

Exeter Planning Board
December 28, 2017
Draft Minutes

6:10 pm Call to Order by Chair, Langdon Plumer

Board Present: Nicholas Gray, Kathy Corson, Pete Cameron, Kelly Bergeron, Gwen English, John Grueter,

Also Present: David Sharples, Town Planner

Absent: Aaron Brown

Others Present: Lyndsay R. Butler, Renee L. Bourdeau, Henry Reiber, Tim Phoenix, Corey Colwell, Cynthia Young, Keith Patterson, Jason Rimers, Mark West, Steve Hallorran, Nate Piper, Maura Fay, Todd Piskovitz, Caroline Piper, Jennifer Brackett Piskovitz, Chris Vaughan, Doug Flockhart, Melissa Paly

Work Session: Wright-Pierce Presentation - Storm Water Regulations.

Introduction by David Sharples: Wright-Pierce inquiry/discussion from last spring came forth regarding new Town MS4 permit, requirements, and information on updating Town's stormwater management regulations in Town site plan and subdivision regulations. Received memorandum from Wright-Pierce regarding Draft (presentation) to incorporate into Town ordinance, updating stormwater management to becoming more inline with the current alteration of terrain permits, as most recent applications are requiring alteration of terrain permits. Memo suggestions designed to keep newer stormwater standards of AOT and State regulation inline with Town, 'so if they meet those, they meet ours.' Presentation to highlight main differences in current stormwater regulations and proposed change(s) expectations.

Lyndsay Butler, Wright-Pierce. Memo prepared for the Town in May of last year to summarize the MS4 and AOC (Administrative Order On Consent) regulatory requirements as they apply to Exeter. Further presentations were made in September with suggestions on the changes needed for site plan and subdivision regulations to meet those requirements. Based on feedback from those presentations, Proposed Amendment Drafts were suggested where specified articles of regulation were laid out to incorporate additional language or additional requirements to meet those regulations. No changes were suggested toward the thresholds for applicability, as the current thresholds are more stringent than the MS4 requirements.

Purpose of these Updates is essentially to make sure the standards that apply to alteration-of -terrain site plans can also be applied to smaller new and re-development site plans in town.

Proposed language change is consistent with DES alteration of terrain rules language. Used sample stormwater regulation and ordinance from the South East Watershed Alliance and other seacoast community regulations to create Proposed Amendments in keeping with standards. Section 5 required new definitions to bring rule language more in line with standards re: ground water recharge volume, hydrologic soil grouping, and water quality volume. Sections were discussed where references needed updates, and clarified provisions. Majority of proposed amendments are in section 9, and some additional requirements were added to section 7. Discussed usage of PTAPP (Pollutant Tracking and Accounting Pilot Project), and land use changes tracking, Nitrogen Control, and so forth regarding expansion of

Town's stormwater management practices so that local regulations will be more consistent with up to date State and Federal regulations. Examples were discussed from NRCC published data, and NOAA Atlas, which is what DES has adopted and towns are following suit with the State.

No vote tonight. Discussions to continue over the next 2-3 meetings, once language is comfortable, then have Public Hearing in/around February. Send any questions or concerns to Mr. Sharples directly.

Chair Plumer: Further questions/concerns? None. Thanks to Wright-Pierce for presentation, notes break in meeting until continuation at 7pm.

6:59 pm Call to order by Chair, Langdon Plumer

New Business:

Exeter Assembly of God Church, PB case #17-36, 45 Hampton Falls Road & 47A Hampton Falls Road, Lot Line Adjustment. Moved to open case by Mr. Sharples, seconded by Ms. Bergeron and unanimously agreed to.

Applicant Pastor Henry Reiber, Exeter Assembly of God Church, selling portion of parcel and agrees to moving lot lines as presented.

Mr. Sharples, Lot line adjustment discussed wherein a portion of the Church's parcel of land is moved to the single family parcel just north to the church. Explanation of open space compliance and suggested conditions of approval for adjustment, meets minimum (80%) open space requirements.

MOTION Moved by Ms. Corson that the request of Henry Reiber, Exeter Assembly of God Church, PB case #17-36, for a Lot Line Adjustment, be approved with the condition that the Applicant must provide a DWG file of the subdivision plan to the Town Planner.

Motion seconded by Mr. Gray. MOTION CARRIES, unanimously. MOTION APPROVED.

