

Date: August 3rd, 2022
To: Conservation Commission Board Members
From: Kristen Murphy, Natural Resource Planner
Subject: August 9th Conservation Commission Meeting

1. Conservation Deed

The Rose Farm development was before you on July 10th, 2018 to discuss the proposed conservation land, shoreland CUP and wetland waiver (the zoning ordinances have since replaced the wetland waiver process with wetland CUP). I have included your memo to the Planning Board indicating your requested conditions. The deed reflects all of the items you requested and contains standard language common to deeds we hold. Upon your positive recommendation, I will send the deed to legal counsel review and then on to the Select Board for acceptance. Below is a motion should you feel it's ready for acceptance.

Suggested Motion:

_____ We reviewed this warranty deed and subject to legal counsel review, recommend the Select Board accept the deed (as presented)(as amended).

Return to:

WARRANTY DEED

KNOW ALL BY THESE PRESENTS, that, **EXETER ROSE FARM, LLC**, a New Hampshire limited liability company of 953 Islington Street, Unit 23D, Portsmouth, New Hampshire 03801 (the "Grantor"), for consideration paid, hereby grant to **TOWN OF EXETER**, a municipal corporation with a principal address at 10 Front Street, Exeter, New Hampshire 03833, acting through its **Conservative Commission** pursuant to NH RSA 36-A:4 (the "Grantee"), with WARRANTY COVENANTS, the following described premises:

A certain tract or parcel of land (hereinafter referred to as the "Property"), being a certain 6.31± acre undeveloped parcel of land, more particularly bounded and described in Schedule A attached hereto and made a part hereof.

The Property is hereby conveyed pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes:

- I. The preservation and conservation of open spaces, particularly the conservation of the acres of productive farm and/or forest land of which the Property consists, and of the wildlife habitat on the property, and the scenic enjoyment of the general public.
- II. These purposes are consistent with the clearly delineated open space conservation goals and/or objectives of the master plan of the Town of Exeter.
- III. With New Hampshire RSA Chapter 79-A: 1, which states in pertinent part:
"It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources."
- IV. The preservation of the land for outdoor recreation by and/or the education of the general public, through the auspices of the Grantee.

All of these purposes are consistent and in accordance with the US Internal Revenue Code, Section 170(h).

The Property is hereby conveyed SUBJECT TO the following in furtherance of said purposes:

I. USE LIMITATIONS

- A. The Property shall be maintained in perpetuity as open space without there being conducted thereon any industrial or commercial activities, except agriculture and forestry, and provided that these activities do not degrade the conservation purposes of this deed.
 - i. For the purposes hereof, "agriculture" and "forestry" shall include animal husbandry, floricultural, and horticultural activities; the production of plant and animal products for domestic or commercial purposes; the growing, stocking, cutting and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; and the processing and sale of products produced on the Property (such as pick- your-own fruits and vegetables and maple syrup).
 - ii. Agriculture and forestry on the Property shall be performed, to the extent reasonably practicable, in accordance with a coordinated management plan for the sites and soils of the Property. Forestry and agricultural management activities shall be in accordance with the then current scientifically based practices recommended by the University of New Hampshire Cooperative Extension, U.S. D.A. Natural Resources Conservation Service, or other government or private, nonprofit natural resource conservation and management agencies then active.
- B. The Property shall not be subdivided.
- C. No structure or improvement including, but not limited to, a dwelling, any portion of a septic system, telecommunications and/or wireless communication facility, tower, tennis court, swimming pool, or mobile home, shall be constructed, placed, or introduced onto the Property. However, ancillary structures and improvements including, but not limited to, a road, trail, dam, fence, bridge, culvert, or shed may be constructed, placed, or introduced onto the Property only as necessary in the accomplishment of agricultural, forestry, conservation, or non-commercial outdoor recreational uses of the Property and provided that they are not detrimental to scenic and wildlife habitat protection purposes of these restrictions.

- D. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:
- i. are commonly necessary in the accomplishment of agricultural management, conservation, habitat management, forest management, or non-commercial outdoor recreational or educational uses of the Property; and
 - ii. do not harm state or federally recognized rare, threatened, or endangered species, such determination of harm to be based upon information from the New Hampshire Natural Heritage Inventory or agency recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and
 - iii. are not detrimental to scenic and wildlife habitat protection purposes of these restrictions;
 - iv. prior to commencement of any such act, all necessary federal, state, and local permits and approvals shall be secured.
- E. No outdoor advertising structures such as signs and billboards shall be displayed on the Property except as desirable or necessary in the accomplishment of conservation, forestry, or non-commercial outdoor recreation or education uses of the Property, and provided such signs are not detrimental to the purposes of these restrictions.
- F. There shall be no mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property, except in connection with any improvements made pursuant to the provisions of Sections 1.A, 1.C, 1.D or 1.E above. No such rock, minerals, gravel, sand, topsoil, or similar materials shall be removed from the Property.
- G. There shall be no dumping, injection, burning, or burial of man-made materials or materials then known to be environmentally hazardous including vehicle bodies or parts. No materials from off-site shall be brought onto the Property except for those materials commonly necessary in the accomplishment of agricultural management, conservation, habitat management, forest management, or non-commercial outdoor recreational or educational uses of the Property.
- H. There shall be a prohibition against the use of motorized pleasure vehicles. An exception will be made for vehicles necessary for the accomplishment of maintenance, agriculture or forestry.

I. There shall be no hunting permitted on the Property.

2. BENEFITS AND BURDENS

A. The burden of the restrictions created herein shall run with the Property and shall be enforceable by the Grantee against all future owners and tenants in perpetuity; the benefits of these restrictions shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the United States Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the US Internal Revenue Code of 1986, as amended, or to any qualified organization within meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the conservation purposes of these restrictions. Any such assignee or transferee shall have like power of assignment or transfer.

B. The Grantee shall have the right to install and maintain signs that identify and further the conservation or preservation purposes of the Property, or for identification of conservation partners, or to denote wayfaring and/or access within or to the Property, provided the purposes of these restrictions are not impaired.

C. The Grantor is responsible for construction of the trail connection to the existing trail network, including but not limited to, crossings along the connection and installation of a trailhead sign at the trail entrance.

