

**PLANNING BOARD  
MARCH 23, 2017  
DRAFT MINUTES**

**1. CALL TO ORDER:**

Chair Kelly Bergeron called the session to order at 7:01 pm. Members present were Nick Gray, Alternate Member; Don Clement, Selectmen's Representative; Gwen English; Chair Kelly Bergeron; Vice Chair Katherine Woolhouse; Aaron Brown and Langdon Plumer. The Chair announced that all members would be voting tonight.

Staff present were Dave Sharples, Planner; and David Pancoast, Recording Secretary. Members of the public, applicants and consultants were present as well.

**2. NEW BUSINESS: PUBLIC HEARINGS:**

**The application of Kerry Wilson and Chris Burke for a Wetlands Conditional Use Permit for proposed landscaping improvements within the wetland buffer area on the property located at 104 Brentwood Road. The subject property is located in the R-1, Low Density Residential zoning district. Tax Map Parcel #61-23. Case #17-12.**

Mr. Clement moved to open the case, Mr. Plumer seconded and the vote was unanimous. Mr. Burke said they clear cut the lot in 2015 but was unaware that he needed a permit for that. They want a 15 foot wide access path to back area, which is inaccessible upland now. They had the wetlands delineated and buffer comes right up to the house. Wants a brick path to house too. Plan says 15 ft wide more or less which is stated that way to allow them to avoid moving all the large boulders. The project requires some fill but mostly just for leveling, just enough to smooth it out for access. He realized his lack of a permit is an issue.

Mr. Plumer asked about more disturbance. Mr. Burke said work would be done via a Bobcat only. Mr. Brown asked for his wetlands plan but Mr. Burke said he gave it to the Conservation Commission ("ConCom"). Gove Environmental did it. The smaller wetlands on site is unconnected to the larger one which is culverted and connected to other resources downstream. The proposed brick pathway is to be pervious which is good for drainage. Mr. Burke: the proposed access will not

enter any wetlands. Mr. Burke said his timeline is mid to late summer of this year- doing it piecemeal as he is able. He is using concrete pavers in brick style for the walkway with 12 inches of gravel underneath. Ms. English said she likes the native plantings he proposed. Mr. Burke said has so many boulders there he wanted a rustic stone wall along the access-way.

Mr. Clement asked about discrepancies between his aerial photo and hand-drawn map. Mr. Burke explained that ConCom wanted the rest of area naturalized, he is approved to seed only the access-way itself. Mr. Clement said Conditional Use Permit (“CUP”) needs to be specific. Mr. Burke said that this new plan is the revision plan. It’s all flagged for wetlands and buffer zone. Once access turns behind the house, it is out of the proximity to wetlands. Using boulders for informal retaining wall. Mr. Gray asked if abutters have been notified and Mr. Burke said yes, and he got feedback from a couple of them.

Ms. Woolhouse asked if the area next to the access-way will be naturalized with native plantings? Mr. Burke said the area of the hatch marks on the plan will be left as is. He only wants to grind some stumps in that area, no lawn as ConCom did not want lawn there. He needs to do a lot of clean up out back where the tree cutting was done. Mr. Brown asked about a barn later on and if parking will occur there? Mr. Burke said only the truck and trailer, no other vehicles, and it won’t be paved. Only a small barn, garden and lawn and a patio in the future. Mr. Sharples suggested word changes in the suggested points of approval to use “shall” in the language. Mr. Burke agreed to that.

There were no public comments.

Mr. Brown asked if a timeframe should be put on it. Mr. Clement agreed and said he should get two planting seasons to accomplish the restoration. Mr. Sharples suggested seven conditions of approval: allow minor contouring for 15 ft wide gravel/loam access to connect uplands behind house to house area; access-way to be located as close as practicable to the house; except for grinding of stumps and plant native plants for restoration and moving of some of larger boulders, area to remain as natural as possible; best management practices for erosion control with silt fence shall be used; brick pathway is approved; applicant to have 2 years to complete work; and project to be conducted per hand-drawn plan submitted on 3/23/17. Mr. Clement moved for approval subject to those conditions, Mr. Brown seconded and discussion was for two years from date of this approval (3/23/17,

so 3/23/19). Mr. Clement moved to amend his motion to include that completion date, Mr. Brown seconded and the roll call vote for approval of the amendment was unanimously approved. The Board then voted on approval of the amended motion, Mr. Brown seconded and that vote was also unanimously approved.