Applicant, Tom Moynihan, Garrison Glen, LLC, PB case #17-29, 24 Continental Drive. Site plan review for Multi-tenant building. Statement from Applicant read into record, to respectfully request the application be accepted as presented and a Public hearing be tabled until January 11, 2018 PB agenda.

Moved to open case by Mr. Sharples, seconded by Ms. Bergeron and unanimously agreed to.

Agenda date moved to January 11, 2018, Site walk scheduled for the Planning Board for Tuesday January 9, 2018 at 9 am. Reference areas will be marked, Oak tree, specifically.

MOTION Moved by Ms. Bergeron, that the request for the application be accepted as presented and a Public hearing be tabled until January 11, 2018 PB agenda. Seconded by Mr. Cameron, agreed to unanimously. MOTION ACCEPTED.

Exeter Rose Farm, LLC, PB case #17-27, Continued public hearing for review of a yield plan for this proposed single family open space subdivision located on Oak Street Extension and Forest Street. The

properties are located in R-1 Low Density Residential, R-2 Single Family Residential and R-4 Multi-Family zoning districts.

Atty. Tim Phoenix, Representative for Exeter Rose Farm, LLC (ERF), primary plans as amended provided for meeting. Reviewed perspective of project in terms of length, number of PB meetings, reviews, TRC, Town Planner discussions, site walk, etc. Cited memos that the application complies with all zoning ordinances. Emphasis that this meeting is solely in terms of a yield plan, acknowledging the neighbors concerns of environmental, traffic, and effects on the spring, etc., would respectfully be more properly dealt with during the next phase of full-site review, repeating this is a yield plan only, not necessarily what's going to be built.

Discussed common theme comments coming from the public, being a small neighborhood, and only access to property via streets of neighborhood, at the end of Wadleigh Street. Discussed considerations of the spring, development access points, Oak Street Extension emergency only use, and trails and recreation area changes. Discussed intentions toward environmental, construction, traffic, and neighborhood concerns, but the details have yet to be worked out. Using best management practices, length of 12-24 month property clean-up followed by years of development, as property won't be built at once. Seeking yield plan approval as presented.

Corey Colwell, MSC Civil Engineers, Portsmouth, NH, Mr. Colwell addressed changes made toward current yield plan. The last plan was from November 9, 2017, tonight's plan shows all new revisions to the yield plan. Cites comments that lead to changes and discussed changes made to the yield plan as a result. Examples being: Presently a 38 lot plan, as it was previously 39, with changes in decreasing roadways and crossings. Concerns presented by Mr. Sharples were considered in the changes, and no waivers or variances are needed or requested in this yield plan. Zoning Ordinances have also been met in current yield plan and itemized changes regarding wetlands, recreational space, crossings, buffers and cul-de-sacs were discussed with the Board.

Mr. Sharples, Commented that his concerns have been addressed in this current yield plan. Dimensional and density requirements have been met per Doug Eastman, and that he has no further issue as the yield plan stands.

Mr. Gray, Thanks given to the applicant for the site walk as well as the updated materials provided. Notes positive changes in current plan concerning buffer infringements, mitigating wetland impacts, and lot changes. Seems dimensional and density requirements have been met that would warrant a yield plan approval however he has 2 concerns. Lots 17 and 36 are shown at maximum wetland density and he would like to know whether there are alternatives to this margin and the feasibility of building on lot 24, due to the steep grade of the lot.

Response by Mr. Colwell, that only 2 out of the 38 proposed lots are at the maximum wetland density thresholds and that a few are considered acceptable. Concerning the 10' side to side and 6' grade differential, lot #24, this issue was addressed by Mr. Sharples and Mr. Eastman and neither has no further issues as it stands.

Out of respect for the abutters Mr. Gray has a long list of questions, reserved for the open space plan discussion. Timing for these concerns supported by Chair Plumer. Mr. Gray feels the issues will come up during the public discussion, agreed to see by Chair Plumer.

Ms. Corson, concerning the cul-de-sac just after the spring (leading to lots 21, 22, 23, etc.), asks whether there are site line issues with traffic? Stormwater management inline with recent MS4 discussions are what's important and the plan shows the buffer used as a recreation area, in middle of wetland buffer.

Per Mr. Colwell, No, with a 50' right of way, 24' for the pavement, plus 13 feet beyond the pavement to the property line are there to be cleared to improve adequate site lines if needed.

