



# TOWN OF EXETER, NEW HAMPSHIRE

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709  
[www.exeternh.gov](http://www.exeternh.gov)

## LEGAL NOTICE EXETER PLANNING BOARD AGENDA

The Exeter Planning Board will meet on Thursday, July 15, 2021 at 7:00 P.M. in the Nowak Room of the Exeter Town Office building located at 10 Front Street, Exeter, New Hampshire to consider the following:

**APPROVAL OF MINUTES:** July 1, 2021

### **NEW BUSINESS: PUBLIC HEARINGS**

Continued public hearing on the application of Brian Griset for a lot consolidation, subdivision, lot line adjustment, Wetlands Conditional Use Permit, Shoreland Conditional Use permit and site plan review for a proposed 16-unit single-family condominium open space development and associated site improvements on properties located off of Tamarind Lane and Cullen Way. The subject properties are situated in the R-1, Low Density Residential and NP-Neighborhood Professional zoning districts. Tax Map Parcel #96-15, #81-53 and #96-9. PB Case #20-2.

The application of Scott W. Carlisle III for review of a proposed twelve (12) lot single-family open space subdivision, Wetlands Conditional Use Permit and associated site improvements on the property located at 19 Watson Road. The subject property is situated in the R-1, Low Density Residential zoning district. Tax Map Parcel #33-26. PB Case #20-21.

### **OTHER BUSINESS**

- Master Plan Discussion
- Field Modifications
- Bond and/or Letter of Credit Reductions and Releases

### **EXETER PLANNING BOARD**

*Langdon J. Plumer, Chairman*

*Posted 07/02/21: Exeter Town Office and Town of Exeter website*

### *\*ZOOM MEETING INFORMATION*

*Virtual Meetings can be watch on Channel 22 and on Exeter TV's Facebook and YouTube pages.  
To access the meeting, click this link: <https://exeternh.zoom.us/j/86947787419>  
To access the meeting via telephone, call: +1 646 558 8656 and enter the Webinar ID: 869 4778 7419  
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 access the meeting can be found here:  
<https://www.exeternh.gov/townmanager/virtual-town-meetings>  
Contact us at [extvg@exeternh.gov](mailto:extvg@exeternh.gov) or 603-418-6425 with any technical issues.*

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**TOWN OF EXETER  
PLANNING BOARD  
NOWAK MEETING ROOM  
JULY 1, 2021  
DRAFT MINUTES**

**I. PRELIMINARIES:**

**BOARD MEMBERS PRESENT BY ROLL CALL:** Chair Langdon Plumer, Pete Cameron, Clerk, Gwen English, John Grueter, Molly Cowan, Select Board Representative, and Nancy Belanger, Alternate.

**STAFF PRESENT:** Town Planner Dave Sharples

**II. CALL TO ORDER:** Chair Plumer called the meeting to order at 7:00 PM and read out loud the public hearing notice. The members introduced themselves and Chair Plumer noted Alternate Nancy Belanger was active.

**III. OLD BUSINESS**

**APPROVAL OF MINUTES**

June 10, 2021

Edits were suggested by Ms. English.

*Ms. Cowan motioned to approve the June 10, 2021 Meeting Minutes as amended. Mr. Cameron seconded the motion. A vote was taken, all were in favor, the motion passed 6-0-0.*

**IV. NEW BUSINESS**

**PUBLIC HEARINGS**

1. The application of Phillips Exeter Academy for a minor site plan review for the proposed construction of a grounds storage yard on Lary Lane. The applicant is proposing to construct a new 31,000 SF gravel storage lot with a 1,500 SF concrete pad for material storage for PEA projects.

R-1 Single Family Residential zoning district

Tax Map Parcel #94-19

Planning Board Case #21-5

Chair Plumer read the Public Hearing Notice.

Mr. Sharples indicated the case was ready to be heard and complete for review purposes.

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***Ms. English motioned to open Planning Board Case #21-5. The applicant has submitted plans for a minor site plan review for proposed construction of ground storage on Lary Lane, Tax Map Parcel #94-19 in the R-1 Residential zoning district. Mr. Cameron seconded the motion. A vote was taken, all were in favor, the motion passed 6-0-0.***

Mr. Sharples noted the applicant has submitted plans for a minor site plan review for the proposed construction of a grounds storage yard on Lary Lane. The applicant is proposing to construct a new 31,000 SF gravel storage lot with a 1,500 SF concrete pad for material storage for PEA projects. The applicant has submitted a site plan and supporting documents dated May 18, 2021 and revised plans and documents dated June 15, 2021, copy provided to the Board. A TRC meeting was held on June 3, 2021 and plans and documents reviewed by UEI. Comment letters dated June 10, 2021 (TRC) and June 8, 2021 (UEI) were provided to the Board. A hydrogeological study was done by Truslow Resource Consulting. A waiver is requested from the performance and maintenance guarantee which the regulations require as a restoration bond in the event for example the Town needs to stabilize the site.

Chair Plumer asked if the R-1 Residential zone was compatible with the proposed use and Mr. Sharples noted the Building Inspector was at the TRC Meeting and raised no issue.

Corey Belden with Altus Engineering presented the proposal on behalf of PEA. Mr. Belden noted the proposal is for a gravel storage area on the southern portion of the 140.5-acre parcel. Materials would be stored to support construction projects on the PEA campus. The parcel is an undeveloped wooded uplands and wetlands mix. A two-acre portion was cleared in 2018, stumps will be removed in this area but not in the surrounding portion. Mr. Belden displayed the plan and noted ten acres was surveyed and wetlands mapped in 2016. He noted that Mr. Gove from Gove Environmental went out this past month to confirm the delineation.

Mark Leighton, the Director of Facilities Management noted the flood plain is down 3' elevation from 2018 and there is no flood plain near the site. The area is 5% of the lot. Drainage analysis was done. There will be treatment installed on the eastern side. Grading runs west to east. There will be no increased runoff. PEA is requesting the bond waiver as PEA is in good standing and not going to walk away from the project.

Donna Truslow explained her June 10, 2021 hydrogeologic study report letter noting the project area is within the Town of Exeter Aquifer Protection District located west of the Town well at the end of Lary Lane outside the 400 degree sanitary radius but within the well head protection and overlay zone. There are three Town wells including the end of Lary Lane, the Gilman Park well and Stadium well. Ms. Truslow noted she used US Geological Survey mapping and existing well information to illustrate the sand and gravel which is covered by deep clay which provides good protection from potential aquifer impacts, preventing contamination and infiltration which would have a slow travel time. Ms. Truslow discussed the stormwater management system sediment forebay, level spreader and recharge on site per the Altus plans. Impervious surface coverage would be 0.5%.

84 Ms. Truslow noted there will be no petroleum, herbicide, pesticide or other hazardous materials used or  
85 stored at the site and no repair of vehicles or other motorized equipment completed at the site. There  
86 will be no de-icing chemicals or snow removed from offsite sources stored at the site. A spill kit will be  
87 kept on site. Fertilizer would be used sparingly to stabilize the area around the pad, if necessary, per  
88 use restrictions specified in the ordinance. Signage will be posted as to what can be used or stored on  
89 site.

90  
91 Mr. Grueter asked about the areas serviced by the wells and Ms. Truslow noted the wells service many  
92 Exeter residents. There is a treatment area at the end of Lary Lane. Additional information can be  
93 obtained from the Water Dept. Ms. Truslow noted the location of the wells on the plans.

94  
95 Mr. Cameron asked if the site would be monitored, and Mr. Leighton stated it will be gated to prevent  
96 dumping and campus security will keep an eye on it. The site would become part of campus operations.

97  
98 Ms. English questioned what the applicant expected to protect the area from with the proposed storage  
99 of only bricks, loam and mulch. Mr. Leighton indicated the mulch would sit on a concrete pad. There  
100 could be vehicles such as a lift or bulldozer parked temporarily.

101  
102 Chair Plumer recalled the old storage area which was closer to the river and noted this is better.

103  
104 Ms. English asked what the large bin was on the site and Mr. Leighton noted it was spill prevention.

105  
106 Ms. Cowan asked if DPW was at the TRC meeting and had any concerns about the size of trucks or wear  
107 and tear of the road. Mr. Sharples noted DPW was at the TRC meeting and participated in the process.

108  
109 Chair Plumer asked about traffic and Mr. Leighton noted it would be infrequent during projects.

110  
111 Ms. English asked about regrowth of the area to the north and Mr. Leighton noted the woodlands in the  
112 forest management process would regrow for ten years before select harvesting occurs again.

113  
114 Chair Plumer opened the hearing to the public for comments and questions at 7:41 PM and being none  
115 closed the hearing to the public for deliberations.

116  
117 Mr. Cameron felt the waiver questions and responses had been addressed.

118  
119 **Mr. Grueter motioned after reviewing the criteria for granting waivers that the request of Phillips**  
120 **Exeter Academy (PB Case #21-5) for a waiver from Section 12.1 of the Site Plan Review and Subdivision**  
121 **Regulations regarding a performance and maintenance guarantee be approved. Ms. Cowan seconded**  
122 **the motion. A hand vote was taken Belanger – aye, Grueter – aye, Cameron – aye, Plumer – aye,**  
123 **Cowan – aye and English – aye. The motion passed 6-0-0.**

124  
125 Mr. Sharples recommended conditions of approval:

126

- 127 1. That the applicant address the TRC comments stated in their June 10, 2021 letter and the UEI  
128 comments stated in their June 8, 2021 letter; and  
129 2. That the Stormwater Management System be included in the PEA annual reporting requirements.  
130

131 **Ms. Cowan motioned that the request of Phillips Exeter Academy (PB Case #21-5) for Minor Site Plan**  
132 **approval be approved subject to the conditions as read by the Town Planner Dave Sharples. Mr.**  
133 **Cameron seconded the motion. A hand vote was taken Belanger – aye, Cowan – aye, English – ye,**  
134 **Cameron – aye, Grueter – aye and Plumer – aye. The motion passed 6-0-0.**  
135

- 136 2. The application of Nouria Energy Corporation for a site plan review of the proposed redevelopment  
137 of the property located at 158 Epping Road. The applicant is proposing a new retail motor fuel outlet  
138 (convenience store with drive-thru and fueling canopy with six islands) and a car wash building with  
139 vacuum island spaces.  
140 C-3 Epping Road Highway Commercial zoning district  
141 Tax Map Parcel #47-1-2  
142 Planning Board Case #21-4  
143

144 Chair Plumer read the Public Hearing Notice.  
145

146 Mr. Sharples indicated the case was ready and complete for review purposes.  
147

148 **Mr. Grueter motioned to open Planning Board Case #21-4 for a site plan review of the proposed**  
149 **redevelopment at Tax Map Parcel #47-1-2. Mr. Cameron seconded the motion. A vote was taken, all**  
150 **were in favor, the motion passed 6-0-0.**  
151

152 Mr. Sharples noted the applicant has submitted plans dated May 4, 2021 and supporting documents for  
153 site plan review for the proposed redevelopment of the property at 158 Epping Road. Revised plans  
154 have not been received addressing the TRC comments from their May 20, 2021 meeting or the UEI  
155 comments dated May 24, 2021. The applicant provided a Traffic Impact and Access Study dated  
156 4/20/21 prepared by Greenman-Pedersen, Inc. (GPI). A summary of their report was provided to the  
157 Board. The full report is available on the website. A traffic peer review was conducted by VHB on behalf  
158 of the Town. Their letter dated May 18, 2021 was provided to the Board. There are no waivers  
159 requested. The applicant appeared before the ZBA at their March 16, 2021 meeting. Minutes of the  
160 meeting were provided to the Board. The applicant was granted a Special Exception for the gasoline  
161 and/or service station use and two variances, for the required front setback of 50' and the freestanding  
162 sign setback from the front by less than 35.' Mr. Sharples recommended the Board schedule a Site  
163 Walk.  
164

165 Attorney John Arnold from Hinkley Arnold presented the proposal on behalf of Nouria Energy and noted  
166 Chris Tymula, Heather Monticup and Jim Kimball the architect, were also present. Attorney Arnold  
167 noted the parcel was located on the corner of Continental Drive at the location of the former Jaguar  
168 dealership. The dealership would be demolished.  
169

170 Chris Tymula, Project Manager with Greenman-Pederson, Inc., GPI Engineering, posted the plans  
171 showing 3.8 acres with a shared access easement and curb cut proposed to be added to Continental  
172 Drive. Mr. Tymula pointed out the existing tree line to the north and noted much of the area was paved.  
173 The 8,000 SF to the rear would be untouched. All demolition would be removed. He noted Mr. Eastman  
174 and Ms. Murphy visited the site and that an AOT permit was not triggered. Mr. Tymula presented the  
175 plan for a convenience store, six canopied gas islands with 12 pumps, and a car wash located to the rear  
176 of the complex and vacuum islands. There would be underground storage tanks and a sign. There will  
177 be 22 parking spaces and two electric vehicle charging stations. The landscape plan is overlaid. There  
178 will be a closed drainage system with deep catch basins and treatment of stormwater. Roof drains will  
179 convert to the stormwater management system. A new 4" water line will be installed. There will be an  
180 external grease trap, new transformer pad and water collection for the car wash. Standard erosion  
181 control and a silt fence will be utilized during construction. There will be no increased runoff.

182  
183 Chair Plumer asked if the car wash would drain to the sanitary sewer and Mr. Tymula indicated yes.

184  
185 Mr. Tymula described the landscape plan and noted there would be low growth planting to the front for  
186 visibility and ten new trees planted throughout the site. The dumpster area would be screened with  
187 arborvitae and there would be an on-site irrigation system.

188  
189 Mr. Grueter expressed concerns with the queue for the car wash, stacked 17 cars deep with no way out  
190 for someone not wanting to wait any longer. Mr. Grueter asked if the old roadbed would be removed  
191 and Mr. Tymula indicated yes. Ms. English noted a 17-car backup seems a lot.

192  
193 Chair Plumer asked how the car wash would be accessed and Mr. Tymula pointed the car wash access  
194 out on the plan.

195  
196 Jim Kimball showed the proposed building and sign. The buildings would have a hip roof and asphalt  
197 shingles. The mechanical equipment would be shielded to the rear of the roof top.

198  
199 Ms. English asked if there were room for planters and Mr. Kimball noted no much more room than for a  
200 sidewalk.

201  
202 Mr. Grueter asked about other Nouria Energy locations. Mr. Kimball noted other locations in MA and  
203 NH which had the Shell brand and that Nouria is looking to promote its own brand.

204  
205 Heather Monticup with GPI Engineering presented the Traffic Impact and Access Study. She reported  
206 that the site is bounded by Continental Drive to the north, Al's Service Station to the south, Epping Road  
207 (NH Route 27) to the east and vacant land to the west. Existing and future conditions were evaluated.  
208 Sight distances exceed minimum requirements with exception to the site driveway on Continental Drive  
209 which is limited to 125 feet due to the adjacent T-intersection. Ms. Monticup discussed predicted  
210 additional vehicle trips and noted most traffic is not final destination but passersby, people stopping on  
211 their way to somewhere else. Ms. Monticup discussed predicted peak volumes. Less than four seconds  
212 of negligible increase to queue lengths were predicted. Ms. Monticup discussed left and right turns out  
213 of the site and two way left turns or no left turns and did not see a problem with full access. Pedestrian

214 and emergency vehicle comments have not yet been addressed. Fuel delivery trucks would be accessing  
215 and exiting via Epping Road during off-peak hours. The site is predicted to generate more traffic than  
216 the former dealership.

217

218 Mr. Sharples pointed out the outdoor seating of the neighboring brewery was not shown on the plan  
219 and should be a point of consideration. Mr. Sharples will invite Jason Plourde to the next meeting after  
220 responses are received from the applicant.

221

222 Mr. Cameron expressed concerns about future traffic demands on Epping Road and Continental Drive  
223 and Ms. Monticup noted she could only speak to those before the Town presently but noted they did  
224 look at projects they knew would be coming and improvements which were feasible to the year 2030.

225

226 Mr. Grueter noted there wasn't much snow storage and Mr. Tymula noted it would be trucked off site  
227 as needed.

228

229 Ms. Monticup discussed possible changes to the access points and raised islands. Mr. Tymula posted an  
230 unsubmitted proposal describing possible changes.

231

232 Ms. English noted she would like to see native plantings on the landscape plan and asked about lighting  
233 which Mr. Tymula displayed on the plan.

234

235 Chair Plumer asked about hours of operation. Mr. Tymula indicated 24-hour service is proposed,  
236 however the car wash would likely be open from 7 AM to 8 or 9 PM. Ms. English noted the lighting out  
237 back where the car wash could be reduced at 10 PM.

238

239 ***Mr. Grueter motioned that the application of Nouria Energy Corporation (PB Case #21-4) be tabled to***  
240 ***the 7 PM meeting of the Planning Board on Thursday, July 29, 2021 and revised plans/documents be***  
241 ***submitted to the Planning Office before the July 29, 2021 meeting or the application may remain on***  
242 ***the table to a future meeting. Ms. Belanger seconded the motion. A vote was taken, all were in favor,***  
243 ***the motion passed 6-0-0.***

244

245 Chair Plumer noted the consensus of the Board was that a Site Walk would be at the premises of the  
246 former Jaguar dealership at 8:30 AM on July 15, 2021. Mr. Sharples noted having the applicant mark the  
247 location of the buildings, curb cuts to Continental Drive and Epping Road, edge of front pavement,  
248 location of car wash and fuel/vacuum islands could be helpful.

249

## 250 **V. OTHER BUSINESS**

251

252 Master Plan Discussion

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254 Field Modifications

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257 Bond and/or Letter of Credit Reductions and Releases

258

259 Mr. Sharples reported a bond reduction for Linden Woods on Cypress Circle from  
260 approximately \$37,000 to \$13,000.

261

262 **VI. TOWN PLANNER'S ITEMS**

263 Mr. Sharples reported the DOT will be resigning on Route 101 before Exit 9 all the way to Raymond.

264 **VII. CHAIRPERSON'S ITEMS**

265 **VIII. PB REPRESENTATIVE'S REPORT ON "OTHER COMMITTEE ACTIVITY"**

266 **IX. ADJOURN.**

267 *Mr. Cameron motioned to adjourn the meeting at 9:12 PM. Ms. Belanger seconded the motion. A*  
268 *vote was taken all were in favor, the motion passed 6-0-0.*

269

270 Respectfully submitted,

271 Daniel Hoijer,

272 Recording Secretary





# TOWN OF EXETER

## Planning and Building Department

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

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**Date:** July 8, 2021  
**To:** Planning Board  
**From:** Dave Sharples, Town Planner  
**Re:** Brian Griset Yield Plan PB Case #20-2

The Applicant has submitted plans for a lot consolidation, subdivision, lot line adjustment, Wetlands Conditional Use Permit, Shoreland Conditional Use permit and site plan review for a proposed single-family condominium open space development and associated site improvements on properties located off of Tamarind Lane and Cullen Way. The subject parcels are situated in the R-1, Low Density Residential and the NP-Neighborhood Professional zoning districts and are identified as Tax Map Parcel #96-15, #81-53 and #96-9.

At its May 27<sup>th</sup>, 2021 meeting, the Board voted to accept the Yield Plan entitled "Preliminary Yield Plan for Residential Development, Tamarind Lane, Exeter, N.H." (rev. 5/5/21 and received in the Planning Office on 5/11/21), as presented, for a total of seventeen (17) units.

At its June 10<sup>th</sup>, 2021 meeting, the Board determined by consensus that a third party wetlands review would not be required and subsequently voted to table further discussion on the application to the July 15<sup>th</sup>, 2021 meeting.

At the June meeting, the applicant informed the Board that they would be prepared at the next meeting to discuss the CUP criteria, provide their justification for the waivers, and to answer any questions the Board may have. I would encourage the Board to allow the applicant to speak and any abutters as the public hearing is still ongoing. I would then encourage the board to close the public hearing and commence deliberations. The Board can always reopen the public hearing for a limited purpose and let anyone who wishes to speak on the topic.

In the event the Board decides to act on the waiver requests and applications, I have provided motions below for your convenience. The TRC has no objection to the sidewalk waiver or the roadway parameters waiver. I also do not believe a waiver from sloped granite curbing in a cul-de-sac is necessary. I interpret the regulation to mean that the curbing shall be granite if curbing is proposed. In this case it is an open drainage design and therefore does not have curbing. I will also be prepared with suggested conditions of approval in the event the Board decides to act upon the request.