D. The Grantor shall install conservation boundary markers along the conservation boundary adjacent to house lots.

3. BREACH OF RESTRICTIONS

A. The Grantee shall have the right to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of these restrictions.

4. SEVERABILITY

If any provision of these restrictions, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of these restrictions or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

5. ACCEPTANCE

The Grantee, by accepting and recording this deed, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which these restrictions are delivered.

6. ENFORCEABILITY AND AMENDMENT OF RESTRICTIONS

The covenants and restrictions set forth herein represent enforceable conditions established by the Department of Environmental Services in Alteration of Terrain Permit # _____. Failure by the State of New Hampshire to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. These covenants and restrictions may be amended or modified only upon the prior application to and approval by the New Hampshire Department of Environmental Services.

In accordance with New Hampshire RSA 78-B:2,I, this deed is recorded without the payment of New Hampshire transfer tax.

Meaning and intending to convey a portion of the premises conveyed to the Grantor by deed of _____ dated _____ and recorded in the Rockingham County Registry of Deeds at Book _____, Page _____.

Signed this _____ day of _____, 2022.

EXETER ROSE FARM, LLC

By: _____
Name:
Title:

STATE OF _____
COUNTY OF _____

On this, the _____ day of _____, 2022, before me, the undersigned Officer, personally appeared _____, _____ of Exeter Rose Farm, LLC, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.

Justice of the Peace/Notary Public
My commission expires: _____

ACCEPTANCE BY GRANTEE:

The undersigned Grantee hereby acknowledges and accepts this deed, including all conditions, covenants and restrictions contained herein.

TOWN OF EXETER

By: _____
Name:
Title:

STATE OF _____
COUNTY OF _____

On this, the _____ day of _____, 2022, before me, the undersigned Officer, personally appeared _____, _____ of the Town of Exeter, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.

Justice of the Peace/Notary Public
My commission expires: _____

EXHIBIT A

Legal Description

NOTE:

- SEE SHEET C-04A FOR VICINITY MAP AND APPROVAL NOTES.
- SEE SHEET C-04B FOR NOTES, PLAN REFERENCES, LEGEND AND LINE TABLES.
- SEE SHEETS C-05 THRU C-09 FOR FURTHER DETAILS.

"HENDERSON-WASEY TOWN FOREST"
 TAX MAP 49 LOT 8
 N/F
 TOWN OF EXETER
 HENDERSON-WASEY FOREST
 10 FRONT STREET
 EXETER, NH 03833
 RCRD BK.2056 PG.64
 (SEE PLAN REFERENCE 10)
 (municipal)

TAX MAP 53 LOT 4
 N/F
 THE JOHN & TERESA TOOMEY
 FAMILY REVOCABLE TRUST
 2 NEWFIELDS ROAD
 EXETER, NH 03833
 RCRD BK.6174 PG.599
 (SEE PLAN REFERENCE 9)

TAX MAP 48 LOT 5
 N/F
 EAST COAST VENTURES INC.
 C/O INTEGRATED REALTY RESOURCES
 8025 S. WILLOW STREET, SUITE 209
 MANCHESTER, NH 03103
 RCRD BK.5613 PG.2678
 (SEE PLAN REFERENCE 11)
 (Industrial)

TAX MAP 54 LOT 1
 N/F
 SIG SAUER, INC.
 18 INDUSTRIAL DRIVE
 EXETER, NH 03833
 RCRD BK.2817 PG.686
 (SEE PLAN REFERENCE 11)
 (Industrial)

RECREATION AREA 1:
 CONSERVATION LAND
 (6.31 ACRES)
 (SEE NOTE 29)

TAX MAP 54 LOT 4
 N/F
 NORRIS BROOK CONDOMINIUM
 3 HOLLAND WAY, STE. 201
 EXETER, NH 03833
 RCRD BK.2561 PG.2642
 (SEE PLAN REFERENCES 5 & 6)
 (residential)

TAX MAP 54 LOT 4
 N/F
 NORRIS BROOK CONDOMINIUM
 3 HOLLAND WAY, STE. 201
 EXETER, NH 03833
 RCRD BK.2561 PG.2642
 (SEE PLAN REFERENCES 5 & 6)
 (residential)

TOTAL COMMON
 OPEN SPACE
 =12.59 ACRES
 (INCLUDING 8.50 ACRES
 OF RECREATION AREA)

TAX MAP 49 LOT 7
 N/F
 BOSTON AND MAINE
 RAILROAD CORPORATION
 1700 IRON HORSE PARK
 NORTH BILLERICA, MA 01862
 RCRD BK.529 PG.14
 (SEE PLAN REFERENCE 4)

TAX MAP 63 LOT 207-1
 N/F
 EXETER ROSE FARM, LLC
 953 ISLINGTON STREET,
 STE.#230
 RCRD BK.6197 PG.481
 (SEE PLAN REFERENCE 7 & 8)
 (residential)

TAX MAP 63 LOT 206
 N/F
 EXETER ROSE FARM, LLC
 953 ISLINGTON STREET,
 STE.#230
 RCRD BK.6197 PG.484
 (SEE PLAN REFERENCE 7 & 8)
 (residential)

TAX MAP 63 LOT 190
 N/F
 EXETER ROSE FARM, LLC
 953 ISLINGTON STREET #23D
 PORTSMOUTH, NH 03801
 RCRD BK.6221 PG.2863
 (residential)

TAX MAP 63 LOT 204
 N/F
 D. TUCK PROPERTIES LLC
 215 ATLANTIC AVENUE
 SEABROOK, NH 03874
 RCRD BK.4815 PG.657
 (residential)

TAX MAP 63 LOT 203
 N/F
 MARY FRANCES DAGOSTINO
 11 FOREST STREET
 EXETER, NH 03833
 RCRD BK.2007 PG.1579
 (residential)