Sites section 9.5, *Permitted Uses Overlay District*, specifically in sections a-j, where item d lists recreational uses consistent with the uses and intent of the article. Zoning ordinance allows for trails and recreational uses within the buffer zone for minor impact use areas, with intent of having trails adjacent to the town forest, and these are consistent with Town zoning ordinance.

Mr. Cameron, Issue with the entrance getting into the recreation area being a relatively far distance for other lots, however at this point, this is a question of being subjective or objective, and the Board needs to be very careful. So as not to limit their ability, and cautions the Board that it seems on the surface, the regulations may well have been met in their purest most undefiled form, focusing on this being a yield plan.

Chair Plumer, No special questions but some concerns for other areas of this applications process.

Ms. Bergeron, Suggests thanks to the applicant for their updated materials and updated changes from plan to plan, one that now does not require waivers. She appreciates the new color coded materials and believes that this, in the essence of a yield plan submission, this plan meets all the requirements. Happy to see the Boards comments were taken into consideration so well.

Ms. English, Concerning Oak Street, Extension, per page c-17, with cul-de-sac for lots 21-24, her concern is the rise in elevation from 20 feet, to 40 feet in about a 50 foot window, and having determined the east side culvert and bridge were not feasible endeavors, questions the feasibility creating a road, ultimately that cul-de-sac, of such an incline and short distance. Similar concerns to Ms. Corson as to the recreation areas shown in current yield plan.

Mr. Colwell, Correct it starts at about elevation 26 and goes up to elevation 44, 18' climb over 200ft. Allowed maximum 8% grade or less for that entire length of cul-de-sac.

Mr. Grueter, intent of the yield plan guidelines appear to have been met.

Though noted not being pertinent to the yield plan Mr. Gray wanted to add comments that out of respect for the abutters Mr. Gray has a long list of questions, likely better suited for the open space plan discussion. Notes to the Chair that public present will likely have such questions.

Chair yields time to the public for questions.

Cynthia Young, 7 Walnut Street, Concerns regarding neighborhood meetings with Exeter Rose Farm, LLC, as mentioned. The issue was answered and re-addressed as group of neighbors met, not a neighborhood meeting. Thanks given for clarification.

Keith Patterson, Exeter Rose Farm, LLC, added to discussion.

Jason Rimers, Representing the Exeter Area Conservancy, and the Westside Neighborhood Coalition. 6 members would like to speak to the board this evening. It is requested that the board deny this yield plan. Section 7.71 of the Exeter Town Zoning Ordinances, reads that a yield plan is used to determine a density that is 'reasonably achievable' under conventional subdivision regulations. 'Reasonably achievable' requires the Board consider the viability and feasibility of a yield plan as if it were an actual proposed conventional subdivision plan, one of this unique, steep, wet, partially contaminated property. States that this property cannot be build to this yield plan, not being reasonably achievable, and cites multiple

regulations supporting this as well as particular issues and violations with cul-de-sacs, steep slopes, islands, natural features and dead end streets as proposed.

Mark West, Wetlands Scientist asked to review site and walked site. Particularly discussed the proposed yield plan's impact to the wetland and the stream system, the Norris Brook quarter, citing the steep slopes connecting areas throughout, silty property soils, etc. and this area's in-ability to support roads and planning as suggested through them. Extent of applicant to get maximum number of lots by utilizing cul-de-sacs and crossings misuses intent of property. Concerned how much more impact would occur to wetlands and wetlands buffers and the requirements and stormwater management systems necessary with wetlands crossings, and issue of what is feasible. Is this the best reasonable yield plan or it is the most lots and is it feasible to the Board?

Steve Hallorran, 4 Salem Street, Professional engineer licensed in NH with a career focused on bridge engineering. Would like to address the Board regarding impacts to the natural features of the site. Citing section 8.8, Preservation of Natural Features, It is clear from the layout proposed on the yield plan that significant impacts and disruption to natural features would be required with substantial filling and substantial retaining walls, and wetland crossing structures, due to proximity of wetlands. In a comparison to other Exeter subdivisions, in terms of others requiring access to developments, number of stream crossings and in terms of retaining walls needed, of the 10 neighborhoods surveyed, none had retaining walls and three had stream crossings. Most had zero crossings or retaining walls, two had one crossing, and a third had two crossings as compared to the applicants 6 proposed stream crossings and approximate 1,400 LF of retaining wall as shown in current yield plan proposal. This one property would increase the Town bridge inventory by 50% and require extensive grading and fill, not adapting to the areas topography, throughout the site. Inconsistencies with the Town Master Plan, and Site Plan Review with access walls, retaining walls and fill requirements, town taxpayers would bear the burden for the future maintenance, repair and replacement of these, not being considered feasible. Site cannot realistically support development as proposed, believes yield plan should not be approved.