### Waiver Motions

**Sloped granite curbing in cul-de-sacs waiver motion:** After reviewing the criteria for granting waivers, I move that the request of Brian Griset (PB Case #20-2) for a waiver from Section 9.17.2

of the Site Plan Review and Subdivision Regulations regarding the requirement for the perimeter of the cul-de-sac to be sloped granite curbing be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Roadway Parameters waiver motion:** After reviewing the criteria for granting waivers, I move that the request of Brian Grisette (PB Case #20-2) for a waiver from Section 9.17.10 .C. of the Site Plan Review and Subdivision Regulations to permit proposed access roadway width less than required be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Sidewalk waiver motion:** After reviewing the criteria for granting waivers, I move that the request of Brian Grisette (PB Case #20-2) for a partial waiver from Section 9.15 to permit a portion of the proposed sidewalk to be less than five-feet (5") in width be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Perimeter Buffer Strip waiver motion:** After reviewing the criteria for granting waivers, I move that the request of Brian Grisette (PB #20-2) for a waiver from Sections 9.6.1.2 and 11.2.8 of the Site Plan Review and Subdivision Regulations to provide a 100' vegetated buffer strip and a 50' no-disturb area along the perimeter lot line of the tract be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

### Planning Board Motions

**Lot consolidation and Subdivision Motion:** I move that the request of Brian Grisette (PB Case#20-2) for lot consolidation and subdivision, as presented, be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Lot Line Adjustment Motion:** I move that the request of Brian Grisette (PB Case #20-2) for Lot Line Adjustment approval be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Single Family Open Space Development Motion:** I move that the request of Brian Grisette (PB Case #20-2) for Site Plan approval of the proposed single family condominium open space development be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Conditional Use Permit (Wetlands) Motion:** After reviewing the criteria for a Wetlands Conditional Use permit, I move that the request of Brian Grisette (PB Case #20-2) for a Conditional Use Permit be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Conditional Use Permit (Shoreland) Motion:** After reviewing the criteria for a Shoreland Conditional Use permit, I move that the request of Brian Grisette (PB Case #20-2) for a Conditional Use Permit be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

Thank You.



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ROBERT M. DEROSIER  
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JUL - 8 2021

EXETER PLANNING OFFICE

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ROBERT D. CIANDELLA  
NICHOLAS R. ARSCHLIMAN

8 July 2021

Town of Exeter Planning Board  
Attn: David Sharples, Planner  
Town of Exeter  
10 Front Street  
Exeter, NH 03833

**Re: Planning Board Case #20-2**

Dear David –

This correspondence responds to an issue raised in a letter dated 8 June 2021 that was sent to the Planning Board by several property owners along Tamarind Lane and Cullen Way who have voiced opposition to the Grisets' proposed single-family open space condominium project (the "Abutters") (the "Abutters' Letter"). The Abutters' Letter raises one primary assertion, that the existing Protective Covenants for the Exeter Green Subdivision (the "Subdivision") "prohibit additional homes on the land upon which home sites 15-1 and 15-2 are planned", which we will respond to herein. The remaining issues raised in the Abutters' Letter to include the reiterated request for a third-party review of the Project's wetland delineations, and the Abutters' requested conditions of approval, have either already been sufficiently addressed, or do not otherwise warrant a response from the Grisets.

**Executive Summary**

The Abutters are using the Subdivision's Protective Covenants to advance a factually, legally, and historically unsupported interpretation of the effect of the 1993 Lot Line Adjustment in an effort to reduce the proposed density of the Grisets' open space development proposal. This is improper. The Planning Board should disregard this argument as it has other unsubstantiated claims by the Abutters in this matter.

DONAHUE, TUCKER & CIANDELLA, PLLC  
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833  
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801  
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253  
83 Clinton Street, Concord, NH 03301

## Analysis

### 1) Overview of Subdivision Land Use History

To understand the Abutters' assertion, a summary overview of the land use history of the Subdivision is required, as detailed below:

- In August of 1984, Charles Mutrie ("Mutrie") recorded a 25-lot subdivision plan for "The Meadows" subdivision after review and approval by the Planning Board (the "Original Subdivision Plan"). See Plan D-12714, enclosed herewith as **Enclosure 1**. The Original Subdivision Plan depicted 25 individual lots to include Lot 5, which is the existing Flaherty parcel located at 8 Tamarind Lane (the "Flaherty Property"), and an abutting parcel labeled "Remaining Land" which consisted, at the time, of approximately 41.49 acres of land to include the entire 23.6 acres which constitute the Grisets' existing property accessed via Cullen Way, identified now as Town Tax Map 96, Lot 15 (the "Remaining Land"). See **Enclosure 1**. The Remaining Land is the subject of the Grisets' open space development proposal.
- Pursuant to the Planning Board Approval, Mutrie entered into an agreement with the Town of Exeter which required, among other things, that the Remaining Land be developed as a cluster development and that Mutrie convey to the Town 7.5 acres of the Remaining Land for public recreation purposes. See 1984 Agreement enclosed herewith as **Enclosure 2**.
- Six months later, in February of 1985, Mutrie recorded the Protective Covenants of Exeter Green (Formerly "The Meadows"), Exeter New Hampshire (the "Original Protective Covenants" or the "Covenants"). See Rockingham County Registry of Deeds Book 2535, Page 75, enclosed herewith as **Enclosure 3**.
  - The Original Protective Covenants specifically refer to the Original Subdivision Plan and specifically state that the restrictions and covenants "**do not effect remaining land as shown on [the Original Subdivision Plan]**." See **Enclosure 3**, pg. 1. As a result, further development of the Remaining Land is expressly contemplated and permitted by the Original Protective Covenants.
  - The Original Protective Covenants also specifically state that the "Declarant may, from time to time, subject additional real property to the conditions, restrictions, covenants and assessments" set forth in the Covenants. Id.
  - Section "O" of the Original Protective Covenants states that "[t]he within conveyed lot cannot be subdivided, and any lease, conveyance or sale of a part (less than the whole) of this lot shall constitute a violation of this Covenant. Id. at pg. 6.
- By 1990, 24 of the 25 lots within the Subdivision had been sold and developed and Mutrie retained the Remaining Land. That same year, the Remaining Land was sold at

foreclosure to the Grisets and the Grisets entered into an agreement with the Town of Exeter whereby the Grisets conveyed 9.38 acres of the Remaining Land to the Town while retaining the density rights to same, which property would become the Brickyard Park, and the Grisets retained their right to further develop the Remaining Land with conventional or open space proposals. See 1991 Agreement enclosed herewith as **Enclosure 4**.

- In 1991, pursuant to their authority under the 1991 Agreement and the Original Protective Covenants, the Grisets permitted the eight-lot Greybird Circle subdivision on a portion of the Remaining Land. The Grisets also built their home on the Remaining Land, which is accessed via Cullen Way.
- Future additional development of the Remaining Land by the Grisets was expressly contemplated and discussed in public during the Planning Board review of the 1991 Agreement and the Greybird Circle project. See Planning Board Meeting Minutes from 11 April 1991 enclosed herewith as **Enclosure 5**. Beyond this, the Grisets' intentions to further develop the Remaining Land were well known by property owners within the Subdivision. See Affidavit of Donna M. Houlne enclosed herewith as **Enclosure 6** ("During the fifteen-year period [1993 – 2008] I lived [at 22 Cullen Way] it was common knowledge within the neighborhood that the Grisets' property [the Remaining Land] was not subject to the Exeter Green Covenants and that it would be developed sometime in the future").
- In 1993, the Flaherty Property was owned by the Town of Exeter via tax deed. The Town repeatedly approached the Grisets to buy the same and ultimately, the Town and the Grisets agreed to the sale with the condition that the Town allow the Grisets to perform a Lot Line Adjustment to transfer surplus land from the Flaherty Property to the Remaining Land. In April of 1993, the Grisets acquired the same<sup>1</sup> and promptly conveyed it to Timothy Rieser, who was the Grisets' business partner.<sup>2</sup>
- Simultaneously, the Grisets, who now maintained a home on the Remaining Land, pursued the aforementioned Lot Line Adjustment of the common boundary between the Flaherty Property and the Remaining Land whereby .91 acres of the Flaherty Property was proposed to be conveyed to the Remaining Land owned by the Grisets (the "1993 Lot Line Adjustment"). The Grisets pursued the 1993 Lot Line Adjustment to both straighten out the common boundary between the Flaherty Property and the Remaining Land, and to transfer to the Remaining Land a pond to be used by the Giset family for recreational purposes. See Planning Board Meeting Minutes from 22 April 1993 enclosed herewith as **Enclosure 7**.
- At the 22 April 1993 and 13 May 1993 Planning Board meetings at which the Lot Line Adjustment was considered, the exact issue of what effect the lot line adjustment would have on the Flaherty Property and the Remaining Land vis-à-vis the Covenants was

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<sup>1</sup> See Rockingham County Registry of Deeds Book 2980, Page 364.

<sup>2</sup> See Rockingham County Registry of Deeds Book 2980, Page 365.

discussed. Mr. Griset made it clear that the Flaherty Property would continue to be bound by the Covenants, and the .91 acres being transferred to the Remaining Land would not. See Enclosure 7. See also Enclosure 8, which are the meeting minutes from the 13 May 1993 Planning Board meeting. At these meetings Mr. Grisets specifically pointed to the other lot line adjustments which had occurred within the neighborhood<sup>3</sup> as references to how the neighborhood historically treated lot line adjustments.

- The 1993 Lot Line Adjustment was approved by the Planning Board and is depicted on Plan D-22221 which is enclosed herewith as **Enclosure 9** (the “1993 Lot Line Adjustment Plan”). As depicted on 1993 Lot Line Adjustment Plan, .91 acres of the Flaherty Property, labeled “Lot A” on said plan, was transferred to the Remaining Land of the Original Subdivision, labeled “Lot B” on said plan. The result of this Lot Line Adjustment was a 1.53-acre Flaherty Property, as it exists today, and a 23.6 acre Remaining Land parcel, as it exists today.
- To memorialize the Lot Line Adjustment, Tim Rieser, the Grisets’ business partner, conveyed to the Grisets the aforementioned .91 acres as well as a 75 foot right of way over the Flaherty Property to access the Remaining Land for the express purpose of gaining access for future development of the Remaining Land. See Deed at RCRD Book 2984, Page 1377 enclosed herewith as **Enclosure 10**.
- Finally, in light of Section O of the Original Protective Covenant’s prohibition on the “conveyance or sale of a part (less than the whole)” of any lot within the Subdivision, and to resolve a title question that arose during the sale of the Flaherty Property to the Burnham family (the Flaherty’s predecessor in title), the Grisets coordinated the approval and recording of the Limited Amendment to Protective Covenants of Exeter Green Subdivision, Route 111, Exeter (Formerly the “Meadows”) in September of 1993 (the “First Amended Protective Covenants”). See RCRDs Book 3011, Page 0208 enclosed herewith as **Enclosure 11**.
  - The First Amended Protective Covenants specifically reference the 1993 Lot Line Adjustment Plan and affirmatively represent that a majority of the owners of the Subdivision agree that the 1993 Lot Line Adjustment is “accepted and approved as recorded” and that “to the extent necessary, the Protective Covenants are amended to permit said Lot Line Adjustment and to permit any ‘lease, conveyance or sale’ of the resulting or adjusted lot.”. See Enclosure 11. See also Affidavit of Ms. Houlne in Enclosure 6 (“Prior to purchase [of property at 22 Cullen Way in 1993] through full disclosure [our real estate agent who lived on Tamarind Lane] informed us of the Exeter Green Covenants and that the large, undeveloped parcel known as the ‘Remaining Land’ along Tamarind Lane and behind 22 Cullen Way could/would be developed by ‘the people at the end of the street’ (the Grisets) at some point in the future after 15 years”) (“On September 14, 1993 we met with Brian Griset regarding the Amendment to the Covenants requested for title purposes, to allow the sale of the reconfigured [Flaherty

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<sup>3</sup> See discussion below regarding other lot line adjustments within the Subdivision.

Property]. The vote authorized the Lot Line Adjustment approved earlier that year which transferred .91 acres back to the 'Remaining Land' which would be developed in the future with an access to Tamarind over the old farm road. Upon the remaining 1.53 acres of [the Flaherty Property] a single-family home had been constructed which would remain under the Covenants. We signed the Amendment authorization on that date”).

- The First Amended Protective Covenants also state that “[i]n all other respects the protective covenants recorded at Book 2535 Page 75 of the Rockingham County Registry of Deeds and as amended at Book 2544, Page 2601 are reaffirmed and shall continue in full force and effect.” Id.

### **Abutters' Assertion**

The Abutters assert that the “[e]xisting covenants prohibit additional homes on the land upon which home sites 15-1 and 15-2 are planned.” See Abutters' Letter. See also Proposed Site Plan. As the lone support for their assertion, the Abutters point not to any specific plan, provision of the Covenants, or legal argument<sup>4</sup>, but to comments made at a preliminary consultation with the Planning Board in September of 2019, primarily by Anne and Patrick Flaherty, who have since abandoned the underlying assertions and tendered their support for the Grisets' proposed development.

The summarized basis of the Abutters' argument is that because the .91 acres which was the subject of the 1993 Lot Line Adjustment was *formerly* a part of the Flaherty Property which is bound by the Covenants, those .91 acres remain bound by the Covenants and cannot be developed by the Grisets, despite the fact that the .91 acres were transferred to the Remaining Land, which is plainly not bound by the Covenants, and despite the fact that the neighborhood contemporaneously acknowledged and accepted the transfer of the .91 acres to the Remaining Land to be used for future development via execution of the First Amended Protective Covenants. See Enclosure 3, 6, 9, 11.

### **Analysis**

The Abutters' assertion regarding the effect of the 1993 Lot Line Adjustment is wrong as a matter of law and fact.

- 1. The 1993 Lot Line Adjustment transferred .91 acres of the Flaherty Property to the Remaining Land and the Remaining Land is not subject to the Covenants and may be developed.**

The effect of the 1993 Lot Line Adjustment was to transfer land from the Flaherty Property to the Remaining Land, where the Grisets maintain their home. No other logical conclusion can be drawn from the available evidence and the Abutters have provided none. The

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<sup>4</sup> Indeed, even the attorney hired by a subset of the Abutters' group did not advance this argument in his several filings with the Planning Board.

fact that Remaining Land is labeled "Parcel B" on the 1993 Lot Line Adjustment Plan (see Enclosure 9) is irrelevant. Lot B is the Remaining Land just as Lot A on the 1993 Lot Line Adjustment is the Flaherty Property, i.e., Lot 5 of the Original Subdivision.

The Covenants do not apply to the Remaining Land, which may be developed. See Enclosure 3, pg. 1.

Because the effect of the 1993 Lot Line Adjustment was to add .91 acres to the Remaining Land, like the rest of the Remaining Land, those .91 acres are not bound by the Covenants and may be developed pursuant to the Grisets' proposal, just as the Grisets previously developed the Remaining Land with the Greybird Circle subdivision and their own home off Cullen Way.

The neighborhood contemporaneously ratified and adopted this exact conclusion via execution and recording of the First Amended Protective Covenants in September of 1993, just months after Planning Board approval of the Lot Line Adjustment in April of 1993. This amendment is a contemporaneous record memorializing the neighborhood's understanding of the effect of the 1993 Lot Line Adjustment which stands in stark contrast to the unsubstantiated conclusions advanced by the Abutters now, nearly 30 years later.

Specifically, the First Amended Protective Covenants expressly accepts and approves the 1993 Lot Line Adjustment Plan and expressly amends the Covenants to permit the Lot Line Adjustment and to permit the lease, conveyance or sale of the resulting or adjusted lot. See Enclosures 9, 11. This conclusion is corroborated by the Affidavit of Ms. Houlné which maintains that the common knowledge in the neighborhood at the time of the 1993 Lot Line Adjustment was that its effect was to move .91 acres of the Flaherty Property into the Remaining Land which was being reserved for future development by the Grisets. See Enclosure 6. This conclusion aligns with common sense. What else would those .91 acres be if not absorbed into the Remaining Land?

The Abutters have provided no data, evidence, information or analysis which rebuts these conclusions, because none exists.

On this analysis alone, the Planning Board should disregard the Abutters' assertions regarding the effect of the 1993 Lot Line Adjustment.

**2. The Abutters' argument fails as a matter of law because it would require the Planning Board to make opposite factual findings about the same subject matter simultaneously.**

The Abutters assertion is also incorrect as a matter of law because it would require the Planning Board to make contradictory predicate factual findings. The New Hampshire Supreme Court has maintained that it is irrational to make opposite factual findings about the same subject simultaneously, and a decision which does so must be reversed. See Appeal of Lemire-Courville Associates, 127 N.H. 21, 32 (1985); In re: Montplaisir, 147 N.H. 297, 303 (2001). For example, a person cannot be alive and also dead. A car cannot be black and simultaneously white. In this



case, the subject .91 acres cannot simultaneously be part of the Flaherty Property and subject to the Covenants and also be part of the Remaining Land and not subject to the Covenants. To so conclude, as the Abutters seemingly have, requires tortured logic and the disregard of the mountain of context and evidence surrounding the basis for and execution of the 1993 Lot Line Adjustment which has been repeatedly provided by the Grisets to the Planning Board and the Abutters in this case. It's also inconsistent with the neighborhood's historic view of similar lot line adjustments as discussed below.

The Abutters' assertion regarding the effect of the 1993 Lot Line Adjustment is totally contradictory to the plain intent of the parties at the time of the transactions as evidenced by the documentation the Grisets have provided to the Board, which was to add .91 acres to the Remaining Land and to preserve development rights of the same. That is why there is no indication, note, or reference on the 1993 Lot Line Adjustment Plan, or in the minutes to the Planning Board meetings, that the .91 acres was to become anything other than a part of the Remaining Land. Surely, had the parties executing the transaction (Brian Griset and Timothy Rieser) intended to confer some special status upon the .91 acres that was to be absorbed into the Remaining Land, they would have. Of course, the opposite is true as stated above: the parties' obvious intent was to *ensure* the .91 acres became part of the Remaining Land to be preserved for future development.

Because the Abutters' assertion about the effect of the 1993 Lot Line Adjustment would require the Planning Board to make irrational opposite factual findings about the same subject matter simultaneously, and because the Abutters have provided no evidence to challenge the significant body of context and evidence provided by the Grisets, their assertions should be disregarded.

**3. The Abutters' assertion is inconsistent with the neighborhood's historic treatment of lot line adjustments.**

The Abutters' opinion on the effect of the 1993 Lot Line Adjustment is also inconsistent with the neighborhood's historic treatment of similar lot line adjustments.

In 1986, Mutrie amended Lot 1's lot line. See RCRD Plan D-15000. The effect of this lot line adjustment was a land swap whereby, like in this case, a portion of Lot 1 was conveyed to the Remaining Land. Id. Neither the Planning Board, nor any member from the neighborhood or anyone else objected to this, or advanced the argument advanced by the Abutters in this case, that the Covenants still applied to the former portion of Lot 1 conveyed to the Remaining Land.

In 1987, the lot line between Lots 2 and 3 of the Subdivision was amended by the Planning Board. See RCRD Plan C-16387.

In 1991, the lot line between Lots 24 and 25 of the Subdivision was amended by the Planning Board. See RCRD Plan C-21274.

David Sharples, Planner  
Town of Exeter  
8 July 2021  
Page 8

None of these lot line amendments drew any scrutiny from the neighborhood. None of these lot line adjustments required amendments to the Covenants.

The historically benign treatment these lot line adjustments have received from the neighborhood is telling. Even where, like here, land from a lot within the Subdivision was conveyed to the Remaining Land, no one objected. This historic interpretation, coupled with the great weight of additional evidence provided to the Planning Board regarding the actions taken by the Grisets to protect their development rights for the Remaining Land over decades, removes any reasonable question regarding the effect of the 1993 Lot Line Adjustment. Succinctly, the Abutters are advancing an historically unsupported interpretation of the Covenants in an effort to reduce the density of the Grisets' proposal. This is improper.

### **Conclusion**

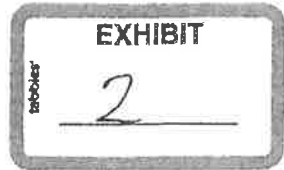
We respectfully request that the Planning Board disregard the argument advanced by the Abutters regarding the effect of the 1993 Lot Line Adjustment. Please do not hesitate to contact me with any comments, questions or concerns.