Line #	Direction	Length	Line #	Direction	Length
L1	S66°08'58"E	60.30	L35	N79°49'23"W	37.70
L2	S78°30'38"E	68.91	L36	N00°06'44"W	36.55
L3	S69°27'33"E	53.03	L37	N84°11'27"W	39.86
L4	S62°38'31"E	33.60	L38	N30°08'46"W	13.61
L5	S72°25'27"E	76.88	L39	N57°32'12"W	24.52
L6	S59°00'19"E	26.77	L40	N89°21'50"W	19.68
L7	S52°38'00"E	68.76	L41	N57°00'28"W	17.89
L8	S53°24'44"E	47.55	L42	S71°33'01"W	25.30
L9	S75°00'19"E	8.56	L43	N32°25'30"W	14.17
L10	S30°26'13"W	5.67	L44	N58°51'27"W	47.03
L11	N51°05'25"W	2.99	L45	S77°17'35"W	57.90
L12	S30°40'27"W	57.37	L46	N70°59'11"W	35.02
L13	S28°23'52"W	39.42	L47	N32°40'59"W	41.49
L14	N63°50'34"W	9.94	L48	N45°50'49"W	102.23
L15	N57°54'00"W	115.29	L49	N13°07'50"W	3.63
L16	N33°55'22"E	35.95	L50	N67°17'39"W	38.55
L17	N57°21'57"W	39.02	L51	N26°33'13"W	41.83
L18	N21°46'47"E	40.88	L52	N62°56'01"W	26.29
L19	N22°18'38"W	65.07	L53	N27°14'15"W	47.80
L20	S43°03'08"W	54.04	L54	N15°42'01"E	19.44
L21	N65°47'07"W	31.53	L55	N31°10'01"W	24.27
L22	N21°01'11"W	93.40	L56	N79°18'16"W	33.52
L23	S50°20'21"W	39.20	L57	N29°54'07"E	7.63
L24	N32°42'01"W	265.61	L58	N09°29'23"W	14.35
L25	N71°43'18"W	17.57	L59	N67°02'35"W	2.16
L26	S13°32'04"W	52.88	L60	N22°57'25"E	4.78
L27	S52°48'44"W	49.83	L61	N06°05'51"E	6.96
L28	S86°55'59"W	64.84	L62	N30°09'08"W	16.49
L29	S89°41'08"W	39.00	L63	N03°42'53"E	22.80
L30	S79°06'33"W	19.95	L64	N13°28'18"W	20.61
L31	N29°20'19"W	80.87	L65	N41°27'26"W	20.53
L32	N43°52'06"W	32.92	L66	N23°44'02"E	20.95
L33	S74°37'47"W	40.95	L67	N45°31'04"W	57.18
L34	S36°26'51"W	41.14			

PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 676:18, III AND IV AND 672:14:

"I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY THOSE UNDER MY DIRECT SUPERVISION AND ARE THE RESULT OF A FIELD SURVEY CONDUCTED BETWEEN JANUARY 2016 AND JULY 2017. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LAND SURVEYORS. I FURTHER CERTIFY THAT THIS SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, AND THE FIELD TRAVERSE SURVEY EXCEEDS A PRECISION OF 1:15,000."

A COPY OF THIS PLAN HAS BEEN FILED WITH THE LOCAL PLANNING BOARD.

LICENSED LAND SURVEYOR _____ DATE _____

PLANNING BOARD CASE #17-27

TOWN OF EXETER PLANNING BOARD

CHAIRMAN _____ DATE _____

REV.	DATE	DESCRIPTION	DR	CK
1	7/12/22	REVISED PER CONDITIONS OF APPROVAL	BMK	JCC
0	1/10/19	APPROVED BY EXETER PLANNING BOARD	BMK	JCC

Seacoast Division
TFM
 Civil Engineers
 Structural Engineers
 Traffic Engineers
 Land Surveyors
 Landscape Architects
 Scientists

170 Commerce Way, Suite 102
 Portsmouth, NH 03801
 Phone (603) 431-2222
 Fax (603) 431-0910
 www.tfmoran.com

47175.00
 DR BMK FB 531 & 539
 CK JCC CADFILE 47175.00_OPS
 C-04C

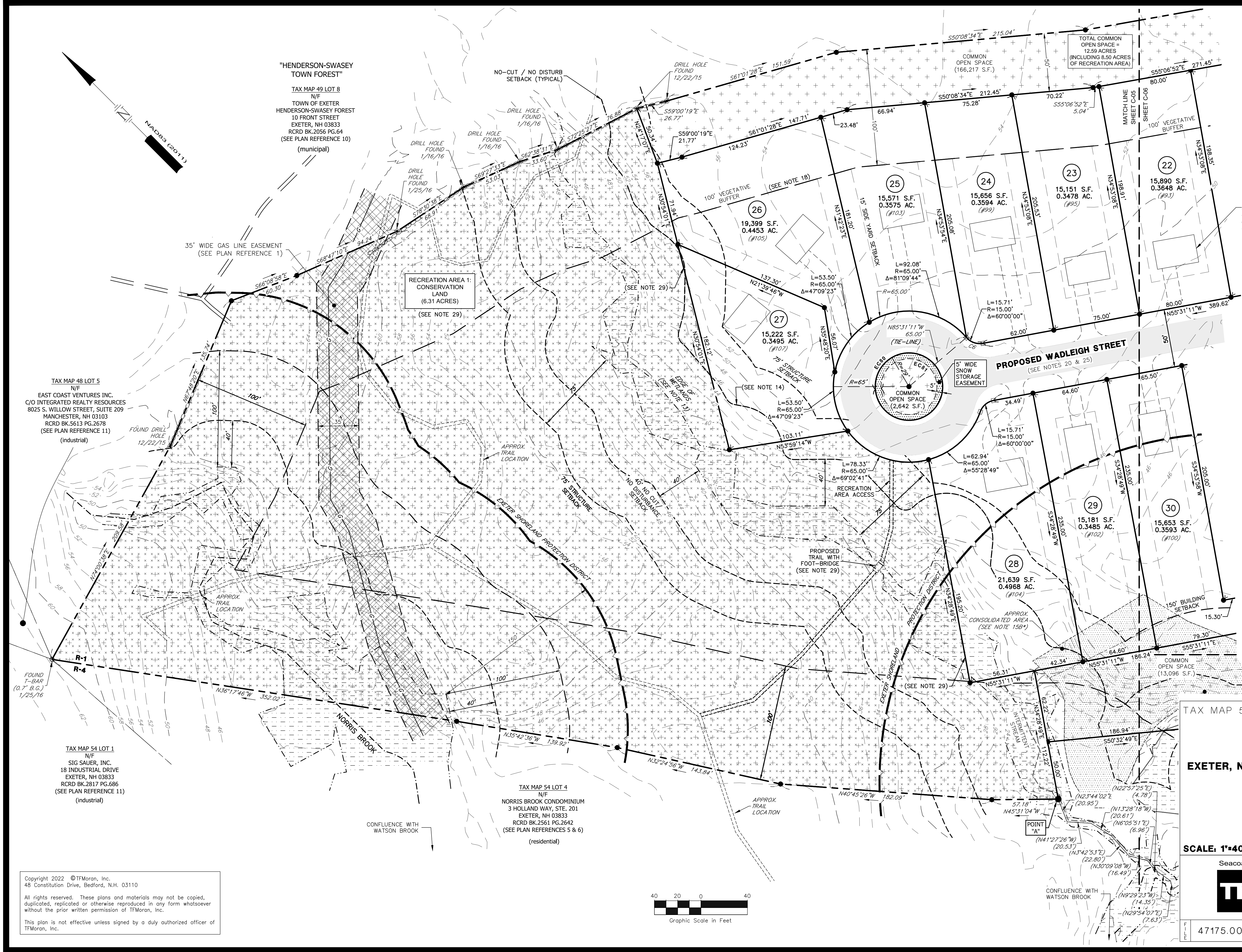
TAX MAP 54 LOTS 5, 6 & 7 & TAX MAP 63 LOT 205