Nate Piper, 8 Forrest Street, Increased infrastructure means increased taxes. This project is a great financial burden to the taxpayer and a great financial benefit to the applicant. Aspects of cleanup, development and later use of this property will become a town responsibility. Any failure of the proposed sewer pumping station would cause potential for sewage into homes, Norris Brook, the Squamscott River and Great Bay. A property that requires such significant infrastructure is not feasible and a request is made that the Planning Board deny this yield plan.

Maura Fay, 13 Forrest Street, Abutter to the proposed property development. Discusses culvert suitability. Oak Street Extension will be used to truck out the contaminated lead and coal ash soil as well as solid waste. Then the Extension will also be used for building materials transport. All of these materials must pass over these culverts and hazardous waste remediation and road construction depends on it's safety. The roadways suggested as primary entrance is not appropriate in relation to its size, age, and safety when considering the years of use for remediation alone, followed by years to build out development. Homes and families will be put in unsafe and costly positions with semi-truck traffic in and out all day, every day, and limit their use and enjoyment of their own private property. Based on proximity of abutting properties to the road surface and sensitive ground materials, there is a risk of foundation damage to homes adjacent to Oak Street Extension, as the road's age, ownership and weight rating are unknown and are described as a 'cart path' on the residents current deed. What is possible is not always prudent. Encourage Board to consider the wisdom of approving a plan that is so clearly a bad idea for the future of this town on so many levels.

Todd Piskovitz, P.G., Professional Geologist licensed in NH and MA, 16 years experience in environmental assessment and remediation. Exeter Rose Farm, LLC is not developing responsibly. The

Rose Farm is a contaminated property and whether it is developed or not, remediation or like alternatives is needed. Believes the DES could allow AUR (Activity and Use Restriction) in terms of contaminated areas due to the concern for safety of the neighborhood. Worth noting that some of the sediment impacted would be treated and removed but some of it could safely remain. Urges the Board to reject the yield plan and not use remediation as a means to justify the proposed development and that all practical and available alternatives are explored.

Caroline Piper, MPP, 8 Forrest Street, Speaking about accessibility, traffic concerns and snow removal. Proposed development will not empty out onto a major collector road as all other major developments in town do, but will rather do so onto local narrow roads. Narrow historic neighborhood roads are not sized or rated for such usage and traffic or such construction and remediation vehicles and equipment. Such vehicle traffic will take it's toll on the already substandard feeder roads. Will roads and intersections require an upgrade, and at who's inevitable cost? Narrow streets without sidewalks cannot take on a steady stream of heavy vehicle traffic and still allow the neighborhood residents to enjoy their neighborhood safely and fully doing any time or season. Plan as shown is not an available, feasible and viable yield plan for development, and ask that the Planning Board deny this yield plan.

Jennifer Brackett Piskovitz, 22 Forrest Street, Speaks on putting climate resiliency plans to work. Of Exeter's core values, Climate resiliency action plans are implemented by individuals, private businesses and most notably on a municipal level. They are intended to preserve and enhance sustainability efforts. Estuary health is a focus and a priority with major steps taken including the Dam removal, the new \$50M wastewater treatment plant and stormwater regulations. Exeter deserves a Site Development Review using experts with an unbiased evaluation of this yield plan and the impacts it would have on the Exeter, Squamscott and Norris Brook Watershed. The Exeter Climate Proclamation speaks to the Town's mission of practicing sustainability and is committed to uphold the principles of the Paris Climate Accord by reducing greenhouse gas emissions. Exeter's Master Plan states the Town's adherence to maintaining and practicing environmental sustainability, through various means and initiatives. The Exeter Vulnerability Assessment report of March 2017, part of the C-RISE Project, states that data available on the impacts of climate change should be used to assess future land use development. The area identified as a high level of vulnerability due to tidal flooding and storm surge is the Norris Brook. The risks associated with the specific location of the sewer pumping station and the projected surge risk area are clear reasons why the Planning Board should reject this yield plan or at a minimum agree to a third party site development review before a yield can be determined, to be paid for by the applicant. The town has focused on smart environmental planning and hopes that the Board will look at this yield plan from a holistic standpoint.