Very truly yours,  
DONAHUE, TUCKER & CIANDELLA, PLLC



Justin L. Pasay  
JLP/sac

Cc: Brian Griset  
Beals Associates, PLLC



AGREEMENT

THIS MEMORANDUM OF AGREEMENT, entered into this day of 1984, by and between Charles Nutric, Hampton Falls, New Hampshire, hereinafter referred to as the 'Petitioner', and the Planning Board of the Town of Exeter, hereinafter referred to as the 'Town', represents the understanding between the parties with regard to the Exeter Planning Board granting final subdivision approval, now witnesseth:

WHEREAS, the Planning Board has been duly authorized to regulate site plans and land subdivision and has established regulations relating thereto, and,

WHEREAS, the Petitioner has applied for approval to subdivide twenty five (25) lots consistent with the regulations of the Town of Exeter, and,

WHEREAS, the Petitioner has agreed to certain conditions and commitments for the development of this property;

NOW THEREFORE, in consideration of the Exeter Planning Board granting final approval to the subdivision plan, more particularly described on plans titled, "The Meadows", in Exeter, N.H., Sheets 1-11, drawn by Parker Survey Assoc. Inc. and dated June 1984", it is agreed:

1. That the Petitioner will abide by all the Subdivision and Zoning Ordinance regulations in effect this date, which have been promulgated by the Town, copies of which are attached and made a part of this agreement.
2. That the Petitioner will follow the plans which have been submitted for approval including, but not limited to, the construction of sewer and water lines, proposed roadway construction and drainage control measures and structures, hereinafter referred to as 'improvements', which shall be constructed in accordance with the plans and the standards required by the Town of Exeter and "Specifications for the Construction of Water, Sewerage and Drainage Facilities in the Town of Exeter, N.H.", prepared by Jones & Beach Inc. Deviations or amendments from these plans and specifications may only be made with the written approval of the Exeter Planning Department Board.
3. That the Petitioner shall obtain approval of the Town's Inspector for all materials used in construction of improvements and will meet the standards of workmanship as required by the "Specifications" of the Town and the New Hampshire Water Supply & Pollution Control Commission, Petitioner acknowledging that he shall place no reliance on said approval of the Town Inspector or standards and that he shall retain the responsibility for insuring the quality of the construction. The Petitioner further agrees that he shall hold the Town and its officers, employees, agents and assigns harmless and shall indemnify them for any claim and all damages, fees or costs alleged to be incurred on account of negligent inspection of the improvements to be constructed on the part of the Town's Inspector. Said indemnification shall include the fees and costs incurred in defending or settling any such claim.
4. The Petitioner will provide all permanent property line and roadway bounds prior to release of the Performance Guarantee.
5. The Petitioner agrees to participate in the cost of constructing a Pedestrian/Bikeway along Kingston Road to the Little River Bridge in the amount of \$3,500.00, such monies shall be posted under the Performance Guarantee, and the parties agree that within thirty six (36) months of the date of this signing, said "way" will be constructed by the Town or funds released to the Petitioner upon request.

Metric Agreement' - 2

6. That the Petitioner agrees to comply with the Performance Guarantee requirements of Article 4.80 of the Subdivision Regulations, whereby performance will be secured in the following manner: The plan will be signed by the Planning Board with the notation that no lot in the development may be sold or conveyed and no building permits issued until improvements specified upon the plans have been completed to the approval and satisfaction of the Town, or substantially completed and a Performance Guarantee posted to cover residual items. The Performance Guarantee shall also secure performance of all other obligations assumed by the Petitioner under the terms of this Agreement.
7. The Petitioner agrees to assign the security held as the Performance Guarantee to the Town in the event improvements for the first phase of construction (Tamarind Lane, sta. 0+00 to 16+46.47) as detailed on the plans are incomplete or the subdivision abandoned within two years from this date OR improvements within the second phase (being all of Cullen Way) be similarly incomplete within one year from the issuance of the first building permit in that phase unless extended with the approval of the Planning Board. Upon fulfillment and performance of all obligations under this agreement, the Performance Guarantee shall be released to the Petitioner, provided however, that the sum of the Performance Guarantee shall not be construed as any limitation on the Town's right to recover from the Petitioner for breach of this agreement.
8. The Petitioner agrees to post a **Maintenance** Bond per the requirements of Article 4.82 in the amount of ~~\$2,520.00~~ (running for two years) prior to release of the Performance Guarantee.
9. That, prior to the final release of the Performance Guarantee, the Petitioner will present two sets of as-built drawings showing the invert and top grade of all sewer and water appurtenances and all drainage structures and centerline grades on 50-foot stations of the constructed roadway, including ties locating services as required by the Planning Board.
10. That the Petitioner agrees not to remove trees unnecessarily on the site.
11. The Town acknowledges receipt of an Inspection Fee in the amount of \$2,520.00, as required by Article 4.83 of the Subdivision Regulations; the balance of the fee as determined by the Town shall be payable prior to the issuance of building permits.
12. That the Petitioner will provide and install erosion and sedimentation control measures as required by the plan or deemed reasonably necessary by the Town Inspector.
13. That the Petitioner will install fire alarms as shown on the plan conforming to the specifications of the Exeter Fire Department, which shall be considered as an "improvement" and subject to above Performance Guarantee requirements.
14. That in the event of any dispute or litigation concerning any of the items covered in this Agreement, including the Petitioner's obligation to perform thereunder, the Petitioner, unless he is a prevailing party, shall reimburse the Town of Exeter for its reasonable costs and attorney's fees incurred in any such dispute or litigation. If the Petitioner is found to be the prevailing party by the court he shall likewise be entitled to his reasonable costs and attorney's fees incurred.
5. The Petitioner, in return for approval of a sewer system which is in part not located within the Town right of way for streets in the development shall include the following provision in his deed of a sewer easement to the Town as depicted on the plans hereinabove referred to:

"This sewer easement is given by the grantor for the purpose of allowing the Town to maintain sewer pipe running over Lots 4, 5, 20, 21, 22, 23, and the Remaining Land as shown on said plan. The grantor, his heirs, successors and assigns agrees to hold the Town and its agents, their heirs, successors and assigns forever harmless for any damage to property occurring within the easement as the result of the Town's or its agents', their heirs', successors' or assigns' entry on the easement to make necessary repairs or to perform routine maintenance or inspection; provided only that this provision shall not absolve the Town, its agents, their heirs, successors and assigns from any claim of intentional tort or gross or wanton negligence; it being the intent of this provision merely to insure that access and other activities associated with municipal maintenance and repair of the sewer system shall not give rise to claims for damage to grass, plantings, trees or other natural growth located in the easement; the obligation of the Town, its agents, their heirs, successors, and assigns being only to return the earthen surface to its former grade. The grantor additionally covenants that no structure of any type as defined under the Town of Exeter Zoning Ordinance shall be located within the bounds of the easement as depicted on said plan which covenant shall likewise run with the land and be binding on the grantor's heirs, successors and assigns."

Additionally, the Petitioner shall insert in each deed for any of the lots affected by the above granted easement the following language:

"This conveyance is specifically subject to the terms and conditions of a certain sewer easement granted to the Town of Exeter as more particularly described in the easement deed recorded at Book \_\_\_\_\_, Page \_\_\_\_\_, at the Rockingham County Registry of Deeds. This easement deed specifically absolves the Town of Exeter for any damage done to real property, including plantings, trees, grass and other growth in the course of the Town's reasonable maintenance and repair activity but not gross or wanton negligence, and further specifically prohibits the location of any structure as defined by the Town of Exeter Zoning Ordinance within said sewer easement as depicted on the plan hereinabove referred to."

16. *lga*  
*lsm* the Petitioner agrees that the "Remaining Land" depicted on the subdivision plan and consisting of approximately 41.49 acres, if subsequently developed shall be clustered development in accordance with Article 6.85 of the Town Zoning Ordinance and further that at the time of any such subsequent development the Petitioner agrees that he will dedicate to public use and execute the requisite deed required to so convey an area of approximately 7.5 ac. for a ballfield with associated parking and open space which shall be located within the confines of the remaining land as generally depicted on the attached sketch plan. The scope of such uses as are mutually agreeable will be defined upon conveyance, however, it is generally agreed such facilities as a ballfield and/or playground area, tennis and basketball will be permitted, the intent of which is to limit intensity of recreation facilities so as to be compatible with adjoining residential development of the Petitioner. *lga*  
*lsm* Appropriate landscape screening will also be considered at that time. The parties hereto further agree said open space dedication will not diminish the allowable density on this remaining parcel when developed under the terms of the zoning ordinance then in effect.

If the zoning ordinance then in effect does not provide for cluster development or substantially deviates, to the detriment of the Petitioner, from the terms and conditions of the current cluster development provision, then the parties shall be required to act in good faith to pursue

a cluster development through the Town's Board of Adjustment in compliance with the terms envisioned in this paragraph. If, notwithstanding the good faith efforts of the parties, such development is not approved, the Petitioner shall not be bound by this paragraph except for the required land dedication and further provided that this clause to, in part, protect the Petitioner from changes in zoning shall expire in five (5) years from the date hereof unless extended by the Planning Board for good cause shown.

- 17. This agreement specifically supercedes the earlier memorandum agreement, dated May 7, 1981, by and between Charles Mutrie and Mark Brewer and the Planning Board of the Town of Exeter.

THIS AGREEMENT represents the entire agreement of the parties and may only be modified in writing and shall be binding upon the heirs, executors, administrators and assigns of each of the parties unto.

IN WITNESS WHEREOF, the parties hereto and hereunto set their hands (and seals) the day and year written above.

WITNESS

*William M. Dorman*

PETITIONER

BY

*Charles Mutrie*

TOWN OF EXETER

BY

*William M. Dorman*  
Tos Planning Board Chairman

BY

*John H. ...*  
Tos Town Manager

DATE: 10/03/84

10/03/84

Attest:

Notary Public

FEB 28 3 54 PM '85 07484

Rockingham County PROTECTIVE COVENANTS  
Registry of Deeds

RK2535 P0075



EXETER GREEN  
(FORMERLY "THE MEADOWS")

Exeter, New Hampshire

Conditions, Covenants, Restrictions, and Easements affecting  
property of Evitar Corporation.

THIS DECLARATION, made this 28th day of February, 1985,  
by EVITAR CORPORATION, hereinafter called the Declarant,

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real property described in the legal description as set out below in this Declaration, and is desirous of subjecting the real property described below to the restrictions, covenants, easements, and conditions hereinafter set forth, each and all of which is and are for the benefit of said property and for each Owner thereof, and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the successors in interest, and any Owner thereof.

NOW THEREFORE, EVITAR CORPORATION, hereby declares that the real property described in and referred to below is, and shall be, held, transferred, sold and conveyed subject to the conditions, restrictions and easements hereinafter set forth.

DEFINITION OF TERMS

Building Site shall mean any lot, or portion thereof, any two or more contiguous lots, or parcel of land of record and in a single Ownership and upon which a dwelling may be erected in conformance with the requirements of these covenants.

Property subject to this Declaration. The real property, including the lots which shall be conveyed, transferred, and sold subject to the conditions, restrictions, covenants and easements with respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration, is located in the Town of Exeter, New Hampshire, and is shown on a plan entitled,

"The Meadows" in Exeter, New Hampshire", dated August 10, 1984 and recorded in the Rockingham County Registry of Deeds as Plan D 12714 or any amendments to said plan which may be recorded as such.

No property other than that described above shall be deemed subject to this Declaration, unless and until specifically made subject thereto. These restrictions do not effect remaining land as shown on said plan.

The Declarant may, from time to time, subject additional real property to the conditions, restrictions, covenants and easements herein set forth by appropriate reference hereto.

GENERAL PURPOSES OF CONDITIONS

The real property as set out in the legal description is subjected to the covenants, restrictions, conditions and easements hereby declared to insure the best use and the most appropriate development and improvement of each building site thereof; to protect the Owners of building sites against such improper use of the surrounding building sites as will depreciate the value of their property; to preserve, so far as practicable the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from streets, and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvement in said property; and thereby to enhance the value of investments made by purchasers of building sites therein.

A. Land Use and Building Type

No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than the one detached single-family dwelling, constructed for year-round occupancy, not to exceed two and one-half stories in height and a private garage for not more than three cars. No beauty parlors, barber shops, home occupations, professional or business offices of any sort shall be permitted on any lot.

B. Architectural Control Advisor

No building, garage, breezeway, patio, septic system, walkway, driveway, fence, wall, swimming pool, tennis court, or other structure shall be commenced, erected, placed, altered, or maintained on any lot nor shall any exterior addition to or change or alteration therein be made until the building plans, specifications and plot plan showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to conformity and harmony of external design and location in and relation to existing structures, topograph, and finish grade elevation by an Architectural Control Advisor to be named by the Declarant, Evitar Corporation.

The Advisor shall designate a representative to act for him. In the event of death or resignation of the advisor, the Declarant shall have the full authority to designate a successor. Neither the Advisor nor the representative shall be entitled to any compensation for services performed pursuant to this covenant.

The Advisor's approval or disapproval as required in these covenants shall be in writing. In the event the Advisor or his designated representative, fails to approve or disapprove within sixty (60) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.



#### C. Dwelling Cost, Quality, Size

No dwelling shall be permitted on any lot at a cost of less than \$ 75,000.00 based upon cost levels prevailing on the date these covenants are recorded. The Architectural Advisor or his agent shall determine whether the cost of any dwelling shall have a minimum cost of \$ 75,000.00. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1,500 square feet for a one-story dwelling, nor less than 900 square feet for a dwelling of more than one story.

All dwellings shall be constructed upon full basement foundations unless ledge conditions require partial basement only; but this covenant shall not prohibit split-level or other use of basement for habitable portion (but not whole) of dwelling.

All dwellings shall have a two or three car garage either attached to the dwelling unit, detached, or built-in. The floor area of the garage shall be not less than 484 square feet.

#### D. Building Location

The location shall be a minimum of Town requirements and are as follows:

A minimum side yard of 15 feet for one or 30 feet for both and a minimum front and back yard of 25 feet for each must be maintained.

#### E. Easements

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible.

#### F. Nuisances

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

**B. Temporary Structures**

No structure of a temporary character, trailer, house trailer, mobile home, auto home, camper, basement, tent, shack, garage, barn, tool sheds, woodsheds or other buildings shall be used on any lot at any time as a residence either temporarily or permanently.

The keeping of a mobile home or travel trailer, either with or without wheels, on any parcel of property covered by these covenants is prohibited. A motor boat, house boat or other similar water borne vehicle, motorcycle, snow mobile or other motor unit may be maintained, stored, or kept on any parcel of property covered by these covenants only if housed completely within a structure which has been architecturally approved by the Architectural Advisor.

There shall be no motorbike, trailbike, all terrain vehicle, or snowmobile riding on any parcel of property covered by these covenants.

**H. Signs**

No sign of any kind shall be displayed to the public view of any lot except one sign of not more than four (4) square feet advertising the property for sale.

There may be a "No Hunting" sign allowed within the area.

**I. Livestock and Poultry**

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or household pets may be kept provided that they are not kept, or maintained for any commercial purpose.

**J. Garbage and Refuse Disposal**

No lot shall be used or maintained as a dumping ground for rubbish, trash, old automobiles or similar materials offensive or degrading in appearance. Trash, garbage, or other waste shall not be kept except in sanitary dog and raccoon proof containers. All other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition.

**K. Swimming Pools, Tennis Courts, Etc.**

No swimming pool, tennis court, hedge, or mass planting shall be erected, placed or altered on any lot unless approved by the Architectural Advisor or his agent in writing as provided in Section B.

- 5 -

There shall be no above-ground swimming pools on any lots covered by these covenants.

No permanent in-ground or other outside clothes lines except retractable lines kept out of sight when not in use shall be permitted on any lot.

L. Aerial Antennas

No permanent installation of a television, receiving or transmitting antenna shall be constructed on the exterior of any building nor on the premises of any lot except upon approval by the Architectural Advisor or his agent as provided in Section B.

M. Compliance with Zoning Restrictions

Compliance with zoning restrictions of the Town of Exeter New Hampshire, or the rules and regulations of the State of New Hampshire Wetlands Board in effect at time of any construction shall be required if such zoning is more restrictive than certain of the above restrictions.

N. Completion Terms for Building and Landscaping

ALL PURCHASERS OF AN UNDEVELOPED LOT SHALL COMMENCE THE CONSTRUCTION OF AN APPROVED DWELLING AND RELATED BUILDINGS WITHIN TWO (2) YEARS FROM THE DATE OF PURCHASE. IN THE EVENT THAT SUCH CONSTRUCTION SHALL NOT HAVE COMMENCED WITHIN TWO (2) YEARS FROM THE DATE OF PURCHASE, THE DECLARANT (OR HIS HEIRS OR ASSIGNS) SHALL HAVE THE OPTION TO REPURCHASE THE SAID LOT AT THE PRICE PAID BY THE PURCHASER. THE DECLARANT SHALL EXERCISE HIS OPTION WITHIN FORTY-FIVE (45) DAYS OF THE EXPIRATION OF THE SAID TWO YEAR PERIOD AND UPON SUCH EXERCISE SHALL TENDER THE PURCHASE PRICE AT WHICH TIME THE PURCHASER SHALL DELIVER A DULY EXECUTED WARRANTY DEED FREE AND CLEAR OF ALL ENCUMBRANCES. NO UNDEVELOPED LOT SHALL BE SOLD BY ANY PURCHASER UNTIL AND UNLESS THE DECLARANT SHALL HAVE FAILED TO EXERCISE THE ABOVE MENTIONED OPTION.

O. Subdivision of Lots

The within conveyed lot cannot be subdivided; and any lease, conveyance or sale of a part (less than the whole) of this lot shall constitute a violation of this Covenant.

P. Duration

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them, for a period of ten (10) years from the date these covenants are recorded, after which time said covenants shall automatically be extended for successive periods of ten (10) years unless an instrument signed by the majority of the then Owners of the improved lots has been recorded, agreeing to change said covenants in whole or in part.

**Q. Enforcement**

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain violation or to recover damages and failure by the Architectural Advisor or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**R. Separability**

Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

**S. Notices**

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Town of Exeter, New Hampshire, at the time of such mailing.

**T. Witness**

IN WITNESS WHEREOF the above-named Declarant has hereunto affixed his hand and seal this 28th day of February, 1985.

In the Presence of:

Gary S. Acox  
Witness

Charles B. Nutrie  
Charles B. Nutrie, Pres.  
Evitar Corporation

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

February 28, 1985

Subscribed and sworn to, before me, by Charles B. Nutrie.

Gary S. Acox  
Nancy S. Acox

EXHIBIT

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AGREEMENT

NOW COMES the Petitioner, Adela J. Griset (hereinafter "Petitioner"), of Raymond, New Hampshire, and the Planning Board of the Town of Exeter, New Hampshire (hereinafter "Town"), and hereby represent the understanding between the parties with regard to the Exeter Planning Board's approval of Juniper Meadows, originally proposed to be a 45-unit town house development on Kingston Road, in Exeter, New Hampshire, pursuant to Agreements dated May 7, 1981, and October 3, 1984, and agree to amend Paragraph 16 of the October 3, 1984 Agreement as follows:

WHEREAS, Petitioner has succeeded Charles Nutrie as owner of said property, and

WHEREAS, Petitioner desires to use the remaining, as yet unbuilt upon, land in a manner different than originally proposed by Nutrie, and

WHEREAS, the Town is agreeable to said change in plans, in concept,

NOW, THEREFORE, the parties agree to substitute, for Paragraph 16, of the October 3, 1984 Agreement, the following paragraph:

16. The Petitioner and the Town agree that the "Remaining Land" depicted on the subdivision plan and consisting of approximately 41.43 acres, if subsequently developed, may be developed in any fashion which is in accordance with the most current Town of Exeter Zoning Ordinance and Site Plan and Subdivision Regulations.

As of this date, being March, 1991, the Petitioner is proposing to create nine (9) conventional lots on the remaining land and, upon approval of proposed subdivision, will convey to the Town of Exeter 9.38 acres (which will include the land previously agreed to be conveyed by Charles Nutrie), for recreational purposes, the land shown on the attached Exhibit.