OVERALL OPEN SPACE SUBDIVISION PLAN
EXETER ROSE FARM
FOREST STREET & OAK STREET
EXETER, NEW HAMPSHIRE, COUNTY OF ROCKINGHAM

OWNED BY
EXETER ROSE FARM, LLC
 PREPARED FOR
EXETER ROSE FARM, LLC

SCALE: 1"=100' AUGUST 15, 2017

Jul 25, 2022 - 2:26pm
F:\MSC Projects\47175 - Oak Street Extension - Exeter\47175-00 - Baker Properties\Drawings\OPEN SPACE\47175-00_C05-C09_Open Space Subdivision_Sheets.dwg



"HENDERSON-SWASEY TOWN FOREST"
TAX MAP 49 LOT 8
N/F
TOWN OF EXETER
HENDERSON-SWASEY FOREST
10 FRONT STREET
EXETER, NH 03833
RCRD BK.2056 PG.64
(SEE PLAN REFERENCE 10)
(municipal)

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RCRD BK.2561 PG.2642
(SEE PLAN REFERENCES 5 & 6)
(residential)

NOTE:
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• SEE SHEET C-04B FOR NOTES, PLAN REFERENCES, LEGEND AND LINE TABLES.

PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 676:18, III AND IV AND 672:14:
"I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY THOSE UNDER MY DIRECT SUPERVISION AND ARE THE RESULT OF A FIELD SURVEY CONDUCTED BETWEEN JANUARY 2016 AND JULY 2017. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS. I FURTHER CERTIFY THAT THIS SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, AND THE FIELD TRAVERSE SURVEY EXCEEDS A PRECISION OF 1:15,000."

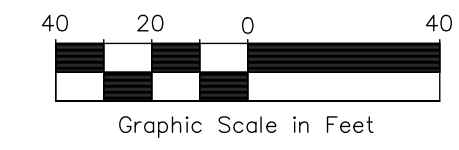
A COPY OF THIS PLAN HAS BEEN FILED WITH THE LOCAL PLANNING BOARD.

LICENSED LAND SURVEYOR _____ DATE _____
PLANNING BOARD CASE #17-27
TOWN OF EXETER PLANNING BOARD
CHAIRMAN _____ DATE _____

REV.	DATE	DESCRIPTION	DR	CK
1	7/12/22	REVISED PER CONDITIONS OF APPROVAL	BMK	JCC
0	1/10/19	APPROVED BY EXETER PLANNING BOARD	BMK	JCC

TAX MAP 54 LOTS 5, 6 & 7 & TAX MAP 63 LOT 205
OPEN SPACE SUBDIVISION PLAN
EXETER ROSE FARM
FOREST STREET & OAK STREET
EXETER, NEW HAMPSHIRE, COUNTY OF ROCKINGHAM
OWNED BY
EXETER ROSE FARM, LLC
PREPARED FOR
EXETER ROSE FARM, LLC
SCALE: 1"=40' **AUGUST 15, 2017**

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This plan is not effective unless signed by a duly authorized officer of TFMoran, Inc.



Seacoast Division
TFM
Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists
170 Commerce Way, Suite 102
Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
www.tfmoran.com

47175.00	DR	BMK	FB	531 & 539
	CK	JCC	CADFILE	47175.00 OPS

C-05

TOWN OF EXETER
CONSERVATION COMMISSION MEMORANDUM

Date: July 12, 2018
To: Planning Board
From: Conservation Commission
Subject: Rose Farm Open Space Development Conservation Land, Shoreland CUP and Wetland Waiver Recommendations

Project Info:

Exeter Rose Farm Open Space Subdivision
Tax Map 54, Lot 5, 6, 7 and Tax Map 63, Lot 20
PB CASE: 21603

Proposed Conservation Land:

The Conservation Commission voted unanimously during their July 10th meeting that they would be supportive of the Town accepting fee ownership of the 6.31 acres presented in the June 29th submission with the following conditions:

- Hunting would not be permitted on the property
- Prior to Town acceptance, the applicant will provide: a draft deed to the Commission for review and approval, a surveyed plan, a baseline documentation report, and on-site boundary marker placement will be confirmed on the ground by the Commission or their representative, and the Grantor.
- The applicant is responsible for construction of the trail connection to the existing trail network, any required crossings along that connection, and installation of a trailhead sign at the trail entrance.
- The applicant will install conservation boundary discs along the conservation boundary adjacent to house lots

Shoreland Conditional Use Permit:

The Conservation Commission reviewed the materials provided and do not recommend approval of the Shoreland Conditional Use Permit as proposed because they do not have enough information to verify the project will not detrimentally impact surface water quality and will not cause undue damage to wildlife habitat.