Chris Vaughan, Neighbor to development, Clean Water Town Committee. Misnomer to call the recreational areas of the applicants yield plan recreational areas. Access is not great and buffers aren't particularly useful and are perhaps 12 good sites on the property. Cul-de-sacs aren't feasible. Pushing too close to wetlands and streams to make it possible to limit the effects of runoff to Norris Brook, Squamscott and Great Bay. In short, the extreme requirements needed for an area that's not friendly to it, in terms of infrastructure and other details, poses too much of an impact danger, and Ms. Vaughn opposes the yield plan, not meriting its approval.

Doug Flockhart, Neighbor, attended site walk. In order to be acceptable, this yield plan has to be credible and real, and Mr. Flockhart submits it is not either credible or real. Stresses necessity of yield plan to be viewed three dimensionally and not flat, simply because the proposed development area is not flat whatsoever. Per his own measurements, hand drawings and presentations, Mr. Flockhart shows some parcels aren't possible at all considering the actual layout and subdivision regulations. He further demonstrates particular changes to numerous parcel areas in terms of his measurements. Believes yield plan is not only not available, viable or feasible, but proposed development is not real.

Melissa Paly, Great Bay Piscataqua Waterkeeper, Conservation Law Foundation, State of the Estuary conference was held recently, every 5 years, to give a report on the health of the Estuary and the diagnosis isn't great. We've an ill estuary. Proudly, Exeter is leading a new role toward making a difference with its new wastewater treatment plant. Talks to the issue of stormwater pollution and the kinds of pollution getting into our estuary by development, roads and impervious surfaces. Emphasized the need to protect wetlands and stream buffers, and to mitigate the impact of development on streams by reducing culverts, crossings and fill. There are ordinances and codes to abide by but tonight's discussion shows there is a lot of nuance to the interpretation of those codes.

Mr. Phoenix, The property owner respects the concerns of the neighbors and respects the effort they have undertaken to present this information tonight. 99% of what was presented, although seemingly legitimate concerns, are more so opinions and positions of people without necessarily the factual information to back them up. Issues may be legitimate, but solely in respect to an open space plan, not with respect to a yield plan. Asks the Board follow the direction of the Town Planner and the Town Building Inspection and Code Enforcement Officer, and approve the yield plan and move on to the next phase.

Public session closed.

Chair Plumer, Tonight's business is to look at the applicants yield plan and agree or disagree that it meets what is required of this yield plan. Questions/comments from the Board.

Mr. Gray, The Board is placed in a position in which a project meets the traditional criteria for a yield plan approval but there are abutters with very valid concerns that need to be brought up in the open space phase of the design. Personally Mr. Gray can't see approving an open space design that was similar to this yield plan. To Town Planner, what kind of precedent exists, what power does the Planning Board have to approve a smaller number of units, and adjust that number of permissible units. Greatest reservation with regard to the design is the fact that the outlet is into a dense residential neighborhood, and not onto a major town road like all other major town developments do.

Mr. Sharples, The number of units built may be up to the number the number approved.

Ms. Corson, Thankful to each party for all input, especially community input. Happy to say she's been won over by the community presentation, and that this is not a yield plan as it is not a real plan.

Mr. Cameron, Regulations are telling me something. I don't have the conviction my friend to my right has, referring to Ms. Corson. Torn as this is a plan he would never vote for in another form other than in a yield plan.

Gwen English, A yield plan is designed to provide the applicant and the board with information regarding the available and viable building development that is feasible under conventional design. Listening to the abutters, I feel this is not a viable plan. This is not a plan that I would ever want to see built.

Chair Plumer, Entertain a motion?

Motion moved by Ms. Bergeron, that the request of Exeter Rose Farm, LLC, PB case #17-27, for yield plan be accepted for up to a 38 unit, single family open space development.

Motion seconded by Mr. Cameron.

Motion does not pass 6-1, Ms. Bergeron voting in favor.

Motion to Adjourn, Mr. Cameron, seconded by Ms. Corson. Meeting adjourned, 10:38pm.

Respectfully Submitted,

David S. O'Donnell

DRAFT