Said land is to be used for recreational purposes with associated parking, and open space, as generally depicted on the attached sketch plan. It is generally agreed that facilities such as ballfields and/or playground area, tennis courts, basketball courts, soccer fields and swimming facilities will be permitted, the intent being to limit the intensity of recreational facilities on this land so as to be compatible with the adjoining residential development of the Petitioner. Landscaping screening to be approved by the Planning Board will be installed by the Town on the land to be conveyed to the Town by the Petitioner in order to shield the adjacent residential development from recreational use,

once said use is to actually occur. There will be no night lighting on the property until and unless the written consent of the eventual owners of the subdivision lots abutting said property is obtained by the Town's Recreation Department.

The Petitioner and the Town further agree that the land to be conveyed to the Town of Exeter, by the Petitioner, as described above, shall continue to remain useable for the purpose of determining the maximum allowable density to be permitted on any portion of the "remaining land" to be developed as an open space development and shall satisfy any requirement or option that recreational or park land be dedicated or given over to the Town.

IN WITNESS WHEREOF, the parties hereto and hereunto set their hands this 14 day of ~~March~~ <sup>August</sup>, 1991.

Kimberly A. Crowley  
WITNESS

PETITIONER  
Adela J. Griset  
ADELA J. GRISSET

Barbara J. McEury  
WITNESS

TOWN OF EXETER  
Jeffrey Warlock  
BY ITS PLANNING BOARD CHAIRMAN  
Kimberly A. Crowley  
BY ITS TOWN MANAGER

Kimberly A. Crowley  
WITNESS

STATE OF NEW HAMPSHIRE  
ROCKINGHAM, SS

Personally appeared, this 14<sup>th</sup> day of August, 1991, Adela J. Griset, known to me or satisfactorily proven to be the person whose name subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

Before me, Kimberly A. Crowley  
Justice of the Peace/Notary Public  
KIMBERLY A. CROWLEY, Notary Public  
My Commission Expires December 19, 1994

STATE OF NEW HAMPSHIRE  
ROCKINGHAM, SS

Personally appeared, this 10<sup>th</sup> day of August, 1991,  
JEFFREY WARLOCK, Town of Exeter, Planning Board Chairman, known to

me or satisfactorily proven to be the person whose name subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

Before me, Barbara C. Bleck  
Justice of the Peace/Notary Public

My Commission Expires April 27, 1992

STATE OF NEW HAMPSHIRE  
ROCKINGHAM, SS

Personally appeared, this 16<sup>th</sup> day of August, 1991,  
George N. Olson, Town of Exeter, Town Manager, known to me or satisfactorily proven to be the person whose name subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

Before me, Barbara C. Bleck  
Justice of the Peace/Notary Public

My Commission Expires April 27, 1992



EXETER PLANNING BOARD

MINUTES

APRIL 11, 1991

Vice-Chairman Dawley ... order ... the Nowell ... the above date

PRESENT: Vice-Chairman Mike Dawley, ... Planning Director ... arrived at 7:07 P.M.

MASTER PLAN SUBCOMMITTEE REPORTS

Transportation Subcommittee

Mr. John ... of the Transportation Subcommittee ... that the subcommittee's report ... postponed until ... next meeting ... Ms. Hart moved to postpone presentation of the Transportation Masterplan subcommittee's report ... Second Mr. Moyse, Vote unanimous.

Community Facilities

Mr. Dan Jones, Chairman of the Community facilities subcommittee addressed the Board. Mr. Jones opened by indicating that the subcommittee felt somewhat handicapped in addressing the issue of extending the Town water supply lines. Mr. Jones noted that the Town had recently upgraded its water and wastewater treatment facilities. Mr. Jones also noted that sewer service was "dual-line driven" and that the Town did not currently have a plan for extending these services. Mr. Jones indicated that electric, gas and telecommunications services all appeared to be adequate. Mr. Jones added that utilities needed to be extended to the industrially zoned land off of route 101. Concerning school facility needs, Mr. Jones stated he was not aware of any plans to expand existing facilities. Mr. Jones noted that the Town Hall building was on the list of buildings owned by the Town but still not in use. Mr. Jones said that the location of the district court to this building. The relocation of the district court to this building was more undisciplined. Mr. Jones suggested that the infrastructures of Town Hall be looked at to see what could be done to improve and upgrade. Mr. Jones mentioned that Public Works had informed the subcommittee of their plans to replace equipment but he was not sure if this was relevant to the Master Plan. Mr. Jones mentioned that the Historic Architect Commission was active in regulating the construction within the Historic District. Mr. Jones provided the subcommittee with a list of their needs, mostly parking issues. Mr. Jones stated that the Public Safety committee was "right". Mr. Jones mentioned the Town Department's plans for a Wash and Tire ... Mr. Jones noted that



this new fire station may alleviate some of the crowding problems at the Public Safety complex although he was unsure how much this would help the Police Department and their needs. Mr. Jones mentioned that the goal of the Fire Department was to be able to respond in 4 minutes to any area in Town. Mr. Dawley asked if there was any room for expansion at the Public Safety complex? Mr. Jones noted that it may be possible to expand out into the parking lot. Mr. Jones indicated that it may be feasible to expand the Police Department facilities at the County Courthouse building. Mr. Meyer asked if the subcommittee had looked at education and training for the Police Department? Mr. Jones responded that they had not.

Mr. Jones elaborated that the Town did not currently have any master plan for extending Town services (water, sewer). Mr. Jones noted that this would require a great deal of study to determine what the future land use needs of the Town would be. Mr. Jones suggested that this type of analysis was necessary. Mr. Meyer asked if the subcommittee had looked at the issue of conservation of water resources? Mr. Jones responded that they had not. Mr. Jones stated that it was his feeling, as well as the feeling of the committee, that the Town should have a long-range plan for the "fixed" systems for town water and sewer. Mr. Kenick mentioned that this was suggested several times previously and that he felt that the Town should look at budgeting for a study by a consultant to look into this issue. Mr. Meyer noted that if the Town did do such a study it would be an taxpayer, not "user" expense. Mr. Jones responded that such a study could indicate which areas the Town would "allow" water and sewer services to be extended. Mr. Kenick stated that he felt it was important for the Town to determine the ultimate "build out" of the Town and plan accordingly to that end. The Board thanked Mr. Jones and the subcommittee for their input.

#### GREYBIRD DEVELOPMENT CORPORATION, CASE #9101

The application of Greybird Development Corporation for a nine (9) lot subdivision and a lot line adjustment for the conveyance of a 9.38 acre parcel to the Town of Exeter for recreation purposes. Property consists of 41.4 acres and is located on Kingston Road (Rt. 111), in an R-1 zone.

Mr. Dawley asked Mr. Gordon if the applicant and the public had been notified. Mr. Gordon indicated that they had. Mr. Dawley asked if the application was completed enough for the Board to accept it. Mr. Gordon indicated that it was. Mr. Cayten moved to accept the application of Greybird Development Corporation for consideration by the Board, thereby beginning the ninety (90) day time clock for the Board to act. Second Mr. Rowe. Vote to accept 5-0.

Mr. Brian Grant spoke in behalf of the applicant. Mr. Grant indicated that Greybird Development Corporation was requesting conditional approval from the Board for a nine (9) lot

... Mr. Smith explained that the proposed subdivision would consist of 21 lots off of a 40-acre tract which would front on Kingston Road. A street lot measuring approximately 20 acres, would be created for the Smith's to construct their own road home. The eight (8) lots off of the 40-acre tract would measure between one (1) and one (1) and one-half (1 1/2) acres. Each of the nine (9) lots would be by Town Ward 2 and Town 1. Mr. Dawley asked if the request for a lot line adjustment was valid. Mr. Dawley indicated that the request was actually to modify whether or not there would be a road from the Town, which would then abandon the lot line request. It would be another piece of Town owned property.

Mr. Smith said that he was not sure about the validity of the request for subdivision or subdivision of the 40-acre tract in the Town. Mr. Smith said that the request would be to have the subdivision of a pool on this parcel. Mr. Smith suggested that a copy of the subdivision reference to a subdivision was. Mr. Smith indicated that the pool was not included in the request of the Town. Mr. Dawley said that the reference to subdivision was made. Mr. Dawley questioned the installation of "appropriate" landscaping by the Town and the provision which would require Planning Board approval of landscaped plans. Mr. Dawley asked the Board what he was required to do regarding landscaping. Mr. Smith responded that he had spoken to Doug Egan, Director of Parks and Recreation about planting a double row of trees along the property line between the 40-acre parcel and the lots to be subdivided.

Mr. Dawley said that if the approval he revised he indicated that the proposed landscaping be installed prior to subdivision of the parcel. Mr. Smith responded that the Town would be the one to install the landscaping. Mr. Smith said that it would not be a requirement for the developer to show this landscaping on his plan. Mr. Moyer suggested that

subdivision is an could reference a landscaping plan by the Town. Mr. Moyer suggested that the landscaping language be added to the request for subdivision concerning to be approved by the Planning Board will be installed by the Town on the land conveyed to the Town by the subdivision. In order to shield the subject residential development from recreational use and use is to be exclusively residential. Mr. Moyer asked what form of the other previously stated Board concerns was regarding the proposed revised approval which would come by the 40-acre parcel to the Town. Mr. Gordon indicated that the Board had directed that the 40-acre parcel be incorporated into the revised approval. First, that the so-called "residential land" be developed in an "exclusive" manner and "Town Ordinance". Second, that the area to be dedicated to the Town for recreational use be included from 2.5 acres to 2.5 acres and third that the applicant be responsible to the Town for the landscaping. The Town for its part would be providing the applicant with a plan for landscaping.

Mr. Dawley asked if access to Lot 3 would be off of Greybird Farm Circle. Mr. Griest responded that it would. Mr. Gordon clarified that the proposed road would be a public road to be accepted by the Town. Mrs. Moyer asked if the Technical Review Committee had looked at the proposed radius for Greybird Farm Circle to determine if it would be suitable for Town operations. Mr. Gordon responded that the radius met the Town specifications.

Mr. Gordon noted that the applicant would require a formal waiver from the Board to be permitted to install a sidewalk on only one side of the proposed cul-de-sac. There was some discussion concerning this requirement. Mr. Griest noted that the "Subdivision Regulations" indicated that the Planning Board 'may' require sidewalks on both sides. Mr. Griest explained that the proposed sidewalk would go up to north side of the street and wrap around the cul-de-sac to lot 3. Mr. Griest also noted that a sidewalk was being proposed for the frontage along Route 111 along the length of lot 3. A five (5) foot easement would be granted to the Town for this purpose. Mr. Dawley noted that while the language in the "Subdivision Regulations" was somewhat 'inefficient', it has been the practice of the Board to require a waiver from the requirement for the installation of a second sidewalk in a subdivision. Mr. Kenick suggested that this language be clarified when the regulations are updated. Mr. Kenick noted that the language in the "Subdivision Regulations" would allow for only one sidewalk. Mr. Gordon noted that it has been the Board's practice since he has been with the Town (2 and 1/2 years) to allow a sidewalk on only one side of a subdivision. Based on this historical precedent, the T.D.C. had advised the applicant that it would be acceptable to install a sidewalk on only one side of this subdivision street.

Mr. Dawley cited the language from Section 6.1C of the "Subdivision Regulations", pertaining to sidewalks. This Section reads as follows: "At the discretion of the Planning Board, sidewalks, five feet (5') in width will be installed on both sides of each street...". Ms. Hart moved to not request a formal waiver to not have to provide sidewalks on both sides of the proposed street. Mr. Dawley indicated that it was not the appropriate time to consider such a motion, since the public had not been heard from yet.

Mr. Dawley asked if any members of the public wished to speak. Mr. Whitney Waller, Tamuning Lane, asked if it would be possible to require the developer to install a sidewalk between Tamuning Lane and the proposed subdivision street. Mr. Kenick indicated that the developer was proposing a five (5) foot easement along Lot 1 for a future sidewalk, but was not proposing to install a sidewalk at this time. Mr. Kenick advised the Board that to require the construction of a sidewalk to Tamuning Lane would constitute an "unreasonable exaction" by the Board, given the fact that there is a property (Walden) that comes between the proposed subdivision property and Tamuning Lane. Mr. Cayton

asked what the cost was for sidewalk. Mr. Mike Rafferty stated that it was \$10/linear foot for sidewalk. Discussion followed concerning whether or not the Board had the authority to require the construction of a sidewalk by the developer. Mr. M. Meyer indicated that it was appropriate to require the developer to install a sidewalk on his property due to the presence of the land to be conveyed to the Town for recreation. Mr. Kunick stated that the courts have ruled on what Towns can reasonably exact from developers. Mr. Kenick indicated that the Board could reasonably require this developer to construct a sidewalk in the direction that the Board expects the residents of this subdivision to travel in, but that it could not require the developer to pay for a sidewalk which would correct a past error by the Town in failing to require the installation of a sidewalk along lot 1, that will serve another development. Mr. Tom Whicall, Lincoln Street noted that the proposed easement for a sidewalk could still be used by children to walk on whether there was a paved sidewalk or not. Mr. Gary Weigand, Kingston Road indicated that he would be willing to give an easement for a sidewalk in front of his property. Mr. Wiseman also indicated that he was concerned about the laws of protective covenants. Mr. Weigand noted that the adjacent development, Villages Green had certain restrictions. Mr. Dewley indicated that the developer, not the Planning Board would make the decision on what if any type of covenants would apply to this subdivision. Mr. Dewley asked Mr. Grist whether any covenants were contemplated for this subdivision. Mr. Grist indicated that no covenants had been drafted at this time, but that the interest has been expressed for 1,800 to 2,500 sq. ft. homes. Covenants would be drafted based upon the market conditions. Mr. Phil Brewer was concerned about the style and size of home. Mr. Brewer asked about future development plans for this property. Mr. Grist indicated that he and his wife were waiting to forego any further development for a 1/2 lot. Mr. Brewer also asked about the timing for the subdivision. Mr. Dewley indicated that the Board would be wanting approval for a two (2) year time period. Mr. Brewer also stated his support for sidewalk.

Mr. Tom Waters, of Tree Development indicated his concern over drainage onto his property from the proposed subdivision. Mr. Waters noted that since Bell & Flynn had developed Marlhill Farms, the drainage has gotten worse on his property. Mr. Waters stated that the drainage problem had worsened since the Town has filled an area adjacent to Route 111 (Kingston Road) next to the proposed subdivision. Mr. Waters asked that the Board address this drainage problem. Mr. Kunick noted that beavers had dammed an area below Mr. Waters property which has caused some water to back up onto Mr. Waters property. Mr. Dewley indicated that the Board was dealing with drainage specifically from this proposed development. Mr. Mike Rafferty, Bell & Flynn provided an overview of the drainage design for this development. Mr. Rafferty indicated that the drainage design for this development would not produce any increase in the rate of runoff currently leaving the area, although the overall volume would increase.

Mr. Gordon indicated that Tillman Marshall had reviewed the drainage calculations for this development and that in fact, runoff from this parcel would decrease by 1 c.f.f.

Mr. Dawley closed the public testimony portion of the hearing and proceeded to identify a number of open issues, including the need for a waiver for only one sidewalk; proposed revisions in the draft agreement for conveyance of land to the Town for recreation purposes; sidewalks along Kingston Road and whether a lot line adjustment was necessary.

Ms. Hart moved to accept the sidewalk plan for Greybird Farm Circle and to not require a formal waiver request by the applicant from the Board's discretionary requirement for sidewalks on both sides of Greybird Farm Circle. Second Mr. Kenick. Discussion followed on whether it was necessary for the Board to vote on this issue of not exercising its discretion. Mr. Cayten moved the question. Vote 4-1 to move the question. Mr. Moyer voting no. The original motion by Ms. Hart was approved by 4-1, Mr. Moyer voting no.

Mr. Kenick moved to require that the developer construct a sidewalk along lot 8 (along Route 111) and provide an easement along lot 1 for future sidewalk construction by others. Second Ms. Hart. Mr. Rowe moved to amend the motion to include a sidewalk, to be constructed by the developer, along lot 1. Second Mr. Moyer. Mr. Gordon indicated that he believed that the Board was wrong in requiring the construction of a sidewalk in front of lot 1 and that if it was the Board's intent to do so, he would like to ask Town Counsel to review this requirement to advise the Board whether it was within its authority to impose such a requirement. Mr. Cayten asked the developer to address the request by the Board for a sidewalk in front of lot 1. Mr. Griset addressed the Board and indicated that he did not have a problem in granting an easement along lot 1 for the construction of a sidewalk within this easement. With respect to construction of the sidewalk along lot 1, Mr. Griset stated that he has a problem with the legality of this requirement. Mr. Griset pointed out that in addition to deeding land to the Town for recreation purposes, they were also proposing to deed land to the Town in excess of what was originally required. Mr. Kenick suggested that the amendment to the motion to require a sidewalk along lot 1 be reviewed by Town Counsel. Mr. Rowe described the proposed recreation land as an "attractive nuisance" that would produce pedestrian traffic and therefore justify the construction of a sidewalk along lot 1 by the developer. Mr. Moyer agreed that it was appropriate to require the construction of a sidewalk along lot 1. Mr. Rowe agreed to modify his amendment, to require the construction of a sidewalk along lot 1, by having Town Counsel, review the requirement for a sidewalk in front of lot 1 to determine whether there was any supportable basis for the Board to require the developer to construct this sidewalk. Second Mr. Moyer. Vote on Rowe amendment 3-2 (Rowe, Cayten and Moyer yes, Kenick and Hart no).

MR. ROWE: There was only one item on the agenda for the Town Council tomorrow.

Vote on Mr. Kenick's motion as amended by Mr. Rowe's amendment, 3-2 in favor of the motion (Rowe, Cayten and Moyer yes, Kenick and Hart no).

Mr. Kenick moved to amend the proposed agreement between the Town and Adela J. Griset, regarding the use of land to be conveyed to the Town for recreation purposes, by deleting the word "and" after basketball courts, to be followed by "soccer fields and swimming facilities", in the third subparagraph under paragraph 16. Mr. Kenick also moved to delete the word "ballfields" and replace with the words "recreational purposes", in the third subparagraph under paragraph 16. Second Ms. Hart. Vote 4-1 to approve. Mr. Cayten voting no.

Mr. Cayten moved to change the last sentence of the third subparagraph under paragraph 16, to read as follows: "Landscape screening to be approved by the Planning Board will be installed by the Town on the land conveyed to the Town by the petitioner, in order to shield the adjacent residential development from recreational use once said use is to actually occur." Second Mr. Kenick. Vote 5-0 to approve amendment to agreement.

Mr. Kenick moved to grant conditional approval to the subdivision, subject to:

1. modification of the proposed subdivision plans to show an easement for sidewalk construction along the entire frontage of the subject property along Route 111;
2. re-labeling of lot 9 to parcel "B" and lot 10 to lot 9, with lots 1-9 to be labeled parcel "A"; and
3. all administrative requirements as set forth in the memo from Zac Gordon, Planning Director to the Board, dated April 5, 1991 (attached).

Second Ms. Hart. Vote 5-0 to grant conditional approval.

#### OTHER BUSINESS:

#### Exeter Falls Estates, Case #8741

Mr. Gordon provided the Board with a progress update on this project. Mr. Gordon informed the Board that he, along with the Town Manager, George Olson and Town Council Dave Emel, had met on April 8th with the developer for this project and their attorney. At this meeting, the developer was informed that the Board would not proceed with re-vocating of this subdivision/site plan approval, as long as they stipulated their intent to post a bond for the completion of Exeter Falls Drive up through the 11th house lot by the close of business on April 11th (today).

Mr. Gordon stated that he had received a phone call from First Bank at 4:15 p.m. today and received assurance of their intent to post a bond for the completion of Exeter Falls Drive up through the fifth house lot. Mr. Kenick moved to delay any action by the Board on revocation of this subdivision/site plan approval until the Board's next meeting. Second Mr. Moyer. Vote 5-0 to delay any revocation proceedings.

#### Report of Nominating Subcommittee

Speaking on behalf of the nominating committee, Mr. Kenick indicated that the committee was recommending that Jeff Warnock be nominated as Chairman, Mik Dowley as Vice-Chairman and Pat Vaiside as Clerk. The nominations presented will be voted upon at the Board's April 25th meeting.