**Continued public hearing on the application of Tuck Realty Corp. for a design review of a yield plan for a proposed open space development (consisting of duplex and single family residential units) on the properties located at 98 Linden Street and 3 Vintage Drive. The subject properties are situated in the R-2, Single Family Residential zoning district. Tax Map Parcel #104-70 and #95-51-2. Case #17-15.**

Mr. Clement recused himself from this matter and stepped down. Jonathan Ring from Jones and Beach Engineering in Stratham appeared with Mike Garrepy of Tuck Realty and Tim Phoenix, Esq. of Portsmouth. Mr. Ring summarized the proposal and redesign of the Yield Plan to avoid road impacts in buffer zone. They were able to provide buffer impacts on revised plan. There is a wetland impact on its west side by Linden Street of 500 sq ft due to moving the road. They added a fitness course with 20 stations and two playground areas on the plan. There is 51,000 sq ft of recreation area on the plan. The 14 duplex units vary in size to accommodate housing styles. Some could be enlarged but they stopped tweaking the layout due to the timeline. The two houses on abutter Morrissette property were considered for the Yield Plan but one could not be put onto that plan due to scaling problems. The Open Space Plan was changed to show buffer strips. They did show the two Morrissette houses on that plan and detention/stormwater area, only as roughly designed. Need 2.9 acres of Open Space and have over 5 acres. Added note on Unit #28, to prevent further development in the future. Twenty-eight units now shown on Open Space Plan to meet that concern. Waiver previously requested for the road impact is withdrawn as it is unnecessary now.

Mr. Sharples summarized the prior session, and discussed these two plans and his comparisons of related prior plans for this parcels, with this set of plans. Four wetlands from prior plans of this property are missing here. The other/prior plans date from 1997 and 2016, just a year ago. The discrepancy in wetlands boundaries could be addressed by a third party wetlands expert to resolve the issues. Should get all delineators out to the site after snow is gone to resolve those issues. Town Counsel's legal opinion on two lots was received today and provided to the Board. It can decide whether to make it public or not. He also summarized the proposed

building envelope sizes and issues with them. The Board needs to decide the propriety of the 20 foot wide footprints. The Board needs to decide propriety of the footprint sizes here for future impacts and future guidance. He had also asked for marketability info by applicant as to sizes of the house footprints. Sent a plan to the Town's consulting engineers today. They did say the plan needs to show drainage structures even on the Yield Plan, it is a problem site for drainage and need to be sure the development is viable.

Mr. Gray asked what the mitigation would be for the drainage. Mr. Ring said rain gardens for each house, catchbasins and detention ponds, but they might use porous pavement with a reservoir below-final design not done yet. Ms. English said she hoped that as few trees as possible be removed on this project, due to water issues. Houses on the buffer are a concern as to future encroachments. A hammerhead was discussed last time instead of a circle turnaround. Mr. Ring said he would take a look at it, even though it's a private road. Ms. Woolhouse asked how wetlands delineations were derived? Mr. Ring said Gove Environmental delineated the White property this past year. Didn't survey all of it yet however as to Mr. Winter's property, due to snow, but they will do it. Confident wetlands on Exeter Housing Authority plan are non-jurisdictional. No delineator is listed on the Sanford prior plan. Mr. Garrepy said Tuck had access to Exeter Housing Authority's Sanford plan before they signed the P & S on this. Had Gove Environmental review it and they discounted many of the prior flags. Winter parcel plan shows hydric soils that are not wetlands soils and then the wetland delineation rules changed during past 20 years (since the 1997 plans). He said they are confident with their plan but will verify it over next few weeks as soon as they can do so. Building envelopes are tight and they do need flexibility on those. There was discussion on whether to design 20 foot deep footprint house designs since they are so narrow. The Applicant didn't think that was a worthwhile expense for them for a yield plan. Discussion was held for examples of approved viable building designs that are only 20 feet wide. Tuck hasn't done any.

Mr. Brown still wanted to see why it's not a lot line adjustment first and then an open space plan afterward. Mr. Garrepy said they do assemblage of parcels all the time, he believes it meets the ordinance. Existing condition of a home and barn on these parcels-makes sense to preserve those on their own lot. Mr. Plumer said that becomes lot #28 in Open Space Plan. Mr. Garrepy said the Exeter Ordinance provides for that approach.