The Commission provides the following additional recommendations to help ensure these requirements are met:

- Locate snow storage in areas that receive pre-treatment before reaching surface water.
- Prioritize the use of an open bottom culvert over a box culvert with stream simulation
- Require construction activities be undertaken to prevent the spread of invasive plants from the heavily infested areas on site
- Ensure the HOA documents include a prohibition of the use of fertilizer and regular inspection and maintenance of stormwater infrastructure
- Investigate the connection between the spring and this development to ensure there will not be undue impacts to the spring

- Stormwater infrastructure be designed to reduce potential for nitrogen loading to the surface waters

Wetland Waiver Request:

The Conservation Commission reviewed the materials provided do not feel comfortable recommending approval of the waiver request at this time because they need more information to understand the impact of the proposed project on the wetland functions and values of water quality and fish habitat given the information provided.

The Commission would also like the comments they provided for the Shoreland Conditional Use Permit to be considered for the waiver request.

A handwritten signature in black ink, appearing to read "William E. Campbell". The signature is written in a cursive style with a horizontal line underneath.

Bill Campbell
Chair, Exeter Conservation Commission

cc: Todd Baker, Baker Properties - by email

7/15/22

ConCom,

Thanks again for allowing the
Exeter Trail Race to take place
on town property. Our racers
love the experience!

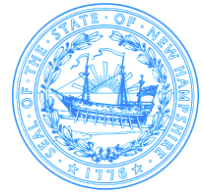
-Sarah Gallade
+

Ri Fahnestock
+

(Acidotic Racing, LLC)



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

**Approved Standard Dredge and Fill Wetlands Permit Application –
Required Payment to Aquatic Resource Mitigation Fund (RSA 482-A)**

August 2, 2022

Page 1 of 4

NH DEPT OF TRANSPORTATION
PO BOX 483
CONCORD NH 03303

Re: NHDES Wetlands Bureau File 2022-00553, NH Route 85/Newfields Road, Exeter

Dear Applicant:

On August 1, 2022, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced Standard Dredge and Fill Wetlands Permit Application to: Impact a total of 2,325 square feet of jurisdictional area to include permanently impacting 97 square feet (1,890 square feet of temporary impact) of Exeter Prime Wetland, 268 square feet of permanent impact within a perennial stream bed and banks of Rocky Hill along 64 linear feet (218 square feet of temporary impact along 72 linear feet) to remove approximately 15 linear feet of the existing culvert at the outlet, construct a 3D printed diffuser, outlet weirs, concrete headwall with a HydroBell at the inlet, remove approximately 8 feet of the existing culvert at the inlet, and slipline the remaining portion of the 42-inch CMP pipe with a plastic pipe liner in the Town of Exeter, NH (Project No. 43254). Compensatory mitigation includes a one-time payment \$19,116.29 submitted to NHDES for 64 linear feet of bank loss along Rocky Hill Brook.

This approval is contingent on the following conditions being met:

1. All work shall be in accordance with revised plans and construction sequence narrative by the State of New Hampshire Department of Transportation (NHDOT), N.H. Project No. 43254, Town of Exeter (X-A005(063) dated May 2021, revised May 3, 2022, and Checked June 30, 2022 as received by the NH Department of Environmental Services (NHDES) on July 1, 2022.
2. The permit is contingent on submittal of a check in the amount of \$19,116.29 to the Aquatic Resource Mitigation Fund by the applicant as calculated per Env-Wt 803.07 and RSA 482-A:30.
3. In accordance with Env-Wt 807.01(b), the payment shall be received by NHDES within 120 days from the approval decision or NHDES will deny the application.
4. In accordance with Env-Wt 527.05(a) In addition to complying with all applicable conditions in Env-Wt 307, the permit shall be contingent on review and approval by the department of final stream diversion and erosion control plans that detail the timing and method of stream flow diversion during construction and show temporary siltation, erosion, and turbidity control measures to be implemented.
5. In accordance with Env-Wt 314.03, (a) The permittee shall notify the department in writing at least one week prior to commencing any work under the permit.
6. In accordance with Env-Wt 307.07, all development activities associated with any project shall be conducted in compliance with applicable requirements of RSA 483-B and Env-Wq 1400 during and after construction.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095

NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588

TDD Access: Relay NH 1 (800) 735-2964

7. In accordance with Env-Wt 307.03(a), no activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards specified in RSA 485-A:8 or Env-Wq 1700; ambient groundwater quality standards established under RSA 485-C; limitations on activities in a sanitary protective area established under Env-Dw 302.10 or Env-Dw 305.10; or any provision of RSA 485-A, Env-Wq 1000, RSA 483-B, or Env-Wq 1400 that protects water quality.
8. All work shall be conducted and maintained in such a way as to protect water quality as required by Rule Env-Wt 307.03(a) through (h).
9. In accordance with Env-Wt 307.03(c)(4), water quality control measures shall be capable of minimizing erosion; collecting sediment and suspended and floating materials; and filtering fine sediment.
10. In accordance with Env-Wt 307.03(c)(3), water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications or, if none, the applicable requirements of Env-Wq 1506 or Env-Wq 1508.
11. In accordance with Env-Wt 307.03(c)(5), water quality control measures shall be maintained so as to ensure continued effectiveness in minimizing erosion and retaining sediment on-site during and after construction.
12. In accordance with Env-Wt 307.03(c)(6), water quality control measures shall remain in place until all disturbed surfaces are stabilized to a condition in which soils on the site will not experience accelerated or unnatural erosion by achieving and maintaining a minimum of 85% vegetative cover using an erosion control seed mix, whether applied in a blanket or otherwise, that is certified by its manufacturer as not containing any invasive species; or placing and maintaining a minimum of 3 inches of non-erosive material such as stone.
13. In accordance with Env-Wt 307.03(d), any sediment collected by water quality control measures shall be removed with sufficient frequency to prevent the discharge of sediment; and placed in an upland location in a manner that prevents its erosion into a surface water or wetland.
14. In accordance with Env-Wt 307.03(c)(7), temporary water quality control methods shall be removed upon completion of work when compliance with Env-Wt 307.03(c)(6) is achieved.
15. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.
16. All dredging activities shall meet all of the conditions listed in Rule Env-Wt 307.10(a) through (n).
17. In accordance with Env-Wt 307.05(e), to prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow Best Management Practices for the Control of Invasive and Noxious Plant Species (Invasive Plant BMPs).
18. Restoration of all temporary impacts shall meet all of the conditions listed in Rule Env-Wt 307.12(a) through (i).
19. In accordance with Env-Wt 307.12(f), if any temporary impact area that is stabilized with seeding or plantings does not have at least 75% successful establishment of wetlands vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable.
20. In accordance with Env-Wt 307.12(i), wetland areas where permanent impacts are not authorized shall be restored to their pre-impact conditions and elevation by replacing the removed soil and vegetation in their pre-construction location and elevation such that post-construction soil layering and vegetation schemes are as close as practicable to pre-construction conditions.
21. In accordance with Env-Wt 307.12(a), within 3 days of final grading or temporary suspension of work in an area that is in or adjacent to surface waters, all exposed soil areas shall be stabilized by seeding and mulching, if during the growing season; or mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1 if not within the growing season.
22. In accordance with Env-Wt 307.12 (h) any trees cut in an area of authorized temporary impacts shall be cut at ground level with the shrub and tree roots left intact, to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area; and
23. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
24. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.
25. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.
26. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.