#### Report of Subcommittee on Land Use Attorney

Mr. Kenick moved that the Board go into executive session to discuss the report of the subcommittee. Second Mr. Rowe. Vote to go into executive session:

Mr. Moyer, yes  
Mr. Rowe, yes  
Mr. Cayten, no  
Mr. Kenick, yes  
Ms. Hart, yes


Mr. Kenick moved to come out of executive session. Second Ms. Hart. Vote unanimous (roll call taken).

Mr. Dowley indicated for the record that the Board had discussed one personnel matter concerning the selection of land use town counsel and that the following action had been taken:

Mr. Kenick moved to recommend to the Board of Selectmen that the law firm of Sanders & McDermott be retained as land use counsel for a period of one year, to be reviewed at that time. Second Mr. Moyer. Vote 3-2 to recommend the law firm of Sanders & McDermott. (Moyer, yes, Kenick, yes, Hart, yes, Rowe, no, Cayten, no)


There being no further business before the Board, Mr. Kenick moved to adjourn, second Mr. Moyer. Vote unanimous.  
Meeting adjourned at 10:25 p.m.

Respectfully submitted



Zachary D. Gordon  
Planning Director  
3/20/91

## Town of Exeter

Date: April 5, 1991  
Memo To: Planning Board  
From: Zac Gordon, Planning Director   
RE: Greybird Development Corp., Case #9101

The applicant is before the Board for a proposed nine (9) lot subdivision of a 41.4 acre parcel of land located off of Kingston Road in an R-1 Zoning District. The applicant is also requesting a lot line adjustment for the purpose of conveying 9.38 acres of the 41.4 acre parcel to the Town for recreation purposes.

The applicant met with the T.R.C. on March 12th. In attendance at this meeting were myself, John Sowerby, Engineering Technician (Public Works), John Carbonneau, Assistant Fire Chief, the applicant and his engineer. A number of plan changes were requested by the T.R.C. The applicant has incorporated these changes into the latest plan revision for this proposed subdivision.

### RECOMMENDATION

I am recommending that the Board grant approval to the proposed nine (9) lot subdivision and lot line adjustment, subject to the following conditions:

1. The applicant specify on the plans that all easements shall be given to the Town of Exeter.
2. The applicant prepare a 100% cost estimate for all public improvements. This estimate shall be reviewed by the Public Works and Planning Departments for accuracy.
3. A letter of credit be posted in the Town's favor, for the total cost of all public improvements. The applicant shall utilize the form letter of credit approved by the Planning Board. In lieu of this approach, per Section 4.80 of the "Subdivision Regulations": "the applicant may request approval of the final plat on the condition that streets, improvements and utilities be constructed to Town standards prior to the Board's signing the plat".
4. The applicant post a 3% inspection fee for roadway and utility improvements prior to final approval.
5. The applicant prepare a "Subdivision Agreement", utilizing the Board's standard agreement format.
6. The applicant complete all road work within 24 months.

:ZDG







Affidavit

I, Donna M. Houlne of 4148 Harks Wing Drive, Tucson, Arizona, hereby attest to the following facts:

I and my ex-husband Michael Maciak purchased an existing home in the subdivision called "Exeter Green" at 22 Cullen Way (Lot 9), Exeter NH and I resided there from September 14, 1993 through April 22, 2008.

Our friend Ann Burke of 13 Tamarind Lane (Lot 19), an original homeowner in the same neighborhood, was our Realtor when purchasing the home.

Prior to purchase through full disclosure she informed us of the Exeter Green Covenants and that the large, undeveloped parcel known as the "Remaining Land" along Tamarind Lane and behind 22 Cullen Way could/would be developed by "the people at the end of the street" (the Grisets) at some point in the future after 15 years.

That the future development would be far away from our home at the other side of the property near Greybird Farm Circle.

On September 14, 1993 we met with Brian Griset regarding the Amendment to the Covenants, requested for title purposes, to allow the sale of the reconfigured Lot 5. The vote authorized the Lot Line Adjustment approved earlier that year which transferred .91 acres back to the "Remaining Land" which would be developed in the future with an access to Tamarind over the old farm road. Upon the remaining 1.53 acres of Lot 5 a single-family home had been constructed which would remain under the Covenants. We signed the Amendment authorization on that date.

During the fifteen-year period I lived there it was common knowledge within the neighborhood that the Grisets' property was not subject to the Exeter Green Covenants and that it would be developed sometime in the future.

Signed this 25<sup>th</sup> day of June, 2021

Handwritten signature of Donna M. Houlne in cursive.

Donna M. Houlne

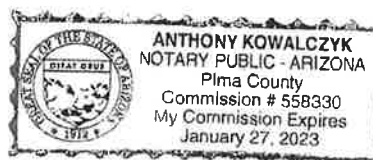
On this date Donna M. Houlne did personally appear before me and affirm the foregoing under penalties of perjury.

Date: 06-25-2021

Handwritten signature of the Notary Public in cursive.

Notary/Justice of the Peace

My Commission Expires: 01-27-2023



EXETER PLANNING BOARD

MINUTES

APRIL 22, 1993

Chairman Dawley called the meeting to order at 7:02 P.M. in the Nowak Room on the above date.

PRESENT: Mike Dawley, Chairman, Pete Valade, Vice-Chairman, Robert Rowe, Adele Holevas, Darden Rives, Barbara McEvoy, Planning Secretary, Zac Gordon, Town Planner.

GREYBIRD DEVELOPMENT CORP., CASE #9305

The application of Greybird Development Corp., for a lot line adjustment to property located at 8 Tamarind Lane, R-1 Zone.

Mr. Valade moved to accept the application for Board consideration, beginning the 90 day time period in which the Board must act; second Mr. Rives. VOTE: UNANIMOUS. APPLICATION ACCEPTED.

Mr. Brian Griset addressed the Board on behalf of Greybird Development Corp. Mr. Griset indicated that he has a purchase and sales agreement with the Town to purchase the subject property. Mr. Griset noted that the current parcel measures 2.44 acres and that he proposes to transfer .91 acres of this parcel to an adjacent parcel owned by his wife, Adela J. Griset, leaving a balance of 1.53 acres. Mr. Griset indicated that the lot line adjustment was being requested to straighten out the existing lot line and also to transfer the pond onto the land owned by his wife, for the recreational use of their children. Mr. Valade asked about the location of the pond? Mr. Griset pointed out the pond location on the topography map. Mr. Dawley noted that the applicant had requested a waiver from the requirement for a high intensity soils map. Mr. Gordon provided a brief explanation of the difference between high intensity mapping and soil conservation service mapping, noting that high intensity mapping was more accurate. Mr. Valade asked for the applicant to point out the required 150' frontage on Tamarind Lane. Mr. Dawley noted that the proposed driveway for this parcel would require a wetlands permit from the State. Mr. Dawley asked about the "dotted" line along the edge of the pond. Mr. Griset noted that this was an existing gravel road. Mr. Valade noted that the pond would still be located on two (2) lots and asked if it would make more sense to put it on one (1) lot? Mr. Griset indicated that he did not want to have any more "jogs" in the property line. It was noted that a fence would enclose the pond entirely on the lot owned by Adela Griset.

Mr. Dawley asked if there were any members of the public who wished to address the Board.

Mr. Whitney Weller, 4 Tamarind Lane, asked if the soils depicted on the plan were from the original subdivision plan for this development? Mr. Griset indicated that they were. Mr. Weller expressed his concern about the additional runoff that would result from filling on this lot. Mr. Weller noted that the area was underlain with clay, resulting in poorly drained (wet) soils. Mr. Weller also noted that several lots drain into the pond and that the original developer had constructed the road on this lot to create the pond for firefighting purposes. Mr. Weller was concerned that additional filling on this lot and movement of the current driveway into the subject property

would result in an increase in runoff and potentially water in his basement. Mr. Weller also expressed concern about locating a home in a "non-wetland" area. Mr. Dawley indicated that the subject parcel was currently a buildable lot and that his concern was what if any effect the proposed lot line adjustment would have on the buildable status of this property.

Mr. Steve Kessinger, 6 Tamarind Lane, addressed the Board with the following concerns:

1. Drainage - The proposed relocation of the driveway will result in an increase in water in his basement as the water table is raised.
2. Wetlands - The proposed lot line adjustment will result in an unnecessary burden on the wetlands, as it will force the driveway location to be moved to the other (west) side of the lot and require the filling of wetlands.
3. Odor - Mr. Griset proposes to graze animals on his property which will result in the use of the pond as a watering hole, rather than a recreational area. Section 5.90 of the Zoning Ordinance, Performance Standards, addresses the matter of odor. The grazing of animals will produce animal waste with the associated odor in such a quantity that will result in depriving Mr. Kessinger of the enjoyment of his property.

Mr. Kessinger closed by indicating his opposition to the proposed lot line adjustment for the reasons stated above and noted that use of the property as is, would result in no detrimental impact on either the wetlands or the adjacent properties.

Mr. Dennis Barbato, 10 Tamarind Lane, asked about the covenants which applied to this subdivision. Mr. Dawley noted that any covenants which covered this lot would still be applicable. Mr. Barbato expressed his concern that any lot line adjustment would create more of a water problem in the future.

Mr. Kessinger indicated that he had spoken to Jody Pellerin of the Conservation Commission who had suggested to him that if there were to be a lot line adjustment, that he suggest to the Board that a high intensity soil survey be done.

Mr. Don Cotton, Cullen Way addressed the private covenants regarding minimum building square footage. Mr. Dawley reiterated that the covenants would continue to apply to this parcel. Mr. Cotton noted that Mr. Griset's home on Cullen Way did not comply with the covenants. Mr. Griset pointed out that his property was not subject to these covenants.

Mr. Griset addressed that Board in response to the comments of the abutters. Mr. Griset noted that using the existing driveway on this parcel to access the buildable land to the rear would require filling a greater amount of wetlands than if the driveway was located on the western side of the lot. With respect to the issue of drainage, Mr. Griset noted that the proposed location of the house was at an elevation of 52'. Mr. Griset also noted that the differential in elevation between the pond and Mr. Kessinger's property was 12' and that Mr. Weller's house was at an even higher elevation. Mr. Griset noted that the culvert which would be installed as part of the proposed driveway to be built, would handle 4-5 times the amount of runoff that would be produced. Mr.

Griset also noted that the telephone easement was to be abandoned by the telephone company and would therefore no longer represent an encumbrance on the property. Mr. Griset explained to the Board that the proposed driveway to be located on the west side of the lot in question would have 60% less impact on the wetlands (fill area) than that associated with the driveway on the east side of the pond. Mr. Griset reiterated that any home built would comply with the covenants. Mr. Griset noted that there was no intention to use the pond for swimming, or for watering animals but for winter sports (i.e. skating). Mr. Griset noted that any watering of animals would be through the use of concrete catch basins.

Ms. Wendy Stanley-Jones spoke in support of the application. Ms. Stanley-Jones noted that the State Wetlands inspector had commended Mr. Griset on his concern for the wetlands indicating that if more developer took his approach, her job would be a lot easier. Ms. Jones also noted that the application before the Board was for a lot line adjustment and that the Wetlands Board would have to rule on any application for a driveway fill permit. With respect to the comment earlier regarding Ms. Pellerin's input, Ms. Stanley-Jones noted that Ms. Pellerin would normally attend a Planning Board meeting if she had any concerns and that her absence was an indication that she did not have any concerns about the proposed lot line adjustment.

Mr. Gordon clarified that the proper forum for comments regarding the proposed filling of wetlands was the Wetlands Board. Mr. Kessinger indicated that his concern was that by approving this lot line adjustment, the Board was effectively precluding the location of a driveway on the east side of the pond. Mr. Gordon noted that the Wetlands Board will approve or disapprove a fill application based on the merits of the application. Mr. Gordon also noted that any concerns of the Conservation Commission would be conveyed to the Wetlands Board at the time an application is filed with the Board.

Mr. Dawley noted that the Board could only operate within its authority vis-a-vis the proposed lot line adjustment.

Mrs. Kessinger indicated that Ms. Pellerin had walked the subject property with her yesterday afternoon and that she had indicated that a high intensity soil survey should be done.

Mr. Dawley closed the public hearing portion of the meeting.

Mr. Valade expressed concern about reducing the width of the lot in the center of the property. Mr. Dawley noted that the rear lot line was 240' and that the lot was well in excess of the minimum 40,000 sq. ft. Mr. Rives indicated that based upon the abutters concern about drainage, he would favor requesting a study to investigate this matter further.

Mr. Dawley addressed two (2) waiver requests by the applicant, which related to the provision of a high intensity soil survey. Mr. Dawley reviewed the criteria for granting a waiver. Mr. Rives indicated that he was opposed to granting the waiver request because of topography. Mr. Valade asked for clarification on the hardship basis for granting this waiver. Mr. Dawley noted that it was important to focus on the issue of what would be gained by requiring a high intensity soil survey. Mr. Valade noted that such a survey would give the Board a better measure of buildable vs. non-buildable land.

Mr. Gordon noted that wetlands would have to be filled and crossed under any scenario in order to access the buildable land located to the rear of the lot. Mr. Gordon reiterated that the wetlands board would have the option to approve or deny any fill application based upon the merits of such an application. Ms. Holevas indicated that she agreed with Mr. Gordon, and that there were opportunities down the line for the abutters to address their concerns. Mr. Dawley indicated that Jody Pellerin's testimony could be requested prior to the Board acting upon the waiver request. Mr. Rowe also noted that he would like to hear what Jody had to say. Mr. Valade indicated that Ms. Pellerin had the opportunity to make her concerns known at this public hearing if she wished to but that she had not. Mr. Rowe stated that by reducing the lot size, the Board would be increasing the hardship for the applicant in his attempt to obtain a permit from the Wetlands Board. Mr. Rowe moved to table the application subject to receiving comments from Jody Pellerin regarding the need for a high intensity soil survey; second Mr. Rives. VOTE: 3-1 (Mr. Valade nay). APPLICATION TABLED UNTIL MAY 13TR.

#### COURMA LTD., CASE #9221

Continuation of public hearing on the application of Courma Ltd., for a ten (10) lot commercial subdivision. Property located at the corner of Route 101 and Watson Road, C-3 Zone.

Mr. Valade stepped down from the Board due to fact that he is an abutter to the proposed subdivision. Mr. Gordon indicated that the Board had tabled this application at its April 8th meeting, pending an assessment from the RCCD on whether or not a high intensity soil survey was necessary for this property. The Board had expressed concern that there was insufficient buildable area for several of the proposed lots, due to the presence of wetlands and the required well radii for. Mr. Gordon noted that since that time, the applicant had decided to prepare a high intensity soil survey to confirm the presence of the required minimum area for buildable lots. Mr. Page Brown, representing the applicant indicated that the revised plans showed high intensity soils classification as well as well radii and required setbacks. Mr. Gordon noted that he had only received the revised plans this afternoon and that he had noticed that lot # 1 did not have any test pit information. Mr. Brown confirmed that this was the case. Mr. Brown indicated that the State does not require test pit information for lots over five (5) acres. Mr. Gordon indicated that the Town requires test pit information, regardless of the size of a lot. There was some discussion regarding applicability of the Town's regulations to this application. The Board concluded that all lots would require test pit data.

Mr. Dawley asked if there were any members of the public who wished to address this application. Mr. Peter Valade, 10 Deer Run Road, indicated that the abutters listed on the plan were accurate, however several were incorrectly connected to certain lots and should be corrected. Other than this comment, Mr. Valade indicated that he endorsed the proposed subdivision.

Ms. Holevas moved to conditionally approve the proposed subdivision, subject to the receipt of test pit data for lot #1, the abutters list be corrected. DISCUSSION: Mr. Gordon noted that the applicant had also requested a waiver from the requirement for installing monumentation and that he had suggested to



relocation of the curb cut for review prior to the Board granting approval. Mr. Rafferty indicated that the plan would be forthcoming as Bell & Flynn did not want to delay progress on the RiverWoods project.

There were no other abutters or interested parties present to speak on the application. Chairman Dawley called the public portion of the meeting to a close.

Mr. Gordon indicated that the applicant was requesting that the Board approve the proposed changes and that the construction drawings become the "official" set of plans for the project, noting that this revised set of drawings would serve as the basis for the Town's monitoring of all required site improvements. Mr. Gordon stated that, at his request, the applicant's engineer compiled a list of the changes, both substantive and non-substantive for review by the Technical Review Committee (TRC). He noted that the non-substantive changes consist primarily of note additions and deletions as well as reorientation of the plan information.

Mr. Valade stated that he was comfortable with having the non-substantive changes reviewed by the TRC and did not feel it was necessary for the Board to review and act on each of them, although he indicated that it would be necessary for the Board to act on the substantive changes, as those presented. The other Board members present concurred with Mr. Valade's statement.

Mr. Valade asked if the Board had placed any time limit on the commencement of Phase II. Mr. Gordon indicated that this condition was addressed in the Site Review Agreement, and noted that the agreement stated that construction of Phase II would commence within eighteen (18) months of the completion of Phase I.

There being no further Board discussion, Ms. Holevas moved to approve the proposed changes, as addressed in Mr. Gordon's memo of 5/7/93, and to accept the revised construction drawings (Sheets #1-9) as the official site plan for the project; second by Mr. Valade. Discussion: Addressing Bell & Flynn's interest in the project, it was noted that there was no objection from the Board regarding the relocation of the "future" curb cut for the proposed Phase II Condominium project. VOTE: 4-0. MINOR SITE PLAN (MODIFICATIONS) APPROVAL GRANTED AND CONSTRUCTION DRAWINGS (SHEETS #1-9) ACCEPTED AS THE OFFICIAL SITE PLAN FOR THE PROJECT.

GREYBIRD DEVELOPMENT CORPORATION, CASE #9305

Continued public hearing on the application for a lot line adjustment to property located at 8 Tamarind Lane, R-1 Zone.

Chairman Dawley indicated that the Board had tabled this application at its April 22nd meeting subject to receiving comments from Jody Pellerin regarding the need for a high intensity soil survey. Mr. Gordon indicated that he had spoken with Ms. Pellerin and that she had indicated that she did not feel it was within the jurisdiction of the local Conservation Commission to comment on a lot line adjustment; she also advised Mr. Gordon that her absence from a meeting should be an indication that she has no concern, noting that if she was unable to attend and there was a concern, her comments would be submitted

PB Meeting: 5/13/93

in writing or expressed to Mr. Gordon and relayed to the Board. Mr. Gordon indicated that Mr. Griset had a high intensity soils survey done which is reflected on the revised plans.

Mr. Whitney Weller, 4 Tamarind Lane, commented that the private covenants for the subdivision prohibited further subdivision of the parcels. Chairman Dawley responded by explaining that the Board was not authorized to enforce private covenants, nor alter their decisions because of those covenants. He read a portion of the article "Legal Questions and Answers", written by Bernard Waugh, Jr., legal counsel for the New Hampshire Municipal Association (NHMA) which appeared in the January, 1991 edition of New Hampshire Town & City magazine addressing this issue. Chairman Dawley also indicated that Mr. Gordon had checked with Town Counsel and was advised the same.

Mr. Steve Kessinger, 6 Tamarind Lane, stated that after meeting with Mr. Griset, he was withdrawing his opposition to the proposed lot line adjustment because he really did not have a logical argument for opposing it. He indicated that he had obtained, in writing, a statement from Mr. Griset addressing his personal concerns: the pond would not be used for grazing of animals and the continuation of the fencing would not include barbed wire.

Mr. Weller indicated that Mr. Griset had transferred the ownership of the property and asked if there was any correspondence on file authorizing Mr. Griset to represent the new owner. Mr. Griset indicated that Mr. Weller's statement was correct and that he would provide the Board with a letter from the owner authorizing himself to appear on the owner's behalf.

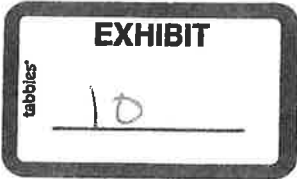
Mr. Dennis Barbato, 10 Tamarind Lane, questioned the potential for future development.

There being no further public comment, Chairman Dawley called the public hearing to a close.

Mr. Griset stated that, for the record, he was formally withdrawing his waiver request from the requirement to provide a high intensity soils survey.

Mr. Valade commented that he did not believe that the agreement between Messrs. Griset and Kessinger should be included as a condition of any approval the Board may render; all Board members concurred. Mr. Gordon indicated that the Board's regulations specify that the Planning Board is responsible for the recording of subdivisions only, not lot line adjustments. Mr. Valade asked if a Certificate of Monumentation form would be required from the surveyor; Mr. Gordon indicated that it would not.