Attorney Phoenix added that his review of the ordinances did not state their approach on this is impermissible. He read the ordinance into the record and addressed each point and explained that the applicant shouldn't be penalized for doing that. Lot #28 would be part of the homeowners' association. Alternative methods of ownership involve having smaller more affordable duplexes.

Mr. Ring said there are two prior Exeter Projects that comport with this: Forest Ridge and Watson Road. Two Open Space examples recently done. The following discussion resulted in Mr. Sharples explain some differences on that with this project, being a transfer of development rights here, transferring five units to an adjacent lot. There was no transfer of development rights in the Forest Ridge project, usually they are not allowed in Exeter. Definition of Open Space Development in Article 2 and then Article 7, lists three types: Single Family House ("SFH"), small scale multi-family and large-scale multi-family open space. The definition was trying to encompass all three types. Mr. Garrepy said this is a small scale multi-family. Mr. Garrepy would like to see the legal opinion of town counsel to give input. This is only the Yield Plan review, not the Open Space Plan review, which is coming later. Perimeter Buffer is dealt with by Section 9.6.1, they can re-grade into the 50 foot buffer line. Mr. Plumer said he is still very concerned about runoff and wetlands. It's a high water table there, needs to see what technique will handle that water. Mr. Garrepy said that this is not the time to present that due to the nature of this filing. Mr. Plumer said the influence of stormwater goes beyond this site and they need to be aware of that. After Mr. Gray raised it, Ms. English said the Town attorney's letter should be shared- important to the applicant and might affect the Yield Plan and Mr. Plumer agreed.

After discussion on that, consensus was to share it despite some concerns. Mr. Brown moved the Board share the legal opinion email dated 3/23/17, seconded by Mr. Plumer, and it was unanimously approved by roll call vote. Ms. Bergeron read the email into the record. Mr. Garrepy said that it was more of a Yield Plan density situation, but Mr. Sharples disagreed. Mr. Garrepy then asked if they could talk to the Town Attorney but the Board declined to allow that, saying the opinion is enough. Mr. Garrepy said they need some assurances to move forward, other than just vetting out the wetlands issues that were discussed. Chair said the Board can't move beyond Yield Plan until the wetlands issues are resolved satisfactorily, to include having input on why wetlands on other plans don't show on this one. Mr. Garrepy said they can't show wetlands that aren't there. Discussion was that they need to resolve the prior wetland references to the

Board's satisfaction. Mr. Ring said they would prefer to do it as part of design review when the snow is gone. Mr. Sharples suggested they delineate the entire site and then come back to address all discrepancies. There was discussion on this process and third party review of wetlands if necessary. Mr. Garrepy asked if Board could authorize third party now to save time. The Board did not think that was necessary yet. Mr. Sharples suggested the applicant delineate the entire parcel and then check for discrepancies at that point. Mr. Garrepy suggested they schedule a walk within a few weeks. They assume a third party wetlands review will be needed. Mr. Ring concurred with that approach. The Chair deferred that issue for public comments.

#### Public comments:

Don Clement of 5 Thelma Drive, map 95/Lot 34 spoke. He said this wetlands is fragile. Winter parcel wetlands delineation on the other prior plan appears spot on to him, it's very wet there. Yield Plan is important, need it before can get to the Open Space Plan. This is a transfer of development rights, can't do that. Need to follow Town Counsel opinion. Linden Commons was a purchase of land. They are not buying the Winter land, they are "borrowing" it for the Yield Plan. Water in drainage will move north toward Linden St and Gary Lane and south toward the Morrissette property. He said the Board shouldn't approve the Yield Plan tonight.

Mr. Morrissette, 102 Linden Street, said, his family owns the whole south side of the land south of this plan. Recreational area is near his work area, not a good idea. They work out of that area during the day. If they can't get rid of the water somehow, it won't work. Winter's property is high in the air where he built. Road has been built up over the years and still floods in storms. He repairs it all the time. Linden Street has been built up. This plan won't work.