This approval is based on the following findings:

1. This is a Major Project per NH Administrative Rule Env-Wt 903.01(g)(3)(b.), as the project is a repair or rehabilitation of a Tier 3 stream in accordance with Env-Wt 904.05(a)(5) as the project impact Exeter Prime Wetland 61.
2. The applicant has provided a PE certification for the Tier 3 Stream Crossing criteria listed in accordance with Env-Wt 904.01 and 904.09. Based on the hydraulic calculations the project engineer has indicated the structure will pass a 100-year storm event both before and after the proposed construction. There is no evidence of past flooding at the location.
3. Per Rule Env-Wt 202.01(b) and as required by RSA 482-A:8, NHDES finds that the requirements for a public hearing do not apply as the project will not have a significant environmental impact, as defined in Env-Wt 104.19, on the resources protected by RSA 482-A, or, is not of substantial public interest, as defined in Env-Wt 104.32.
4. The public highway project meets all of the approval criteria established in Env-Wt 527.02.
5. The applicant has demonstrated specifically that each factor listed in Env-Wt 313.03(b) has been considered in the design of the proposed major project.
6. Per Rule Env-Wt 311.06(h), the Exeter Conservation Commission did not provide comments on the proposed project.
7. Per Rule Env-Wt 311.01(b), the applicant coordinated with the NH Fish and Game Department and the Natural Heritage Bureau to determine how to avoid and minimize project-related impacts on rare or protected animal species and habitat, and on protected plants or exemplary natural communities.
8. Per Rule Env-Wt 313.01(a)(4), all project-specific criteria established in Env-Wt 500 and Env-Wt 900 have been met.
9. Per Rule Env-Wt 313.01(a)(3), all resource-specific criteria established in Env-Wt 500, Env-Wt 700, Env-Wt 900 have been met.
10. The payment into the ARM fund shall be deposited in the NHDES fund for the Salmon Falls - Piscataqua Rivers watershed per RSA 482-A:29.
11. The Department decision is issued in letter form and upon receipt of the ARM fund payment, the Department shall issue a posting permit in accordance with Env-Wt 803.11(c).
12. Per Rule Env-Wt 803.10(e), the department has accepted the proposal for an in-lieu mitigation payment as the proposal meets the requirements of Env-Wt 803.10(b), and of Env-Wt 803.10(d), and the mitigation type or combination of mitigation types listed in Rule Env-Wt 803.08(a) Table 800-1 that are available in the same watershed as the impacts for compensating jurisdictional area losses are not practicable.

Pursuant to RSA 482-A:28, **this approval is contingent on receipt of a one-time in-lieu mitigation payment of \$19,116.29 to the NHDES Aquatic Resource Mitigation (ARM) Fund.** NHDES recommends delaying payment until after the 30-day reconsideration period ending September 2, 2022. In accordance with Env-Wt 803.11(c)(2) and Env-Wt 807.01(b), if NHDES has not received the in-lieu mitigation payment within 120 days of this letter, or by December 11, 2022, NHDES will deny the application. Please include a copy of this letter with the payment.

In accordance with RSA 482-A:10, RSA 21-O:14, and Rules Env-WtC 100-200, **any person aggrieved by this decision may file a Notice of Appeal directly with the NH Wetlands Council (Council) within 30 days of the decision date, August 01, 2022.** Every ground claiming the decision is unlawful or unreasonable must be fully set forth in the Notice of Appeal. Only the grounds set forth in the Notice of Appeal are considered by the Council. Information about the Council, including Council Rules, is available at <https://nhec.nh.gov/wetlands/index.htm>. For appeal related issues, contact the Council Appeals Clerk at (603) 271-6072.

If you have any questions, please contact me directly at Eben.Lewis@des.nh.gov or (603) 559-1515.

Sincerely,



Eben M. Lewis
Southeast Region Supervisor, Wetlands Bureau
Land Resources Management, Water Division

cc: Andrew O'Sullivan, NHDOT
Karl Benedict, Public Works Subsection Supervisor
Lori Sommer, Mitigation Coordinator
Michael Dionne, NHFG Marine Division
Exeter Conservation Commission

Exeter Conservation Commission
June 14, 2022
Nowack Room
Exeter Town Offices
10 Front Street
Draft Minutes

Call to Order

1. Introduction of Members Present (by Roll Call)

Present at tonight's meeting were by roll call, Chair Andrew Koff, David Short, Conor Madison, Select Board representative Nancy Belanger, Kyle Welch, Alternate (@7:05 PM), and Bill Campbell, Alternate.

Staff Present: Natural Resources Planner Kristen Murphy

Mr. Koff called the meeting to order at 7:00 PM and indicated Alternates Bill Campbell would be an active voters.

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 was none.

Action Items

1. Election of Officers

Current slate of officers:

Chair Drew Koff

Vice-Chair Trevor Mattera

Treasurer Dave Short

Mr. Koff read the slate of officers and asked the Commission if anyone wanted to make any changes.

Mr. Campbell motioned to nominate the slate of officers as presented, again. Mr. Koff seconded the motion. A vote was taken, all were in favor, the motion passed 4-0-0.

Mr. Welch arrived at 7:05 PM and Mr. Koff noted he would be an active voter.