There being no further discussion, Mr. Valade moved to approve the lot line adjustment, as presented, subject to the submission of a letter from the owner of the property authorizing Mr. Griset to represent him; second by Ms. Holevas. VOTE: 3-0. LOT LINE ADJUSTMENT APPROVED. (Mr. Swartz departed from the meeting during this public hearing. 8:10 P.M.)



WARRANTY DEED

2984 P1377

KNOW ALL MEN BY THESE PRESENTS, that I, TIMOTHY RIESER, 27 Winding Brook Drive, Stratham, County of Rockingham, and State of New Hampshire,

FOR CONSIDERATION PAID, GRANT TO ADELA J. GRISET, of 26 Cullen Way, Exeter, County of Rockingham, and State of New Hampshire,

WITH WARRANTY COVENANTS, the following described premises:

A certain tract or parcel of land, without buildings, situated on the Easterly side of Tamarind Lane, in Exeter, County of Rockingham, State of New Hampshire, and being described as "Area to Be Transferred from Lot A to Lot B" on plan of land entitled, "Lot Line Adjustment in Exeter, N.H., Tamarind Lane for Greybird Development Corp.," dated May 13, 1993, and recorded in Rockingham County Registry of Deeds as Plan #D-22221, and being more particularly bounded and described as follows:

Beginning at the iron pin on the Easterly side of Tamarind Lane at Lot B as shown on said Plan; thence North 14° 53' 44" West by Tamarind Lane, 31.20 feet to an iron pin at Lot A as shown on said Plan; thence North 26° 50' 56" East by said Lot A, 523.16 feet to an iron pin at land now or formerly of Daniels and said Lot B; thence South 48° 14' 02" East by said Lot B, 378.12 feet to an iron pin; thence South 38° 35' 18" West continuing by said Lot B, 523.48 feet to the iron pin at the point of beginning. Said area to be transferred from Lot A to Lot B contains 0.91 acres.

Together with the above described premises, there is also conveyed a right-of-way 75 feet in width over the remaining area of Lot A running from Tamarind Lane to the above described premises, being bounded and described as follows:

Beginning at a point on the Easterly side of said Tamarind Lane, which point is 12.00 feet, Southerly along Tamarind Lane from the iron pin at the Southwesterly corner of Lot A, which iron pin is also at the Southeasterly corner of land now or formerly of Kessinger, as shown on said plan; thence North 66° 28' 53" East by said Lot A, 152.72 feet to a point at the land herein conveyed; thence South 26° 50' 57" West by the land herein above conveyed, 117.58 feet to a point; thence South 66° 28' 53" West by Lot A to a point on the Easterly side of said Tamarind Lane; thence by the arc of a curve to the left having a radius of 472.62 feet by Tamarind Lane, 75.16 feet to the point of beginning. Said easement area contains 0.19 acres.

There is granted herewith the perpetual and exclusive right to pass and repass over and upon the above described premises to construct, develop, improve and maintain the right-of-way for all

MAY 24 10 18 AM '93

002375

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS



BA 2984 P1378

customary purposes of ingress and egress to and from other land of the Grantee which lies Easterly of the above described premises. To have and to hold the same unto the Grantee and her heirs, executors, successors and assigns forever.

Meaning and intending to convey a portion of the premises conveyed by Adela J. Griset to Timothy Rieser, by deed dated April 30, 1993, and recorded in Rockingham County Registry of Deeds, at Book 2980, Page 365.

The above described premises are not the homestead property of the Grantor.

No revenue stamps are required, pursuant to New Hampshire RSA 78-B:2V, as they were previously affixed to the deed from Adela J. Griset to Timothy Rieser, dated April 30, 1993, and recorded in Rockingham County Registry of Deeds, at Book 2980, Page 365, this conveyance being a part of that transaction.

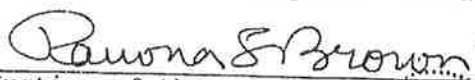
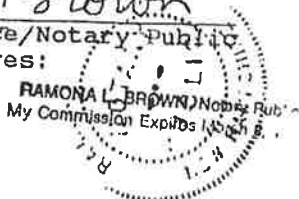
Executed this 21st day of May, 1993.

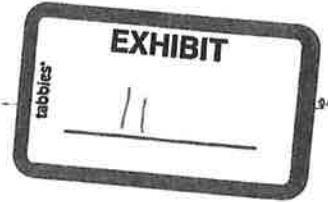
  
TIMOTHY RIESER

STATE OF NEW HAMPSHIRE  
ROCKINGHAM, SS

May 21, 1993

Personally appeared TIMOTHY RIESER and acknowledged that he executed the foregoing instrument for the purposes contained therein. Before me,

  
~~Justice of the Peace/Notary Public~~  
My Commission Expires:  




3011 P0208

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

LIMITED AMENDMENT  
TO  
PROTECTIVE COVENANTS  
OF  
EXETER GREEN SUBDIVISION  
ROUTE 111, EXETER  
(FORMERLY THE "MEADOWS")

0051945

OCT 12 8 21 AM '93

Whereas, the Exeter Green Subdivision, (formerly known as "the Meadows") located on the Southeasterly side of Route 111, in Exeter, New Hampshire is subject to certain protective covenants dated 2/18/85 and recorded in the Rockingham County Registry of Deeds at Book 2535, Page 75; (as amended at Book 2544, Page 2601); and;

Whereas, after the recording of said protective covenants the boundary lines for Lot #5 in said subdivision were modified, changed or adjusted by plans recorded in the Rockingham County Registry of Deeds, said plans being more particularly identified as follows:

"Lot Line Adjustment in Exeter, New Hampshire, Tamarind Lane for Greybird Development Corp." by Paul F. Nichols CE, dated March 25, 1993 and recorded in the Rockingham County Registry of Deeds at D-22221; and

Whereas there exists a question as to the propriety and or permissibility of these Lot Line Adjustments under Paragraph "O" of the Protective Covenants.

Now, Therefore, We the undersigned, being a majority of the owners of the improved lots (Lots 1-25) in said subdivision do covenant and agree as follows:

a) The Lot Line Adjustments set forth on the above referenced plan are hereby accepted and approved as recorded, and to the extent necessary, the Protective Covenants are amended to permit said Lot Line Adjustments and to permit any "lease, conveyance or sale" of the resulting or adjusted lot;

b) In all other respects the protective covenants recorded at Book 2535 Page 75 in the Rockingham County Registry of Deeds and as amended at Book 2544 Page 2601 are reaffirmed and shall continue in full force and effect.

Executed at Exeter, New Hampshire on the dates set forth below:

Executed on Sept 1, 1993 by Kevin J. O'Leary and Susan W O'Leary, owner(s) of record of Lot 7, Exeter Green Subdivision.

*Kevin J. O'Leary*  
Kevin J. O'Leary

Please see additional  
plan attachments under  
“Supporting Documents”  
posted for this meeting



# TOWN OF EXETER

## *Planning and Building Department*

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

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

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**Date:** July 8, 2021  
**To:** Planning Board  
**From:** Dave Sharples, Town Planner  
**Re:** Scott W. Carlisle III PB Case #20-21

The Applicant has submitted plans for an open space subdivision and a Wetlands Conditional Use permit for a proposed single-family open space development and associated site improvements on a 97.99-acre parcel located at 19 Watson Road. The subject parcel is situated in the R-1, Low Density Residential zoning district and is identified as Tax Map Parcel #33-26.

The Applicant submitted an entire package with a yield plan and an Open Space Subdivision plan, dated 4/1/21, and a revised yield plan dated 5/21/21. At its June 10<sup>th</sup>, 2021 meeting, the Board voted to accept the Yield Plan (dated 5/21/21) for a 12-lot single family open space development, as presented. Further discussion on the application for the open space subdivision was scheduled for the July 15<sup>th</sup>, 2021 meeting with appropriate legal posting and notice to abutters.

The materials have been reviewed by Town departments and Underwood Engineers (UEI). A copy of the TRC and UEI comments letters are enclosed for your review. The applicant will provide revised plans and address the comments at a later date.

The Applicant appeared before the Conservation Commission at their June 8<sup>th</sup>, 2021 meeting for review of the Wetlands Conditional Use Permit application. At that meeting, the Commission voted to table any recommendation(s) on the CUP until a later date. It was recommended that the Applicant return with a revised plan set and wildlife assessment and possibly Mr. Jim Gove (Gove Environmental Services) to discuss his report. A copy of the ConCom meeting minutes are enclosed for your review. As stated in our regulations, the Board shall consider the written recommendation from the Conservation Commission when deliberating on the issuance of CUP. I reached out to the applicant and was informed that they will not be attending the July Con Comm meeting. In light of this, I have asked the applicant if they intend to move forward on this agenda but haven't heard back. As soon as I know, I will inform the Board. If they do move forward on July 15<sup>th</sup>, the board could have the presentation and public hearing but I would recommend tabling the application until a date after the Con Comm meeting.

The Applicant is requesting one waiver from the Board's Site Plan Review & Subdivision Regulations. The waiver request letter prepared by Jones & Beach Engineers and dated March 30, 2021 is enclosed for your review.

**Planning Board Motions:**

**Table Motion:** I move that the application of Scott W. Carlisle III (PB Case #20-21) be TABLED to the (date/time) Planning Board meeting and revised plans/documents shall be submitted to the Planning Office on or before (date) or the application may remain on the table to a future meeting.

# TOWN OF EXETER

## *Planning and Building Department*

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

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

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**Date:** July 8, 2021

**To:** Barry Gier, P.E., Jones & Beach Engineers, Inc.  
**CC:** Scott Carlisle, Applicant

**From:** Dave Sharples, Town Planner

**Re:** Subdivision / Site Plan Review TRC Comments  
PB Case #20-21 - Scott W. Carlisle III  
Open Space Subdivision – 19 Watson Road  
Tax Map Parcel #33-26

The following comments are provided as a follow-up to the review of the open space subdivision/site plans and supporting documents submitted on 4/1/21 for the above-captioned project. No TRC meeting was scheduled and materials were reviewed independently by Town departments and Underwood Engineers, Inc. (UEI).

### **TOWN PLANNER COMMENTS**

1. Cover sheet lists the Town of Exeter for the water and sewer but there are no municipal services at this location. Please revise accordingly.
2. Provide HOA documents that include language on the roadway, drainage easements and use of the open space. Make sure to mention rain gardens on individual lots.;
3. Please add Prime Wetland boundary to the Legend;
4. Was the prime wetland boundary field delineated? Does it meet the state definition of a prime wetland that includes any contiguous wetlands?
5. Identify significant trees per Section 7.4.7
6. Revise plans so vernal pool is fully within the protected open space.

### **PUBLIC WORKS COMMENTS**

1. Drainage Study:
  - a. The flow path for watershed 11S is shown through a proposed house.
2. Cover sheet
  - a. Electric service is provided by Unitil.
  - b. The locus plan is labeled incorrectly.
3. Yield Plans

- a. Show contour labels.
  - b. The well location for lot 1 isn't suitable. "(d) A protective well radius shall not extend across a property line onto a public road unless use of other lands listed in We 602.08(c) above, is not available, or not practicable."
  - c. How are the 4k septic areas shown in areas determined? They should meet all design requirements.
4. Grading and Drainage:
- a. Add more contour labels.
  - b. Show grading for the house, driveway, and well access on lots 1, 2, 11, and 12. This will impact the limits of disturbance and buffer impacts.
  - c. The rain gardens should be located to collect runoff from proposed impervious surfaces.
  - d. Provide access to the infiltration basin outfall, wells, and septic systems for maintenance
  - e. The proposed treeline should match the limits of disturbance, including access roads to the wells, septic, and drainage structures.
  - f. Note 18: change the inspection frequency to every 0.25 inches of rainfall instead of 0.5 inches of rainfall to coincide with the 2017 Construction General Permit. Also shown on Sheet E1.
  - g. How does the proposed grading impact the watershed areas for each of the vernal pools? Will there still be sufficient runoff contributing to the vernal pools?
  - h. The riprap apron for the stormwater outfall is shown perpendicular to the discharge pipe. This should be revised to align with the direction of flow and match the detail.
  - i. Confirm that the drainage pipe between CB-102 and CB-103 has sufficient cover due to the vertical curve of the road.
5. In addition to Digsafe, add DPW (603-773-6157) to be contacted to locate water, sewer, and drainage.
6. The O&M plan should be a separate document that addresses the maintenance of the drainage system after construction and should include a plan that labels all of the drainage features and snow storage areas. Do not include construction phase activities in this document if they do not apply to the completed project. DPW suggests adding a note about the NHDES Green Snow Pro certification program for winter maintenance prior to town acceptance of the road.
7. ADD NOTE: The contractor must obtain a valid utility pipe installer's license and the job supervisor or foreman must be certified by the town before working on any water, sewer, or drainage pipes that are in a town street or right of way, or that will connect or may be connected to a town water, sewer, or drainage system. A licensed supervisor or foreman must be present at the job site at all times during construction of these utilities.
8. Show proposed electric/telecommunications/gas including transformers, pedestals, and cabinets. The proposed utility pole should be located outside of the ROW. Coordinate with Unitil for drop pole location. Gas and electric layouts approved by Unitil are required for the final plans and before scheduling a pre-construction meeting.
9. Provide a street light at the cul-de-sac.

#### Details

10. The total depth of asphalt for the sidewalk should be 2.5 inches.

11. The typical road section references underdrains as directed by the town. The underdrains should be designed by the applicant's engineer and approved by the town. The electric/telephone shown doesn't match the detail shown on another sheet.

### **FIRE DEPARTMENT COMMENTS**

1. Cisterns previously mentioned at the first meeting. Ass't. Fire Chief Pizon is requesting that the architect incorporate a 30,000 gl cistern for the project. Depending on the overall length of the road, somewhere close to Watson Road. For example, If the road is say a half mile, it will make more sense to have it somewhere close to the middle.

### **NATURAL RESOURCE PLANNER COMMENTS**

#### Overall:

1. It may just be the printing on my copy but sheets do not appear consistent with the symbols used for boundary lines/etc. It would also be helpful if the large scale sheets included topo.
2. Add wetland scientist stamp
3. Wetlands note states they were surveyed June. When was VP determination made?

#### Natural Resources Plan:

4. Per SS 7.12, with requirements detailed in SS 9.8.1, I recommend a natural resource plan to evaluate potential for direct and indirect impact to the sensitive resources surrounding and within this development. Special attention to impacts on vernal pools from grading, blasting which I assume will be necessary, loss of connectivity to upland habitat for wetlands interior to development and the long-term occupation of homes (fertilizer, mosquito spraying, etc).

#### Existing Conditions:

5. Add existing woods road

#### Subdivision Plan:

6. The access road has significant buffer impacts and requires grading as close as 50' of a vernal pool. Appears impact could be further minimized through retaining block wall.
7. Though I recognize this is a subdivision plan, in order to fully understand the cumulative impacts from this development, I recommend showing grading lines in sensitive areas. Specific attention to the following lots/concerns:
  - Driveway grading: Shared drive Lots 1&2, Lot 12
  - Grading for house: Lots 2, 3 & 8
8. I am concerned that with the number of catch basins presented all containing sumps, there will be significant risk for amphibian mortality. Can a sump-free design be implemented here?



9. Please add note indicating erosion control matting/blankets will be limited to natural materials and do not contain woven or biodegradable plastics as they create an entrapment hazard for wildlife.

Wetlands CUP:

10. Criteria 3. Not provided. For clarity, this requires an impact evaluation that considers the functions and values, project related impacts, etc. Not just a F/V report.
11. Criteria 4. Appears additional minimization can occur through use of retaining walls. I do not understand the statement re: Lot 3 (should it say Lot 2)?

Open Space:

12. Please clarify recreation space and open space. Per SS 9.6.3.3 they cannot overlap. I assume there is but please confirm there is enough acreage in the natural area to meet both requirements?
13. Can you clarify if the intent is for the natural area to be open to the public and under what mechanism it will be protected (deed restriction, easement, or conveyance to town). If open to the public, where would access be located? I do not see any ROW leading to the back portion.

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Please submit any revised plans along with a letter responding to these comments (and other review comments, if applicable) no later than (DATE to be determined) but sooner if possible, to allow staff adequate time to review the revisions and responses prior to the planning board hearing.

2636.00

May 4, 2021

David Sharples, Town Planner  
Town Planning Office, Town of Exeter  
10 Front Street  
Exeter, NH 03833

**Re: *Watson Road Residential Subdivision  
Design Review Engineering Services***  
Exeter, New Hampshire

**Site Information:**

---

Tax Map/Lot#:	33/26	Review No. 1
Address:	19 Watson Road	
Lot Area:	97.99 ac	
Proposed Use:	Residential	
Water:	Individual onsite wells	
Sewer:	Individual onsite septic systems	
Zoning District:	R-1	
Applicant:	Scott W. Carlisle III, 14 Cass Street, Exeter, NH 03833	
Design Engineer:	Jones & Beach Engineers, Stratham, NH	

**Application Materials Received:**

- Site plan set entitled “Carlisle Subdivision” last revised 3/30/2021, prepared by Jones & Beach.
- Site plan application materials, including waiver requests, prepared by Jones & Beach.
- Conditional Use Permit Application, prepared by Jones & Beach.
- Drainage Analysis and Stormwater Management O&M Manual, dated 2/25/2020, prepared by Jones & Beach.

Dear Mr. Sharples:

Based on our review of the above information, in addition to comments provided by the Town, we offer the following comments in accordance with the Town of Exeter Regulations and standard engineering practice. **Please note** a review of a prior submission was performed. However, the Applicant pulled the submittal for revisions before our comments were written and sent out, so this letter has been labeled as Review No. 1 for the resubmittal received by our office on April 12, 2021.

General and Administrative Comments

1. **Access to Map 40, Lot 15:** How is access to Map 40, Lot 15 being maintained post-development.

Design Plans

2. **Locus Map:** A North arrow should be added to the locus plan on the cover sheet and all applicable sheets in the set.
3. **Access to Wells:** A couple of the wells are depicted at the far reaches of the property, hundreds of feet from the dwelling locations. This will require significant disturbance for access including possible disturbance to the buffer. It appears that some lot line adjustments could be made to allow for improved placement locations proximal to the serviced dwellings.
4. **Sidewalk:** We recommend the 4' grass strip between the sidewalk and the roadway be eliminated due to DPW maintenance requirements for mowing and plowing. We defer further comments regarding the sidewalk location to the DPW.

Stormwater Modeling and Design

5. **Cover Sheet:** The report should be dated.
6. **Treatment:** Provide TSS, nitrogen, and phosphorous calculations for the WQV per the Exeter Site and Subdivision Regulations section 9.3.2.6.
7. **Rainfall Amounts:** The rainfall amounts for the evaluated storms do not appear to be correct.
8. **Subcatchments:** Most of the study area, both pre- and post- is contained within 3 subcatchments. For both pre- and post- models, run-off volumes,  $Q_s$ , appear to be larger than one might expect from the subject property. It appears that reducing the size of the large subcatchments or adjustments to the Times of Concentration, ( $T_c$ s), may be warranted. An example being: EX-WS-3 (Pre) is marginally larger than PR-WS-124S (Post), however with a relatively longer  $T_c$ , such that WS-124S has a greater run-off  $Q$  than WS-3.
9. **Vernal Pools:** The pre- vs. post- flows to each of the affected vernal pools should be evaluated.
10. **Rain Gardens:** It is noted the rain gardens are designed as part of the stormwater treatment and control system. Therefore, they must be constructed as part of the road construction work, rather than waiting until the individual lots are developed. Maintenance by individual homeowners is a concern, since failure of individual rain gardens will result in additional flow onto the roadway which is proposed to be a public road, maintained by the Town. Test pits should be performed at each of the proposed locations to confirm infiltration rates and ESHWT.
11. **Catch Basin Locations:** The location of the driveways should be coordinated through final design so they line up with driveway locations. Catch basins should be uphill of driveway cuts to the extent practicable. Any changes to driveway locations during construction will require approval by the Town DPW.

