



# TOWN OF EXETER, NEW HAMPSHIRE

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## LEGAL NOTICE EXETER PLANNING BOARD AGENDA

The Exeter Planning Board will meet on Thursday, July 14, 2022 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:** May 26 and June 9, 2022

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

The application of Willey Creek Co. for site plan review, lot line adjustment and Wetlands and Shoreland conditional use permits for the proposed relocation of Building D of the Ray Farm Condominium development and associated site improvements off of Ray Farmstead Road (Willey Creek Road). The subject properties are located in the C-3, Epping Road Highway Commercial zoning district and are identified as Tax Map Parcel #47-8-1 and #47-9. PB Case #22-3.

The application of Unitil for a Wetlands Conditional Use Permit to remove an above-ground meter station and decommission a section of buried natural gas pipe between Kingston Road and Heritage Way. Construction vehicle access to the work area will require temporary impact to wetlands within the natural gas pipeline corridor. The property is located in the R-1, Low Density Residential zoning district. Tax Map Parcels #74-81 and #81-56. PB Case #22-11.

### **OTHER BUSINESS**

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

### **EXETER PLANNING BOARD**

*Langdon J. Plumer, Chairman*

*Posted 07/01/22: Exeter Town Office and Town of Exeter website*

**TOWN OF EXETER  
PLANNING BOARD  
NOWAK ROOM – TOWN OFFICE BUILDING  
10 FRONT STREET  
MAY 26, 2022  
DRAFT MINUTES**

**I. PRELIMINARIES:**

**BOARD MEMBERS PRESENT BY ROLL CALL:** Chair Langdon Plumer, Pete Cameron, Clerk, John Grueter, Jennifer Martel, Nancy Belanger Select Board Representative, Gwen English (@7:19 PM) and Robin Tyner, Alternate.

**STAFF PRESENT:** Town Planner Dave Sharples

**II. CALL TO ORDER:** Chair Plumer called the meeting to order at 7:00 PM, introduced the members and activated alternate Robin Tyner.

**III. OLD BUSINESS**

**APPROVAL OF MINUTES**

May 12, 2022

Ms. Belanger, Ms. Martel and Ms. Tyner recommend edits.

***Mr. Cameron motioned to approve the May 12, 2022 meeting minutes as amended. Ms. Belanger 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 Wiley Creek Co. for site plan review, lot line adjustment and wetlands and shoreland conditional use permits for the proposed relocation of Building D of the Ray Farm Condominium Development and associated site improvements off Ray Farmstead Road (Wiley Creek Road)  
C-3 Epping Road Highway Commercial zoning district  
Tax Map Parcel #47-8-1 and #47-9  
Planning Board Case #22-3

Chair Plumer read out loud the Public Hearing Notice and noted the applicants are requesting a continuance to the Planning Board's June 9, 2022 meeting at 7:00 PM.



41 **Mr. Cameron motioned that the application of Wiley Creek Co. (PB Case #22-3) be continued to the**  
42 **Planning Board's June 9, 2022 meeting at 7:00 PM. Mr. Grueter seconded the motion. A vote was**  
43 **taken, all were in favor, the motion passed 6-0-0.**

44

45 2. The application of Rafferty Investment Group LLC for a minor subdivision of an existing 7.3-acre  
46 parcel located at 54 Drinkwater Road into two (2) residential lots.

47 R-1, Low Density Residential zoning district

48 Tax Map Parcel #106-1

49 Planning Board Case #22-4

50

51 Chair Plumer read out loud the Public Hearing Notice.

52

53 Mr. Sharples noted the case is complete for review purposes.

54

55 **Mr. Grueter motioned to open Planning Board Case #22-4. Mr. Cameron seconded the motion. A vote**  
56 **was taken, all were in favor, the motion passed 6-0-0.**

57

58 Mr. Sharples summarized that the hearing was continued to this evening from the May 12, 2022 hearing  
59 after the plan was looked at and the 75' well radius not identified. The applicant is seeking a minor  
60 subdivision of an existing 7.3-acre parcel at 54 Drinkwater Road into two (2) residential lots. The  
61 existing home will be demolished, and accessory structures and debris removed. The applicant  
62 submitted a minor subdivision plan and supporting documents dated April 4, 2022 (provided in the 5-12-  
63 22 meeting packet). The applicant provided a revised subdivision plan dated May 20, 2022 for the  
64 Board's review showing the septic and well location with radius contained within the parcel, and the  
65 Code Enforcement Officer stated that it meets zoning.

66

67 Scott Rafferty of Rafferty Investment Group presented the proposal for a minor subdivision for two  
68 single-family homes. He noted the leach field will be moved back 30.'

69

70 Mr. Grueter asked if the 75' well radius requirement was satisfied, and Mr. Rafferty indicated it was.

71

72 Chair Plumer opened the hearing to the public for comments and questions at 7:13 PM and being none  
73 closed the hearing to the public for deliberations.

74

75 Mr. Cameron noted the proposal seemed straightforward.

76

77 Mr. Grueter read out loud the proposed conditions of approval:

78

79 **1. a dwg file of the plan shall be provided to the Town Planner showing all property lines and**  
80 **monumentation prior to signing the final plans. This plan must be in NAD 1983 State Plane New**  
81 **Hampshire FIPS 2800 feet coordinates;**

82 **2. The final plans shall have notes as required by Section 6.6.2.4m regarding wetlands; and**

83 **3. All monumentation shall be set in accordance with Section 9.25 of the Site Plan Review and**  
84 **Subdivision Regulations prior to signing the final plans.**

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**Mr. Grueter moved that the request of Rafferty Investment Group, LLC (PB Case #22-4) for Minor Subdivision approval be approved with the conditions he read out loud. Ms. Belanger seconded the motion. A vote was taken, all were in favor, the motion passed 6-0-0.**

- 3. The application of Exonian Properties, LLC for a minor site plan review of a proposed multi-family condominium development within the existing structure located at 43 Front Street (former First Baptist Church)  
R-2, Single-Family Residential zoning district  
Tax Map Parcel #72-198  
Planning Board Case #22-6

Chair Plumer read out loud the Public Hearing Notice.