His son, Nick Morrissette, said the discrepancies are important; they will need to fill wetlands and do more crossings than they claim to make this work. Purpose is to reduce impact on surrounding properties and have to count all the impervious surfaces and removal of big trees. High water table has been mentioned and a detention pond can't make much difference here. Mr. Morrissette said Exeter Commons was different, drains differently and that approach won't work here.

Ms. Leona Nelson, 12 Peach Street (Exeter River Co-op) mentioned that the Linden Commons development backs up to her property. They cut most tall trees

down in one day and then the rest fell down. Houses were built on giant mounds of fill. Water runs to neighbors' drains. This is too much. Zoning Board said traffic not its issue but it is for the residents who can't get out of their driveways now and it will become worse. There is too much residential in that area.

There were no other public or Board comments.

Mr. Sharples said that the footprint envelopes of only 20 feet width (due to setbacks) should be discussed tonight to give the applicant a sense of that issue and any concerns the Board might have on it. Ms. Bergeron reiterated the wetlands issue needs to be addressed and asked the Board for other concerns.

Ms. Woolhouse asked about drainage showing on the Yield Plan. Mr. Sharples said if the applicant doesn't want to deal with it now, but wait until after formal submission, they can but the Board might have to revisit the Yield Plan at that time, which it can do. Mr. Brown said the Board can't really do anything else until more information comes in. If they can't meet the date, they will continue again.

Mr. Garrepy said that 4/27/17 continuance works for the Applicant. Ms. Bergeron moved the continuance of the Design Review on this matter to that date for wetlands review, Ms. Woolhouse seconded and the roll call vote was unanimous.

[Mr. Clement stepped back in to the session.]

**Continued review of a proposal by the Exeter Sportsman's Club for the proposed construction of an extension to the existing backstop, an additional structure (shoot house) and lighting on the property located at 111 Portsmouth Avenue. The subject property is located in the CT-Corporate Park Technology zoning district. Tax Map Parcel #65-123. Case #17-14. (Site walk scheduled for 5:00 PM).**

The site walk was held today. Tim Copeland, President of Exeter Sportsmans' Club appeared. Ms. English summarized her concerns at the last session. There was discussion on soil pH and related issues. This proposal is an improvement and also an expansion. This is near a reservoir which is important. The stewardship plan online was helpful. She wondered about lead levels in the soil, does it get limed to offset that? Butch York, former President of the Club, addressed that issue. It is done annually. There is an Environmental Captain for the Club who takes care of that. The backstop is tricky as to how much lead is going into it at any given time.

UNH is looking into that and when economically viable to remove it, they will do so. Ms. English said the proposed site seems to be too difficult to clean of lead. Mr. York said the whole back can be opened up for cleanout. The monitoring wells haven't shown anything in annual testing results. Mr. Copeland said the ground cover is only grass and it's not an expansion that is being considered.

Mr. Clement said this is an expansion in his view, he disagreed with them on that. The access was discussed for the new shoot-house. The construction plan seems to be evolving. Mr. Gray said the benefits far outweigh the repercussions and if soil protection is done, he thinks the proposal is okay. Mr. Copeland reiterated the upcoming UNH involvement. Mr. Gray then said the sound is an issue with the public. He wondered if it will be louder. Mr. Copeland said the new obstacle may help lessen the sound. Another barrier will be added too, at the 25 yard range, but nothing farther out. Mr. York pointed out the residential areas in respect to the project plan. Muzzle blast sound crosses water easily and is heard on the other side. Extended backstop may disrupt the sound and testing will tell on that.

Mr. Brown asked how proposed shoot-house area is used now? Mr. Copeland said that it has been an archery range. Hasn't been used for shooting for about a year now. Mr. Brown asked if this was a new use or change in existing use. Mr. Copeland said it's both. Mr. Copeland said they don't keep records of calibers of guns being shot, just member names and time of use. He said about 90% of shooting is from the 25 yard range, where the new barrier will be sited.

#### Public Comments:

Len Benjamin of 25 Windemere Lane said there are objections from abutters. This has adverse effects on neighbors. There are lease compliance issues and the environmental issues not sorted out enough. NH RSA 159-B protects owners and users of firing ranges from nuisance or noise pollution as long as the range was in full compliance as the time the nuisance was created. But it doesn't protect for expansions or changes in use. If not limited to rim shooting, other firearms would cause more noise. Therefore this is an expansion. Should be subject to sound regulation. One Planning Board in the area did put sound protections in and sound consultant was hired and used to do that. He asked the Board to put specifications on this in place. How can more shooting result in less noise?