2. Wetland and Shoreland Conditional Use Permit applications for the relocation of Building D of Ray Farmstead 55+ residential development (Justin Pasay, Brendan Quigley)

44 Tax Map 47 Lot 8.1
45 C-3 Zoning district

46
47 Mr. Koff read out loud the Public Hearing Notice.

48
49 Mr. Short recused himself citing a long business relationship with the developer.

50
51 Attorney Justin Pasay appeared on behalf of the applicant. He noted that Dennie Hamel, the civil
52 engineer with GMZ Assoc. and Brendan Quigley, the wetland scientist were also present.

53
54 Attorney Pasay questioned the quorum required for the Commission to meet and Ms. Murphy indicated
55 the quorum was 4 members.

56
57 Attorney Pasay presented the applications for a wetlands conditional use permit and shoreland
58 conditional use permit noting the applicant would appear before the Planning Board at their July 14,
59 2022 meeting.

60
61 Attorney Pasay reviewed the history of the development noting there were 116 units planned at the 55+
62 Ray Farm development which would have four buildings, A, B and C which are identical and building D
63 which is the fourth building. He posted the plan and noted the original location approved for Building D
64 near the Mobil Station and Epping Road. He noted the original approvals impacts to the buffer zone and
65 that the new proposal would relocate Building D to an upland area combining other land. He noted
66 Building A & B have been built and are occupied and Building C is nearly complete with all units sold out.

67
68 Attorney Pasay noted the approval by the Zoning Board of Adjustment on November 21st which was a
69 use variance as the property is zoned C-3 and the approval for multi-family use.

70
71 Attorney Pasay noted there would be more land area with less density.

72
73 Brendan Quigley noted there was a site walk earlier today and spoke to the functions and values report
74 and compared the original approval and its impacts to the new proposal and its impacts. Attorney Pasay
75 noted the first approval was 700 SF of direct wetland impact. The new proposal is to extend the
76 driveway from Building C to Building D. He described the 9,400 SF buffer impacts for grading, pavement,
77 gravel and crossing and the temporary crossing originally approved crossing Commerce Way which the
78 TRC indicated was not ideal. He noted there will be no more temporary construction access, 9100 SF of
79 impact within the 100' shoreland for grading and stormwater treatment, 16,500 SF of impact within the
80 150' shoreland protection for grading and drainage and portions of pavement for Building D.

81
82 Dennis Hamel described the three infiltration basins and roof drainage and described the focal
83 bioretention system, grading and elevation, outdoor parking spaces, water and sewer connections and
84 recommendation for future water connections by the Fire Dept. Mr. Hamel described the guardrail and
85 untouched buffer zone.

86

87 Attorney Pasay noted there would be 485 SF of direct wetland impact for the crossing from Building C to
88 Building D, a 31% reduction and 4,126 SF a reduction of 44% to buffer impact focusing on the
89 “avoidance and minimization” piece. He noted there would be no alternative access that would have
90 less impact. Building D would be the same as the other buildings.

91

92 Mr. Quigley referenced Watson Brook a primary resource area and described the perennial to
93 intermittent stream, wildlife food sources and aesthetics. He noted there were probably no fish habitat
94 due to barriers that prevent passage downstream. He noted the maintenance of buffers goes along way
95 to preserving the functions and values and provides screening and water quality. He noted no impact to
96 the Brook or wetland themselves and no disturbance to wildlife corridor as there is more potential in
97 the area he showed on the plan to the right.

98

99 Mr. Campbell asked about reduced impacts and Mr. Quigley indicated from 17,000 to 10,000 from
100 original plan.

101

102 Mr. Campbell asked Mr. Hamel why there couldn’t be an open box culvert and he noted it was too steep
103 and there was not a flowing stream, the slope would be too high. The 36” culvert proposed is bigger
104 than necessary. Mr. Welch asked the length and Mr. Hamel noted about 42.’

105

106 Mr. Quigley described the state standards for Tier 1 crossings up to two acres.

107

108 Mr. Koff noted the access road to the Carlisle property behind Buildings C and D and the deeded ROW.
109 He noted the Commission received a letter dated today from the Carlisle’s attorney indicated they do
110 plan to develop the property and use this ROW at some point in the future. Mr. Koff noted he did not
111 want to discuss the litigation regarding the TIFF road but there is a real possibility of an additional access
112 road. The worst outcome would be for both of these, and he noted concerns that both roads may be
113 built, and the impact would be significant.

114

115 Attorney Pasay noted the Commission is bound to make a decision on the proposal before it. To the
116 extent that road gets built the applicant will file an amended site plan and make the site compatible but
117 cautioned about speculating about things that may never come to fruition. Ms. Murphy disagreed
118 noting there is an approved subdivision on Carlisle property and opined that it was fair and reasonable
119 for the Commission to have an understanding and evaluate the potential. The Commission should focus
120 on the resource and noted the comparison to alternatives that have been proposed. The easement is
121 not a Conservation matter, but Carlisle could submit tomorrow.

122

123 Mr. Campbell noted he was having trouble. Mr. Short stated the cumulative impact with adding the
124 alternative is not adding much versus the previous location with the other road going in.

125

126 Mr. Quigley noted no wetland impact associated with Building D only a small amount for the driveway
127 and significant buffer impact is being avoided. He noted Building D is proposed larger.

128

129 Mr. Koff compared the new building impacts to the shoreland of Watson Book to the original approval
130 by the Mobil and Epping Road. Mr. Koff noted the number of units originally allowed for Building D

131 which were less than the other buildings. Attorney Pasay noted the 116 units were based on a variance
132 that runs with the land from 2014; with three 32 units and one with 20 units the total is 116 units; not
133 based on a yield plan, but on the variance.

134
135 Attorney Pasay noted he mis-referenced Article 9.1 where it should be 9.6. He noted no alternate
136 design would have less impact for Building D with 32 units now where 20 were approved originally. He
137 referenced the functions and values report of the wetland scientist and reviewed the fourth criteria that
138 entire Building D is out of the buffer reduced from the original plan and the fifth criteria not detrimental
139 to public health, safety or welfare by loss of wetland or contamination of groundwater describing the
140 most ecological way to get to the upland and criteria six to access the upland area switching from a
141 location with a higher function and value. Attorney Pasay described the restoration proposals and
142 seeding of disturbed areas and that all permits will be obtained for state and federal which are a
143 Planning Board condition of approval.