- 12. Stormwater Pond:** It appears that the applicant intends that the Town of Exeter DPW to assume operation and maintenance of the stormwater pond post construction. We defer comments related to this intent to the DPW.
- 13. ESHWT:** Is the ESHWT listed in the infiltration calculations assumed? If so, this needs to be confirmed.
- 14. Missing Items:** The drainage report is missing a number of items required for the eventual AOT permitting needs, as well as to evaluate portions of this application. Some items noted as missing include BMP spreadsheets, pollutant loading calculations, HISS and/or SSS Survey, test pits for ledge and groundwater information.
- 15. Climate Risk:** Please note Exeter regulation section 9.3.3.6 requires the applicant to evaluate the effects of sea level rise. A discussion should be added to the narrative.

A written response is required to facilitate future reviews.

Please contact us if you have any questions.

Very truly yours,

UNDERWOOD ENGINEERS, INC.

Allison M. Rees, P.E.  
Project Manager

Robert J. Saunders, P.E.  
Senior Project Engineer

Exeter Conservation Commission  
June 8, 2021  
Virtual Meeting  
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, Dave Short, Treasurer, Alyson Eberhardt, Kristen Osterwood, Julie Gilman Select Board Liaison, Conor Madison, Alternate, Bill Campbell, Alternate (@7:54), Donald Clement, Alternate (until 8:21 PM), and Kristen Murphy, Natural Resource Planner.

Members present indicated there was no one else present in the room with them during this meeting.

Absent, Carlos Guindon, and Nick Campion

Mr. Koff read the meeting preamble indicated that an emergency exists and the provisions of RSA 91-A:2 III (b) are being invoked. As federal, state and local officials have determined gatherings of ten or more people pose a substantial risk to the community and the meeting imperative to the continued operation of Town and government and services which are vital to public, health, safety and confidence. This meeting will be conducted without a quorum physically present in the same location and welcome members of the public accessing the meeting remotely.

Mr. Koff called the meeting to order at 7 PM and indicated Alternates Donald Clement and Conor Madison would be active and voting for this meeting.

2. Public Comment (7:00 PM)

Mr. Koff asked if there were any members of the public who wanted to speak to an item not on the agenda and being none closed public comment.

3. Election of Officers

Mr. Koff noted that the Select Board appointed Kristen Osterwood and Nick Campion as regular members of the Conservation Commission.

Ms. Gilman noted the Governor is expected to lift the Emergency Order which will mean meetings will be back in person. A hybrid option is being looked into at the Select Board meeting Monday night.

Mr. Koff read the proposed slate of officers:

Chair – Andrew Koff

Vice Chair – Trevor Mattera

Treasurer – Dave Short

Mr. Koff noted the positions held by Ginny Raub as Alternate and Sally Ward as a regular member and Clerk of the Commission are vacant. Ms. Osterwood offered to serve as Clerk.

MOTION: Mr. Koff motioned to nominate Kristen Osterwood as Clerk and the slate of officers as presented. Mr. Short seconded the motion. A roll call vote was taken by Ms. Murphy: Koff – aye, Mattera – aye, Short – aye, Eberhardt – aye, Madison – aye, Clement – aye and Osterwood – aye. The motion passed 7-0-0

### **Action Items**

Wetland Conditional Use Permit review for a 12-lot open space subdivision for Scott Carlisle III at 19 Watson Road  
Tax Map 33-26  
(Scott Carlisle, Barry Gier)

Mr. Koff noted there was a joint Site Walk with the Commission and the Planning Board this morning with Mr. Gier of Jones & Beach. Mr. Koff and Ms. Murphy were present as well as a majority of the Planning Board.

Mr. Gier presented the proposal for a Wetlands Conditional Use Permit for the 12-lot open space subdivision at Tax Map 33-26 in the R-1 zone. The parcel is 98 acres with 1760 linear feet of frontage on the east side of Watson Road. Route 101 is to the south. There is a large wetlands complex to the east. The roadway is proposed to be 1128 linear feet with curbing and a closed drainage system. There will be a large infiltration basin to handle stormwater. The two wetland buffer impacts are 6,517 SF of temporary impact and 1,215 SF of permanent impact for the roadway. Grading will be revegetated. The infiltration basin and rip rap will be minor permanent impacts. The location shown on the plan for the homes are not exact. There is a hill to the uplands which is why the temporary impacts are required. The road is longer than typical.

Mr. Koff expressed concerns with the vernal pool on Lot 3 and disturbances from construction up slope affecting the buffer. Mr. Koff noted the developer does not appear to be building as many lots as he could. Mr. Gier noted the size of most lots is just under two acres while only 15,000 SF is required per lot in an open space subdivision. Mr. Gier noted the Planning Board suggested eliminating the vernal pool from Lot 3 and including it in the open space.

Ms. Eberhardt referenced Jim Gove's January 12 evaluation and five wetland buffer impacts and Lot 2 which is perched between wetlands. Mr. Gier displayed the location of all vernal pools in the proposed subdivision in purple on the screen.

Mr. Koff expressed concerns with the hydrology upgradient of the road and recharge of sheet flow diverting away and the potential addition of water to the south. Mr. Gier noted there would be a slight redirection not a complete redirection.

Mr. Koff reviewed the criteria:

1. Permitted in the zone.
2. No alternative design which is less detrimental is feasible.
3. Impact of functions and values.
4. Maintenance.
5. Not create a hazard to individuals or public health, safety, welfare, loss to the wetland or contamination of groundwater or other reasons.
6. Increase to other wetland buffers elsewhere.
7. Temporary disturbance/restoration proposal.
8. All permits, NH DES etc.

Mr. Koff opened the hearing to the public for comments and questions at 8:07 PM.

Mr. Gier noted the proposed subdivision is permitted in the residential zone. Mr. Gier noted it is impossible not to have any impacts with wetlands throughout.

Mr. Koff noted there does appear to be an alternative design mentioned that would be less detrimental. The lot shapes are not optimized to minimize impacts to buffers especially on Lots 2 and 3.

Mr. Koff asked about ledge and Mr. Gier noted they did several test pits and did not come across ledge. Mr. Koff asked about sandy soil. Mr. Koff noted the north side of the road would have impacts to vernal pools below it and have a different character than now.

Mr. Clement noted he had no grave concerns about the size of the lots. It is good to have larger lots which lessens the impacts as a whole. The parcel is not tied to municipal water and sewer and will need larger areas for septic and well protective areas and gives more pervious surface recharge. The site is best with as little impact as possible. There are a lot of wetlands present.

Mr. Campbell arrived at the meeting.

Mr. Koff asked if Lots 2 and 3 were reconfigured so that the vernal pool would be located entirely in the open space, if the house on Lot 2 would be closer to the road. Mr. Gier discussed the shared driveway easement so there would be no impact to the buffer.

Mr. Campbell asked if the homeowner could put a lawn in and Mr. Gier noted they could but in limited use buffer they could not.

Mr. Campbell asked about the grade for Lot 3 which appeared steep, and Mr. Gier noted the grade was 3:1. Mr. Gier added that septic designs are not required to be 4,000 SF but must be shown on the proposal as 4,000 SF. There could also be a smaller house without a garage.

Mr. Gier noted the proposal did not impact functions and values. Road impacts are minimized. There is a retention pond for stormwater.

Mr. Koff asked if there were a wildlife habitat assessment and noted it would be helpful to answer his questions. Mr. Clement noted the area to the north is a known breeding area for Blanding's Turtles and Spotted Turtles. The sandy soil is conducive to turtle breeding and the species may be present. Ms. Murphy noted the Commission could require or recommend one, it was not provided and noted it would be helpful for Mr. Gove to be here.

Mr. Gier noted temporary grading will be revegetated. The permanent impacts will be the pipe for the stormwater retention and rip rap.

Mr. Gier noted there would be no hazard as single-family residences don't typically contaminate groundwater. There is no proposed increase in wetlands buffers elsewhere.

Mr. Koff asked if NH DES was contacted yet and Mr. Gier noted approvals are required but he has not been in touch with them yet.

Ms. Murphy asked about the process of showing the building envelope and Mr. Gier noted each lot is almost two acres and buildable within the setbacks where building envelopes are typically shown when lots are tighter.

Mr. Mattera noted there was a lot of effort made to meander through this maze of wetlands. Impacts were minimized and are temporary. Mr. Mattera questioned whether the road alignment would change with the reconfiguration of Lots 2 and 3. Mr. Gier noted it was the best road location with the least amount of impact from grading and doesn't anticipate any change to the roadway.

Mr. Koff recommended returning with the revised plan set and wildlife assessment and possibly Mr. Gove to discuss his report. Mr. Mattera agreed the wildlife assessment could change the design.

MOTION: Mr. Koff motioned to table the CUP recommendation for Tax Map 33-26 until a later date when the revised submittal and wildlife assessment and revised plan based on inclusion of the vernal pool in the open space are provided, as the Commission does not have enough information. Ms. Eberhardt seconded the motion. A roll call vote was taken Koff – aye, Mattera – aye, Eberhardt – aye, Short – aye, Osterwood – aye, Clement – aye and Madison – aye. The motion passed 7-0-0.

#### **Non-Public Session**

- Non-public session pursuant to RSA 91-A:3(II)(d) for the consideration of the acquisition, sale, or lease of real or personal property





RECEIVED

APR 1 2021

EXETER PLANNING OFFICE

TOWN OF EXETER, NH  
APPLICATION FOR SUBDIVISION

OFFICE USE ONLY

THIS IS AN APPLICATION FOR:

OPEN SPACE DEVELOPMENT

STANDARD SUBDIVISION

NUMBER OF LOTS 12

APPLICATION \_\_\_\_\_

DATE RECEIVED \_\_\_\_\_

APPLICATION FEE \_\_\_\_\_

PLAN REVIEW FEE \_\_\_\_\_

ABUTTER FEE \_\_\_\_\_

LEGAL NOTICE FEE \_\_\_\_\_

INSPECTION FEE \_\_\_\_\_

TOTAL FEES \_\_\_\_\_

AMOUNT REFUNDED \_\_\_\_\_

1. NAME OF LEGAL OWNER OF RECORD: Scott W. Carlisle, III

ADDRESS: 14 Cass Street, Exeter, NH 03833

TELEPHONE: ( ) \_\_\_\_\_

2. NAME OF APPLICANT: Same as Owner

ADDRESS: \_\_\_\_\_

TELEPHONE: ( ) \_\_\_\_\_

3. RELATIONSHIP OF APPLICANT TO PROPERTY IF OTHER THAN OWNER: \_\_\_\_\_

Same

(Written permission from Owner is required, please attach.)

4. DESCRIPTION OF PROPERTY:

ADDRESS: 19 Watson Road

TAX MAP: 33 PARCEL #: 26 ZONING DISTRICT: R-1

AREA OF ENTIRE TRACT: 97.99 Acres PORTION BEING DEVELOPED: 25.77 Acres



5. **EXPLANATION OF PROPOSAL:** Intent of this proposal is to construct a 920 linear  
foot roadway and associated utilities in support of a 12-lot open space residential  
subdivision.

6. **ARE MUNICIPAL SERVICES AVAILABLE? (YES/NO)** No  
IF YES, WATER AND SEWER SUPERINTENDENT MUST GRANT WRITTEN APPROVAL FOR CONNECTION. IF NO, SEPTIC SYSTEM MUST COMPLY WITH W.S.P.C.C. REQUIREMENTS.

7. **LIST ALL MAPS, PLANS AND OTHER ACCOMPANYING MATERIAL SUBMITTED WITH THIS APPLICATION:**

<u>ITEM:</u>	<u>NUMBER OF COPIES</u>
A. See Cover Letter	
B.	
C.	
D.	
E.	
F.	

8. **ANY DEED RESTRICTIONS AND COVENANTS THAT APPLY OR ARE CONTEMPLATED (YES/NO)** Yes IF YES, ATTACH COPY.

9. **NAME AND PROFESSION OF PERSON DESIGNING PLAN:**

NAME: Barry Gier, P.E., Jones & Beach Engineers, Inc.  
ADDRESS: PO Box 219, Stratham, NH 03885  
PROFESSION: Civil Engineer TELEPHONE (603) 772-4746

10. **LIST ALL IMPROVEMENTS AND UTILITIES TO BE INSTALLED:**

- 920' linear foot roadway
- Storm drainage system
- Underground power, telephone and cable
- Onsite septic's & wells



**11. HAVE ANY SPECIAL EXCEPTIONS OR VARIANCES BEEN GRANTED BY THE ZONING BOARD OF ADJUSTMENT TO THIS PROPERTY PREVIOUSLY?**

(Please check with the Planning Department Office to verify) (YES/NO) No  
IF YES, LIST BELOW AND NOTE ON PLAN.

**12. WILL THE PROPOSED PROJECT INVOLVE DEMOLITION OF ANY EXISTING BUILDINGS OR APPURTENANCES? IF YES, DESCRIBE BELOW.**

(Please note that any proposed demolition may require review by the Exeter Heritage Commission in accordance with Article 5, Section 5.3.5 of the Exeter Zoning Ordinance).

No

**13. WILL THE PROPOSED PROJECT REQUIRE A "NOTICE OF INTENT TO EXCAVATE" (State of NH Form PA-38)? IF YES, DESCRIBE BELOW.**

No

**NOTICE:** I CERTIFY THAT THIS APPLICATION AND THE ACCOMPANYING PLANS AND SUPPORTING INFORMATION HAVE BEEN PREPARED IN CONFORMANCE WITH ALL APPLICABLE TOWN REGULATIONS, INCLUDING BUT NOT LIMITED TO THE "SITE PLAN REVIEW AND SUBDIVISION REGULATION" AND THE ZONING ORDINANCE. FURTHERMORE, IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 15 OF THE "SITE PLAN REVIEW AND SUBDIVISION REGULATIONS", I AGREE TO PAY ALL COSTS ASSOCIATED WITH THE REVIEW OF THIS APPLICATION.

DATE 3/30/20 APPLICANT'S SIGNATURE

ACCORDING TO RSA 676.4.I ( c ), THE PLANNING BOARD MUST DETERMINE WHETHER THE APPLICATION IS COMPLETE WITHIN 30 DAYS OF SUBMISSION. THE PLANNING BOARD MUST ACT TO EITHER APPROVE, CONDITIONALLY APPROVE, OR DENY AN APPLICATION WITHIN SIXTY FIVE (65) DAYS OF ITS ACCEPTANCE BY THE BOARD AS A COMPLETE APPLICATION. A SEPARATE FORM ALLOWING AN EXTENSION OR WAIVER TO THIS REQUIREMENT MAY BE SUBMITTED BY THE APPLICANT.



ABUTTERS: PLEASE LIST ALL PERSONS WHOSE PROPERTY IS LOCATED IN NEW HAMPSHIRE AND ADJOINS OR IS DIRECTLY ACROSS THE STREET OR STREAM FROM THE LAND UNDER CONSIDERATION BY THE BOARD. THIS LIST SHALL BE COMPILED FROM THE EXETER TAX ASSESSOR'S RECORDS.

TAX MAP \_\_\_\_\_  
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PLEASE ATTACH ADDITIONAL SHEETS, IF NEEDED.



## SUBDIVISION PLAN REQUIREMENTS

### 7.4. Existing Site Conditions Plan

Submission of this plan will not be applicable in all cases. The applicability of such a plan will be considered by the TRC during its review process as outlined in Section 6.5 Technical Review Committee (TRC) of these regulations. The purpose of this plan is to provide general information on the site, its existing conditions, and to provide the base data from which the site plan or subdivision will be designed. The plan shall show the following:

APPLICANT	TRC	REQUIRED EXHIBITS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.2. Location of the site under consideration, together with the current names and addresses of owners of record, of abutting properties and their existing land use.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.3. Title, date, north arrow, scale, and Planning Board Case Number.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.4. Tax map reference for the site under consideration, together with those of abutting properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.5. Zoning (including overlay) district references.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.6. A vicinity sketch or aerial photo showing the location of the land/site in relation to the surrounding public street system and other pertinent location features within a distance of 2,000-feet, or larger area if deemed necessary by the Town Planner.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.7. Natural features including watercourses and water bodies, tree lines, significant trees (20-inches in diameter at breast height) and other significant vegetative cover, topographic features, and any other environmental features that are important to the site design process.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.8. Man-made features such as, but not limited to, existing roads, structures, and stone walls. The plan shall also indicate which features are to be retained and which are to be removed or altered.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.9. Existing contours at intervals not to exceed 2-feet with spot elevations provided when the grade is less than 5%. All datum provided shall reference the latest applicable US Coast and Geodetic Survey datum and should be noted on the plan.



<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.10. A High Intensity Soil Survey (HISS) of the entire site, or appropriate portion thereof. Such soil surveys shall be prepared by a certified soil scientist in accordance with the standards established by the Rockingham County Conservation District. Any cover letters or explanatory data provided by the certified soil scientist shall also be submitted.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.11. State and Federally designated wetlands, setback information, total wetlands proposed to be filled, other pertinent information and the following wetlands note: "The landowner is responsible for complying with all applicable local, state, and federal wetlands regulations, including any permitting and setback requirements required under these regulations."</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.12. Surveyed property lines including angles and bearings, distances, monument locations, and size of the entire parcel. A professional land surveyor licensed in New Hampshire must attest to said plan.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.13. The lines of existing abutting streets and driveway locations within 200-feet of the site.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.14. The location, elevation, and layout of existing catch basins and other surface drainage features.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.15. The shape, size, height, location, and use of all existing structures on the site and approximate location of structures within 200-feet of the site.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.16. The size and location of all existing public and private utilities, including off-site utilities to which connection is planned.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.17. The location of all existing easements, rights-of-way, and other encumbrances.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.18. All floodplain information, including the contours of the 100-year flood elevation, based upon the Flood Insurance Rate Map for Exeter, as prepared by the Federal Emergency Management Agency, dated May 17, 1982.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.19. All other features which would fully explain the existing conditions of the site.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>7.4.20. Name of the site plan or subdivision.</p>



**7.6. Subdivision Layout Plan (Pertains to Subdivisions Only)**

The purpose of this plan is to illustrate the layout of the subdivision lots, rights-of-way, easements, and other uses of land within the subdivision. It shall be prepared on reproducible mylar and be suitable for filing with the Rockingham County Registry of Deeds. The plan shall depict the following:

APPLICANT	TRC	REQUIRED EXHIBITS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.1 Names, addresses, and telephone numbers of: the owner, applicant, and person(s) or firm(s) preparing the plan (including engineer, architect, or land surveyor).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.2 Name of the subdivision.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.3 Location of the land/site together with the names and address of all owners of record of abutting properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.4 Title, date, north arrow, scale, and Planning Board Case Number.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.5 Tax map reference for land/site under consideration with those of abutting properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.6 Zoning (including overlay) district references.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.7 The location and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.8 The location and width of all existing and proposed streets, street rights-of-way, sidewalks, easements, alleys, and other public ways.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.9 The locations, dimensions, and areas of all proposed lots.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.10 The location of all test pits and the 4,000-square-foot septic reserve areas for each newly created lot, if applicable.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.11 High Intensity Soil Survey (HISS) information for the site, including the total area of wetlands proposed to be filled.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.12 State and Federally designated wetlands, setback information, total wetlands proposed to be filled, other pertinent information and the following wetlands note: "The landowner is responsible for complying with all applicable local, state, and federal wetlands regulations, including any permitting and setback requirements required under these regulations."
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.13 All floodplain information, including contours of the 100-year flood elevation, based upon the Flood Insurance Rate Map for Exeter, as prepared by the Federal Emergency Management Agency, dated May 17, 1982.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.14 Sufficient data acceptable to the Board to determine the location, bearing, and length of all lines; sufficient data to be



		able to reproduce such lines upon the ground; and the location of all proposed monuments.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.15 The location and dimensions of all property proposed to be set aside for green space, parks, playgrounds, or other public or private reservations. The plan shall describe the purpose of the dedications or reservations, and the accompanying conditions thereof (if any).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.16 A notation shall be included which explains the intended purpose of the subdivision. Indication and location of all parcels of land proposed to be dedicated to public use and the conditions of such dedications, and a copy of such private deed restriction as are intended to cover part or all of the tract.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.17 Newly created lots shall be consecutively numbered or lettered in alphabetical order. Street address numbers shall be assigned in accordance with Section 9.17 Streets of these regulations.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.18 The following notations shall also be shown: <ul style="list-style-type: none"> <li>• Explanation of proposed drainage easements,</li> <li>• Explanation of proposed utility easement,</li> <li>• Explanation of proposed site easement,</li> <li>• Explanation of proposed reservations</li> <li>• Signature block for Board approval</li> </ul>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.6.19 A note indicating that: "All water, sewer, road (including parking lot), and drainage work shall be constructed in accordance with Section 9.5 Grading, Drainage, and Erosion & Sediment Control and the Standard Specifications for Construction of Public Utilities in Exeter, New Hampshire". See Section 9.14 Roadways, Access Points and Fire Lanes and Section 9.13 Parking Areas for exceptions.