Ms. Marbet Wolfson, 15 Thornton Street, handed out a map for Board review of the neighborhood locations. Four years ago before trap range was cleaned up, she voiced concerns to Board then and Assistant Fire Chief Ken Berkenbush assured them in public there would be no further shooting there. But he is gone now. Sportsman Club has acknowledged that the berm is not a good sound barrier. Protects from stray bullets, not sound.

Ms. Sue Rattnoff, 4 Robin Lane, lives one street away. Trap range was to become archery range only, but now it is to again be a shooting range. Already been in use for shooting by groups. Stewardship Plan as to lead records, must be maintained as to quantities of bullets that go into the berms. In 2014 the Town paid for sound testing in May or June and testing showed no reduction in sound.

Attorney Chris Hillson of 10 Little Pine Lane, attorney with Donohue, Tucker & Ciandella firm but he is not there for them, only personally. He is a member of the Club. Sound is the one thing the Board can't consider or put limits on. RSA 159-B exempts ranges from sound issues. If noise ordinance not in place when activity began, can't put the limits on it. In 1972 Exeter put in the first noise ordinance. Recommends the Board approve the use. While he can hear it from his house, he doesn't complain about it because the club was there first. This is not an expansion, past shooting activities were trap, shotgun shooting. The proposed use will be less sound pollution than the original use.

Mr. Benjamin added that RSA 159 offers protection. But 159-B.3 deals with expansions and says that if the shooting range expands the use, can't go back to the earlier date, must look at the expansion and regulate that. Prior trap shooting stopped in the 1980's, so not relevant today. This shoot-house is for a particular gun, but club won't limit it to that. This should go to the Selectmen. Berms were built but sound was not attenuated. Goal was to reduce sound by 4 decibels but it wasn't done. The Town is the landlord and can change the terms if wants to.

Ms. Rattnoff said the Town sought and got a legal opinion about it and the Selectmen have the legal opinion on that point. Mr. York said the range is the range. The entire leasehold is the range, you can't split it out into pieces, it is the whole thing. Years of shooting have occurred there, as normal activities. It is repurposing, not an expansion. Mr. Hillson added that the lease acknowledges that firearms are addressed in the lease and that it is exempt from control via the

statute. The limit is 77 caliber, but no automatic firearms, those two things would be a change in use, but use of normal firearms is not.

Chair ended public comments due to repetition and said the lease is clear to her. The lease clearly prevents the Board from dealing with noise. Attenuation of noise is with the Selectmen, not the Planning Board. This Board handles building issues only. Sympathetic to concerns of abutters but can't address it in this Forum.

With leave of the Chair, Mr. Benjamin added that it's misleading to say entire range is the intent, it's the recency of use that he thinks is germane. Mr. Copeland added the entire property is an active shooting range as posted on the site.

Ms. Woolhouse asked Mr. Clement about the process here. Mr. Clement said the letter goes to the Board of Selectmen and it has gotten an update periodically. Mr. Plumer moved request for site plan approval for berm, backstop and shoot-house be approved. Seconded by Mr. Brown. On discussion Mr. Gray raised noise concerns and Chair said not Planning Board purview, only the Selectmen can deal with that concern/issue. Mr. Brown asked why in front building isn't insulated? Mr. Copeland said the 100 yd range is not insulated. Mr. York said insulating the roof provides no difference in sound, but does for sidewalls, they found that in sound tests. Discussion was about more sound attenuation.

An amendment offered by Mr. Clement for any Board approval to be made subject to the final approval of the Board of Selectmen for this plan, was seconded for discussion by Ms. Woolhouse but after thorough vetting by all, it did not pass on a roll call vote because the Board in majority concluded it would be abdicating its authority in so doing. Mr. Clement said some of the proposed work has already been constructed. Being asked to approve something that has already been started. There was much discussion on Planning Board's and Selectmen's authority and the process. Mr. Brown said if the Selectmen have a problem, they can meet with their tenant on it. There was more discussion on noise regulation authority. Chair said Selectmen must deal with noise and that shouldn't be tied to the Planning Board's decision whatsoever. The amendment to tie the Board's vote to the Selectmen did not gain approval of the Board, so Mr. Plumer moved for passage of the site plan application and Mr. Brown seconded that motion. On a roll call vote, all voted aye for passage except Mr. Clement and Ms. English, who both voted nay. The motion otherwise passed by majority vote to approve it.