144
145 Mr. Campbell questioned whether it would make more sense to table the application due to insufficient
146 information.

147
148 Mr. Koff noted the original design was least impactful on the whole. Attorney Pasay reminded the
149 proposal for Building D is larger for 32 units, not 20 and that on Page Two of the June 3rd narrative all of
150 Ms. Murphy's comments were addressed. The culvert is more than satisfactory and there is no
151 detriment to functions and values and the higher value of the wetland near the Epping Mobil.

152
153 Attorney Pasay reviewed the criteria for the shoreland conditional use permit. Mr. Quigley spoke to the
154 water quality and restoration of graded areas with natural seed mix. Attorney Pasay noted no
155 wastewater discharge on site other than domestic, with water and sewer as reported on page six, no
156 hazardous materials stored on site, no damage to spawning grounds. He referenced criteria #4
157 compliance with setbacks and criteria #5 maintaining water quality or affect on recreational values. Mr.
158 Quigley added that there is no vegetation criteria.

159
160 Mr. Koff noted concerns with discharge so close to Watson Brook feeding to Norris Brook. Mr. Hamel
161 described the treatment system and nitrogen removal. He noted the catch basin is easy to maintain and
162 requires inspection twice a year with a report sent to the Town annually. Mr. Hamel described parking
163 lot runoff filtration. Mr. Quigley noted the stormwater treatment is a big part of not having negative
164 impacts.

165
166 Mr. Koff noted the Commission has the option to not object, recommend approval with conditions or
167 recommend denial and stated he would motion to deny because there is an alternate design that is less
168 impactful. Attorney Pasay noted the shoreland conditional use permit criteria does not have that
169 analysis under the regulations. Mr. Koff noted his concerns are with impact to surface water quality
170 directly above Watson Brook for a structure that parallels Watson Brook. 25,600 SF of shoreland would
171 be detrimentally impacted and within the 100' buffer for the stormwater structure and grading. The
172 parking lot within the 150' buffer and does not know why this configuration was chosen.

173

174 **Mr. Koff motioned to recommend to the Planning Board that they deny the shoreland conditional use**
175 **permit due to the extent of impact to the buffer and potential water quality and wildlife issues that**
176 **could come from that. Mr. Campbell seconded the motion. A vote was taken, all were in favor, the**
177 **motion passed 4-0-0.**

178

179 Mr. Koff noted the wetlands conditional use permit seemed like the most feasible access.

180

181 **Mr. Koff motioned to approved the wetlands conditional use permit.**

182

183 Mr. Campbell recommended conditions: native seed mix and recommended the open box culvert with
184 open bottom design instead of the 36" culvert.

185

186 **Mr. Campbell seconded the motion. A vote was taken, all were in favor, the motion passed 4-0-0.**

187

188 Mr. Koff noted a memo would be drafted to the Planning Board with the Commission's
189 recommendations.

190

191 Mr. Short returned as a voting member.

192

193 3. Committee Reports

194

195 a. Property Management

196

197 Ms. Murphy reported a call from the Davis that they are mowing Raynes using the modified protocol.
198 David O'Hearn asked about brush hogging the field edge at a cost of \$200.

199

200 **Mr. Short motioned to approve the \$200 expenditure to have David O'Hearn do the brush cutting at**
201 **Raynes. Mr. Koff seconded the motion. A vote was taken, all were in favor, the motion passed 5-0-0.**

202

203 b. Trails

204

205 i. Update to Event Permit – (inc. Police, Fire & DPW sign-off before CC review)

206

207 Ms. Murphy provided an update to the event permit for this weekend's trail race.

208

209 ii. Jolly Rand Trail Sign Replacement (expenditure request)

210

211 Mr. Short reported the trail signs are worn out. Ms. Murphy noted she did not have a
212 quote but expected the replacement cost to be under \$200.

213

214 **Mr. Short motioned to expend up to \$200 to replace the Jolly Rand trail signs at both**
215 **ends. Mr. Campbell seconded the motion. A vote was taken, all were in favor, the**
216 **motion passed 5-0-0.**

217

218 Ms. Murphy indicated a family reached out wanting to volunteer. The Commission recommended help
219 with unclogging the drainage ditches or cutting small brush back.

220

221 c. Outreach Events

222

223 i. Alewife Festival Debrief

224

225 Mr. Koff reported the Alewife Festival went well and everyone did a good job. The groundwater
226 migration model was filmed and very popular. Ms. Murphy noted no attendance at the film
227 festival or kayak event. Mr. Welch recommended spreading out over multiple weekends. There
228 used to be a race down river and there could be a kid's race on a smaller scale. Ms. Murphy
229 noted TEAMS invited them to combine with their event the following weekend. Mr. Koff noted
230 he liked the stand-alone event and Mr. Short noted it was pretty well attended and the full
231 committee could get together and have a discussion.

232

233 iii. Geocaching Event Planning – TBD

234

235 Mr. Welch described the Commerce Way circle and three caches in a mile loop and possibilities
236 for placement by Fort Rock. Ms. Murphy described the July 16th flyer and recommended
237 potential prizes or a passport program and posting on social media.

238

239 4. Approval of Minutes:

240

241 i. May 10, 2022 Meeting

242

243 ***Mr. Koff motioned to approve the May 10, 2022 meeting minutes. Mr. Short seconded the***
244 ***motion. A vote was taken, all were in favor, the motion passed unanimously 5-0-0.***

245

246 5. Correspondence

247

248 Ms. Murphy noted an upcoming workshop on gravestone restoration which might be helpful with
249 Raynes Wiggins. It is June 26th from 4-6 PM in Kensington.

250

251 6. Other Business

252

253 7. Next Meeting: Date Scheduled (7/12/22), Submission Deadline (7/1/22)

254

255 Adjournment

256

257 MOTION: Mr. Koff moved to adjourn the meeting at 9:31 PM seconded by Mr. Short. A vote was
258 taken, all were in favor, the motion passed unanimously.

259

260

261 Respectfully submitted,
262
263 Daniel Hoijer, Recording Secretary
264 Via Exeter TV
265
266 This meeting was also presented virtually Zoom ID 829 3937 4046

Exeter Conservation Commission
July 12, 2022
Novak Room
Exeter Town Offices
10 Front Street
Draft 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.

302
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