**OTHER REQUIRED PLANS (See Section indicated)**

- 7.7 Construction plan
- 7.8 Utilities plan
- 7.9 Grading, drainage and erosion & sediment control plan
- 7.10 Landscape plan
- 7.11 Drainage Improvements and Storm Water Management Plan
- 7.12 Natural Resources Plan
- 7.13 Yield Plan



# JONES & BEACH ENGINEERS INC.

85 Portsmouth Avenue, PO Box 219, Stratham, NH 03885  
603.772.4746 · JonesandBeach.com

March 30, 2021

Exeter Planning Board  
Attn. Langdon Plumer, Chair  
10 Front Street  
Exeter, NH 03833

**RE: Subdivision Application  
19 Watson Road, Exeter, NH  
Tax Map 33, Lot 26  
JBE Project No. 19102**

Dear Mr. Plumer:

Jones & Beach Engineers, Inc. respectfully submits a Waiver Request for one (1) waiver for the above-referenced parcel on behalf of our client and property owner, Scott W. Carlisle, III.

**Subdivision Regulations: Section 7.4.12: - Requiring “Surveyed property lines including angles and bearings, distance, monument locations, and size of the entire parcel”**

Jones & Beach Engineers is requesting a waiver from the requirement that the surveyed property lines for the entire parcel be depicted on the plans. The entire project is 100 ± acres. The proposed subdivision will be taken from the center of the property. Surveyed property lines have been depicted for the area around and adjacent to the proposed subdivision and Watson Road. The remainder of the land is located within a large wetland complex or is adjacent to property owned by the applicant.

***Waiver Findings:***

- 1.) The granting of the waiver will not be detrimental to the public safety, health, or welfare of injurious to other property.***

Surveyed property lines are depicted along Watson Road and the bordering parcels to the extent that the property lines are not located within the large wetland complex or are directly adjacent to property currently owned by the applicant, therefore, the granting of the waiver will not be detrimental to the public safety, health, or welfare injurious to other property.

- 2.) *The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property.*

The proposed subdivision is being taken from the center of a large parcel. The boundaries not depicted with bearings and distances are located within a large wetland complex, the survey of which would be unwieldy, or are directly adjacent to property owned by the applicant. In addition, these areas will be included in a proposed open space easement.

- 3.) *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.*

The particular physical surroundings making the depicting of bearings and distances a particular hardship is the location of the boundary through and large wetland complex.

- 4.) *The granting of the waiver will not be contrary to the spirit and intent of the regulations.*

As the proposed subdivision is being cut from the center of the existing property and all bearings and distances associated with the new lots are depicted, the granting of the waiver would not be contrary to the spirit and intent of the regulations.

- 5.) *The waiver will not, in any manner, vary the provisions of the Zoning Ordinance or Master Plan.*

The proposed lots will meet the Zoning requirements; therefore, the waiver will not vary the provisions of the Zoning Ordinance or Master Plan.

If you have any questions or need any additional information, please feel free to contact our office. Thank you very much for your time.

Very truly yours,  
JONES & BEACH ENGINEERS, INC.



Barry W. Gier, PE  
Vice President





SUBDIVISION APPLICATION  
CHECKLIST

A COMPLETED APPLICATION FOR SUBDIVISION MUST CONTAIN THE FOLLOWING:

1. Application for Hearing ( x )
2. Abutter's List Keyed to the Tax Map ( x )  
(including the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plan submitted to the Board)
3. Checklist for Subdivision plan requirements ( x )
4. Letter of Explanation ( x )
5. Written Request and justification for Waiver(s) from Site Plan Review and Subdivision Regulations" (if applicable) ( x )
6. Application to Connect and/or Discharge to Town of Exeter Sewer, Water or Storm Water Drainage System(s) (if applicable) ( x )
7. Planning Board Fees ( x )
8. Seven (7) full-size copies of Subdivision Plan ( x )
9. Fifteen (15) 11"x 17" copies of the final plan to be submitted TEN DAYS PRIOR to the public hearing date. ( )
10. Three (3) pre-printed 1"x 2 5/8" labels for each abutter, the applicant and all consultants. ( x )

NOTES:

All required submittals must be presented to the Planning Department Office for distribution to other Town departments. Any material submitted directly to other Departments will not be considered.

# JONES & BEACH ENGINEERS INC.

85 Portsmouth Avenue, PO Box 219, Stratham, NH 03885  
603.772.4746 - JonesandBeach.com

March 30, 2021

Exeter Planning Board  
Attn. Langdon Plumer, Chair  
10 Front Street  
Exeter, NH 03833

**RE: Subdivision Application  
19 Watson Road, Exeter, NH  
Tax Map 33, Lot 26  
JBE Project No. 19102**

Dear Mr. Plumer


On behalf of our client and owner, Scott W. Carlisle, III, we respectfully submit a Subdivision Application for the Planning Board. The intent of this application is to construct a 920 linear feet roadway and associated utilities in support of a 12-lot open space residential subdivision.

The following are included with this Subdivision Application:

1. Completed Subdivision Application with Checklist.
2. Conditional Use Application
3. Waiver Request.
4. Letter of Authorization (previously submitted).
5. Current Deed (previously submitted).
6. Abutters List with three (3) sets of mailing labels (previously submitted).
7. Tax Map (previously submitted).
8. Fee Check (previously submitted).
9. Seven (7) Full Size Plan Sets.
10. Fifteen (15) Half Size Plan Sets.
11. Two (2) Drainage Reports.

If you have any questions or need any additional information, please feel free to contact our office. Thank you very much for your time.

Very truly yours,  
**JONES & BEACH ENGINEERS, INC.**

  
Barry Gid, P.E.  
Vice President

cc: Scott W. Carlisle, III (application & plans via email)

**ABUTTERS LIST (DIRECT)  
AS OF  
APRIL 8, 2021  
FOR  
WATSON ROAD, EXETER, NH  
JBE PROJECT No. 19102**

**RECEIVED**

APR 9 2021

EXETER PLANNING OFFICE

**OWNER OF RECORD/APPLICANT:**

TAX MAP 33/LOT 26  
TAX MAP 40/LOT 15  
SCOTT W. CARLISLE, III  
14 CASS ST  
EXETER, NH 03833

**ABUTTERS:**

26/15  
40/4-1  
40/4-2  
TOWN OF EXETER  
10 FRONT ST  
EXETER, NH 03833  
5538/2669 (06/20/14) – LOT 15

26/19  
EXETER HIGHLANDS  
HOMEOWNERS ASSOCIATION  
20 EXETER HIGHLANDS DR  
EXETER, NH 03833

33/1  
DEER RUN HOMEOWNERS ASSN INC  
ATTN. SARAH VALADE  
10 DEER RUN RD  
EXETER, NH 03833  
2533/1252 (02/19/85)

33/2  
ELLEN M. ARCIERI  
24 WATSON RD  
EXETER, NH 03833  
5984/2734 (03/09/19)

33/3

RICHARD A. JEDREY  
28 WATSON RD  
EXETER, NH 03833  
4969/2235 (12/24/08)

33/4

RONALD DIXON  
32 WATSON RD  
EXETER, NH 03833  
5961/0737 (10/04/18)

33/5

DAVID P. FELLOWS  
36 WATSON RD  
EXETER, NH 03833  
3055/2000 (06/03/94)

33/6

EROL BARS  
ANA M. BARS  
1 DEER RUN RD  
EXETER, NH 03833  
5705/1073 (04/11/16)

33/13

KIMBERLY C. ASACKER  
TRUSTEE OF KIMBERLY REVOC TRST  
2 DEER RUN RD  
EXETER, NH 03833  
3225/1167 (07/02/97)

33/14

VANESSA SMILEY  
48 WATSON RD  
EXETER, NH 03833  
6047/2699 (10/16/19)

33/15

MARK S. WHEELER  
ELENA U. WHEELER  
1 KELBY SCOTT WAY  
EXETER, NH 03833  
4683/0240 (07/07/06)

33/17  
DONALD J. KEIGHLEY JR REV TR ½%  
LAUREN L. ROBBINS REV TR ½%  
56 WATSON RD  
EXETER, NH 03833  
6005/2729 (06/06/19)

33/18  
NANCY TERWILLIGER  
16 EXETER HIGHLANDS DR  
EXETER, NH 03833  
5626/2730 (06/15/15)

33/19  
DAVID M. PAQUET  
DEANNA PAQUET  
14 HIGHLANDS DR  
EXETER, NH 03833  
6221/0852 (01/12/21)

33/20  
JOSEPH FRANKLIN LEWICK  
12 EXETER HIGHLANDS DR  
EXETER, NH 03833  
5863/2454 (10/13/17)

33/21  
KATHYRN M. TULIPANI  
10 EXETER HIGHLANDS DR  
EXETER, NH 03833  
3439/1122 (11/22/99)

33/22  
ALEXANDER W. MARRERO  
KATIE M. MARRERO  
28 EXETER HIGHLANDS DR  
EXETER, NH 03833  
5781/1632 (11/30/16)

33/23  
NATALIE L. ALARCON  
26 EXETER HIGHLANDS DR  
EXETER, NH 03833  
4350/0683 (08/23/04)

33/24  
ANDREW J. SCEASE  
VIRGINIA SCEASE  
24 EXETER HIGHLANDS DR  
EXETER, NH 03833  
3719/1612 (02/01/02)

33/25  
DENNIS M. GILLICK  
22 EXETER HIGHLANDS DR  
EXETER, NH 03833  
5328/0679 (06/22/12)

40/3  
40/6  
40/7  
40/8  
40/14  
NEW HAMPSHIRE DEPT. OF TRANSPORATION  
PO BOX 483  
CONCORD, NH 03302  
3085/0046 (12/28/94) – LOT 3  
3082/0720 (12/06/94) – LOT 6  
2972/2741 (03/19/93) – LOT 7  
2992/0896 (06/30/93) – LOT 8  
2368/1332 (03/01/80) – LOT 14

40/4  
HOUDE FAMILY REVOCABLE TRUST  
RANDY A. & JOANNE L. HOUDE TRUSTEES  
12 WATSON RD  
EXETER, NH 03833  
5760/2262 (10/05/16)

**ENGINEERS/SURVEYORS:**

JONES & BEACH ENGINEERS, INC.  
ATTN: BARRY GIER, P.E.  
PO BOX 219  
STRATHAM, NH 03885



# Town of Exeter



**Planning Board Application  
for  
Conditional Use Permit:  
Wetlands Conservation Overlay  
District**

*March 2020*



# Town of Exeter Planning Board Application

## Conditional Use Permit: Wetland Conservation Overlay District In accordance with Zoning Ordinance Article: 9.1

### SUBMITTAL REQUIREMENTS: (Note: See Application Deadlines and Submission Requirements for Conservation Commission Requirements )

1. Fifteen (15) copies of the Application
2. Fifteen (15) 11"x17" and three (3) full sized copies of the plan which must include:

#### Existing Conditions

- a. Property Boundaries
- b. Edge of Wetland and associated Buffer (Wetlands Conservation Overlay District – WCOD)
  - Prime wetland: 100'    --Very Poorly Drained: 50'
  - Vernal Pool (>200 SF): 75'    --Poorly Drained: 40'
  - Exemplary Wetland: 50'    --Inland Stream: 25'
- c. Structures, roads/access ways, parking, drainage systems, utilities, wells and wastewater disposal systems and other site improvements

#### Proposed Conditions

- a. Edge of Wetlands and Wetland Buffers and distances to the following:
    - i. Edge of Disturbance
    - ii. Structures, roads/access ways, parking, drainage systems, utilities, wells and wastewater disposal systems and other site improvements
  - b. Name and phone number of all individuals whose professional seal appears on the plan
3. If applicant and/or agent is not the owner, a letter of authorization must accompany this application
  4. Supporting documents i.e. Letters from the Department of Environmental Services, Standard Dredge and Fill Application and Photos of the property
  5. A Town of Exeter Assessors list of names and mailing addresses of all abutters

**Required Fees:**  
 Planning Board Fee: **\$50.00**      Abutter Fee: **\$10.00**      Recording Fee (if applicable): **\$25.00**

The Planning Office must receive the completed application, plans and fees on the day indicated on the Planning Board Schedule of Deadlines and Public Hearings.

<b>APPLICANT</b>	Name: Scott W. Carlisle, III
	Address: 4 Cass Street, Exeter, NH 03833
	Email Address:
	Phone:
<b>PROPOSAL</b>	Address: 19 Watson Road
	Tax Map # <u>33</u> Lot# <u>26</u> Zoning District: <u>R-1</u>
	Owner of Record: Scott W. Carlisle, III
<b>Person/Business performing work outlined in proposal</b>	Name: Barry W. Gier, P.E., Jones & Beach Engineers, Inc.
	Address: PO Box 219, Stratham, NH 03885
	Phone: 603-772-4746
<b>Professional that delineated wetlands</b>	Name: James Gove, Gove Environmental Services, Inc.
	Address: 8 Continental Drive , Unit H, Exeter, NH 03833
	Phone: 603-778-0644

**RECEIVED**  
 APR 9 2021  
 EXETER PLANNING OFFICE

**Town of Exeter  
 Planning Board Application  
 Conditional Use Permit: Wetland Conservation Overlay District**

Detailed Proposal including intent, project description, and use of property: (Use additional sheet as needed)

Proposed project includes the construction of a 920' linear foot roadway in support of a 12-lot single-family open space residential subdivision. Project includes construction of drainage features in support of proposed development. Lots to be serviced by on-site septic and wells.

**Wetland Conservation Overlay District Impact (in square footage):**

Temporary Impact	Wetland: (SQ FT.)	Buffer: (SQ FT.)
	<input type="checkbox"/> Prime Wetlands _____	<input type="checkbox"/> Prime Wetlands _____
	<input type="checkbox"/> Exemplary Wetlands _____	<input type="checkbox"/> Exemplary Wetlands _____
	<input type="checkbox"/> Vernal Pools (>200SF) _____	<input checked="" type="checkbox"/> Vernal Pools (>200SF) <u>607</u>
	<input type="checkbox"/> VPD _____	<input checked="" type="checkbox"/> VPD <u>5,910 S.F.</u>
	<input type="checkbox"/> PD _____	<input type="checkbox"/> PD <u>-</u>
	<input type="checkbox"/> Inland Stream _____	<input type="checkbox"/> Inland Stream _____
Permanent Impact	Wetland:	Buffer:
	<input type="checkbox"/> Prime Wetlands _____	<input type="checkbox"/> Prime Wetlands _____
	<input type="checkbox"/> Exemplary Wetlands _____	<input type="checkbox"/> Exemplary Wetlands _____
	<input type="checkbox"/> Vernal Pools (>200SF) _____	<input checked="" type="checkbox"/> Vernal Pools (>200SF) <u>1,215 S.F.</u>
	<input type="checkbox"/> VPD _____	<input type="checkbox"/> VPD _____
	<input type="checkbox"/> PD _____	<input type="checkbox"/> PD _____
	<input type="checkbox"/> Inland Stream _____	<input type="checkbox"/> Inland Stream _____

List any variances/special exceptions granted by Zoning Board of Adjustment including dates:

None

Describe how the proposal meets conditions in **Article 9.1.6.B** of the Zoning Ordinance (attached for reference):

See Conditional Use Cover Letter.

9.1.6. B: Conditions: Prior to issuance of a conditional use permit, the Planning Board shall conclude and make a part of the record, compliance with the following criteria:

1. That the proposed use is permitted in the underlying zoning district;
2. No alternative design which does not impact a wetland or wetland buffer or which has less detrimental impact on the wetland or wetland buffer is feasible;
3. A wetland scientist has provided an impact evaluation that includes the "functions and values" of the wetland(s), an assessment of the potential project-related impacts and concluded to the extent feasible, the proposed impact is not detrimental to the value and function of the wetland(s) or the greater hydrologic system.
4. That the design, construction and maintenance of the proposed use will, to the extent feasible, minimize detrimental impact on the wetland or wetland buffer;
5. That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater, or other reasons;
6. The applicant may propose an increase in wetland buffers elsewhere on the site that surround a wetland of equal or greater size, and of equal or greater functional value than the impacted wetland
7. In cases where the proposed use is temporary or where construction activity disturbs areas adjacent to the immediate use, the applicant has included a restoration proposal revegetating any disturbed area within the buffer with the goal to restore the site as nearly as possible to its original grade and condition following construction.
8. That all required permits shall be obtained from the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division under NH RSA §485-A: 17, the New Hampshire Wetlands Board under NH RSA §483-A, and the United States Army Corps of Engineers under Section 404 of the Clean Water Act.;

# JONES & BEACH ENGINEERS INC.

85 Portsmouth Avenue, PO Box 219, Stratham, NH 03885  
603.772.4746 · JonesandBeach.com

March 30, 2021

Exeter Planning Board  
Attn. Langdon Plumer, Chair  
10 Front Street  
Exeter, NH 03833

**RE: Conditional Use Application  
19 Watson Road, Exeter, NH  
Tax Map 33, Lot 26  
JBE Project No. 19102**

Dear Mr. Plumer:

Jones & Beach Engineers, Inc. respectfully submits a Conditional Use application for wetland buffer impacts associated with the construction of a 920 sq. ft. road in support of a proposed 12-lot single-family open space residential subdivision on the above-referenced parcel on behalf of our client and property owner, Scott W. Carlisle, III. Impacts are required for the construction of the proposed roadway, driveways, and drainage system associated with the proposed construction.

The following are the required conditions for approval of the Conditional Use permit and how the applicant believes the proposal meets the condition.

**1. That the proposed use is permitted in the underlying zoning district.**

The proposed project is a residential open space subdivision which is permitted in the underlying zone.

**2. No alternative design which does not impact a wetland or wetland buffer which has less detrimental impact on the wetland or wetland buffer is feasible.**

This project required NO wetland impacts.

The proposed project was designed to minimize or avoid any wetland or wetland buffer impacts to the extent practicable. Project area drains east to west (toward Watson Road) thereby requiring stormwater features be constructed along the Watson Road property line. The property along Watson Road is mostly wetland, therefore, wetland buffer impacts are required.

3. **A wetland scientist has provided an impact evaluation that includes the “functions and values” of the wetland(s), an assessment of the potential project-related impacts and concluded to the extent feasible, the proposed impact is not detrimental to the value and function of the wetlands(s) or the greater hydrologic system.**

Function and values are being completed at this time and will be submitted once complete.

4. **That the design, construction, and maintenance of the proposed use will, to the extent feasible, minimize detrimental impact on the wetland or wetland buffer.**

Majority of the wetland buffer impact is associated with the construction of stormwater features along the western property line. These stormwater features will infiltrate and treat stormwater prior to discharge to the wetlands. Stormwater features will collect stormwater within the wetland buffer and therefore not be detrimental to the wetland buffer or wetland.

Temporary grading within the wetland parking/structure setback will be revegetated and therefore minimize detrimental impact on the wetland buffer.

Permanent impact on the wetland parking/structure setback for driveway to Lot #3 has been minimized and located as distance as practicable to the wetland to minimize the detrimental impact to the wetland.

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

The proposed buffer impacts pose no threat to health, safety, and/or welfare. No loss of wetland is proposed and the proposed uses within the buffer pose no threat of groundwater contamination.

6. **The applicant may propose an increase in wetland buffers elsewhere on the site that surround a wetland of equal or greater size, and of equal or greater functional value than the impacted wetland.**

The applicant is proposing no increase in wetland buffers elsewhere on the site at this time.

7. **In cases where the proposed use is temporary or where construction activity disturbs areas adjacent to the immediate use, the applicant has included a restoration proposal revegetating any disturbed area within the buffer with the goal to restore the site as nearly as possible to its original grade and condition following construction.**

All proposed impacts (with the exception of driveway installation) are to be revegetated as per the project plans.

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

No wetland impacts are proposed. All required permits will be obtained prior to the start of construction.

If you have any questions or need any additional information, please feel free to contact our office. Thank you very much for your time.

Very truly yours,  
**JONES & BEACH ENGINEERS, INC.**



Barry W. Gier, PE  
Vice President

Please see additional  
plan attachments under  
“Supporting Documents”  
posted for this meeting