**The application of Avesta Housing for a minor site plan review of proposed changes to parking and architectural design associated with the construction of Building #4 of the multi-family residential development located on Meeting Place Drive. The subject property is located in the R-4, Multi-Family Residential zoning district. Tax Map Parcel # 55-75-1. Case #17-16.**

Ms. English moved to open the case, Mr. Clement seconded. It was unanimously approved.

Dana Lynch, P.E. of Civil Works, here with Ms. Shreya Shah of Avesta Housing: this has been 14 years in the making. Would like a site plan approval for the fourth building. Want to reduce parking requirement, it's vastly unused already. Original approved plan for 228 parking spaces for four buildings and 4 of those were designated for trail use. One building is age restricted. Entire site designed for as much parking as could. Originally planned for 259 spaces but 21 are extra. Want to reduce them to reduce impervious surfaces by 6,000 sq ft. Ms. Shreya Shah is the project manager for Avesta Housing, and said they are proposing a building with a flat roof due to using solar panels on this roof for power. Removal of porches since they don't get cleaned out for six months or so due to snow. They want to extend walls of units instead for bigger units inside. Mr. Plumer said no problem with parking, but first three buildings are similar designs, this one would differ. Ms. Shah said whole flat roof allows more panels, want to maximize the amount of power. Mr. Plumer suggested a false pitched roof on edges only for similarities. Ms. Shah said can tweak the design to make that happen. Mr. Brown said expansion won't affect bedroom counts? Ms. Shah : correct. Mr. Brown asked what if they need those parking spaces in the future? Mr. Lynch said should reserve the right to construct the parking in the future. Ratio of need is here and excess parking exists across the street. Ms. Woolhouse asked what would happen to the reduced parking area? Mr. Lynch said it would remain undisturbed as it is now. The Chair asked about the right to reserve to build parking later on. Mr. Sharples said the Board can option it to allow it but then the applicant can just decide not to build it, but they can just build it later if they want to.

Ms. English asked about solar panel placements. Ms. Shah said that there is a slight angle on a flat roof. Won't be able to see them from ground. Mr. Clement said less impervious is good and close to Watson's Brook so better. Mr. Gray discussed solar uses and building orientation. Mr. Lynch said it faces due south.

Discussion on building orientation and efficiency of solar was held. Trail parking was discussed and pointed out on the plan.

No public comments were offered.

Mr. Sharples said a minor site plan was submitted so he suggested one motion with two parts. Mr. Plumer moved the request of Avesta Housing for Minor Site Plan be approved with the condition that the remaining 21 parking spaces are not required. Mr. Gray seconded, and it was unanimously approved.

### **3. OTHER BUSINESS:**

- **Phillips Exeter Academy -PB Case #17-17 Waiver Request from Exeter Zoning Ordinance – Article 9 (Sections 9.2.3.K.12 and 9.3.4.F.12) for “Use of Fertilizer” for the Field House and Tennis Court relocation projects**

Mr. Sharples said that Phillips Exeter Academy requested to reschedule this matter to the 4/13/17 session. The matter of 27 Chestnut St will also be taken up in the next meeting.

- **Minor Field Modifications** [There were none to report.]

**Town Planner Items:** The OEP session is on 4/29 and members should consider attending as it is worthwhile.

- **Approval of Minutes: March 9, 2017**

Due to the lateness of the session, Mr. Brown moved that this matter be tabled to the next session, seconded by Mr. Plumer, and unanimously approved.

### **4. MEMBERS’ ACTIVITIES ON OTHER BOARDS:**

Mr. Clement said Board reappointments are coming up with the Board of Selectmen, so please get any requests in. There was brief discussion on this.

### **5. ADJOURNMENT:**

There being no further business before the Board, Mr. Clement moved to adjourn, seconded by Ms. English and unanimously approved. Ms. Bergeron adjourned the session at 10:43 pm.

Respectfully submitted by David Pancoast, Recording Secretary.

DRAFT