Mr. Sharples noted the case was complete for review purposes and noted the application is for a minor site plan review of a proposed multi-family condominium with 11 residential units converted from the former Church building, which is a change in use. The applicants got a variance and will require off-street parking. The minutes and decision of the ZBA were provided to the Board. The Demolition Review Committee met with the applicant and determined the structure to be significant. The application was reviewed by the Heritage Commission and their letter and meeting minutes were also provided to the Board. A certificate of appropriateness dated February 17, 2020 was included. Mr. Sharples noted no exterior changes except for a black exterior fence and wall. There was no TRC review, but the proposal was reviewed by staff who had no issues. The applicant will be requesting a waiver from Section 9.13.1 of the Site Plan Review and Subdivision Regulations for off-street parking.

Board member Gwen English arrived at 7:19 PM.

Attorney Sharon Somers from DTC Lawyers presented the application and noted the principals, Florence Ruffner and David Cowie were present. There would be no new infrastructure, just renovating the interior of the existing building. She added that the proposal would change a non-tax generating property (tax-exempt) to a tax generating property. She noted Exhibit B was the architect’s proposal for the exterior and interior. The surface parking plan she noted had two spaces on site, possibly three and there is nothing else they can do. She referenced the minutes of the ZBA hearing on page three as to why they can’t provide onsite parking or demolish the existing structure. Underground parking is not viable due to the foundation supports and expense.

**Mr. Cameron motioned to open Planning Board Case #22-6. Ms. Martel seconded the motion. A vote was taken, all were in favor, the motion passed 6-0-0.**

Ms. Martel asked about the fence around the building and the black bar on the bottom step not shown on the site plan. Attorney Somers noted there was only a boundary plan and referenced the Front Terrace Design and the black aluminum railing depicted. Ms. Martel asked about opening of gates onto adjacent sidewalks. Attorney Somers noted she did not initially believe there to be gates proposed

129 opening onto the street. Mr. Cowie corrected that there would be two small gates at the front. Ms.  
130 Ruffner noted she was fine with getting rid of them.

131 Chair Plumer opened the hearing to comments and questions from the public at 7:33 PM and being  
132 none closed the hearing to the public for deliberations.

133  
134 Attorney Somers discussed the waiver request from Section 9.13.1 for off-site parking. She reviewed  
135 the first of the criteria and noted there would be ample on-street parking nearby for use of the residents  
136 and guests and referenced a memo from Jennifer Perry at the DPW concerning the process to increase  
137 the spaces if needed. Attorney Somers reviewed the second criteria and the uniqueness of the property  
138 which was previously the First Baptist Church with a small driveway and most of the property taken up  
139 by the structure. The property is unique and not similar to others. Attorney Somers reviewed the  
140 hardship versus a mere convenience if the regulations were strictly applied and referenced the footprint  
141 of the building and foundations. She noted the applicants exhausted all possibilities to find shared  
142 parking. She noted the building could not be torn down and only a single-family dwelling would satisfy  
143 the criteria and it would not be viable to convert the existing building into a single-family dwelling.  
144 Attorney Somers discussed the spirit of the regulations and not interfering with the parking needs of the  
145 neighborhood. She provided the Board with a handout of Ms. Perry's public parking off-site information  
146 and discussed parking for overnight and winter emergencies in the municipal lot and flexible outlook for  
147 future needs. Attorney Somers noted the request would not vary the provisions of zoning or the Master  
148 Plan. She noted the applicants were granted a variance by the ZBA so that they comply with zoning.  
149 She referenced the 2018 Parking Study done as a result of the Master Plan and the number of spaces  
150 available which were adequate for downtown. She noted 24 off-site spaces will not interfere with the  
151 2018 parking plan. She concluded that the proposal would preserve history and cultural features and  
152 keep the historic building intact.

153  
154 Ms. Belanger discussed the off-site parking requirements for the recently approved IOKA building and  
155 concerns that there was no process yet to issue permits to residents or to know the number of people  
156 utilizing public parking spaces available overnight on a first come, first serve basis.

157  
158 Mr. Cameron asked Mr. Sharples if he recalled the conditions of the IOKA approval. Mr. Sharples noted  
159 there were three, the as-built plan, preconstruction meeting and outdoor lighting, nothing for parking.

160  
161 Mr. Cameron noted the parking problem was not addressed and Mr. Sharples added or identified. Mr.  
162 Cameron asked about cumulative effect. Ms. English asked about the apartment building next door and  
163 Mr. Sharples noted all of their parking was provided on site. Mr. Sharples reviewed the parking overall  
164 in downtown comparing pre-COVID conditions to COVID conditions. He noted a lot of underutilized  
165 street parking downtown with Water Street the highest use. Mr. Sharples discussed the parking study  
166 on the CIP which will be hopefully next year or the year after. He noted right now there is plenty of  
167 parking on street, downtown, and the Town was working toward managing it. He noted the taxpayers  
168 would never be burdened with the cost of a parking garage because parking garages would charge for  
169 parking there.

170

171 Ms. Tyner and Chair Plumer agreed this was a separate conversation to have but Chair Plumer advised  
172 the buyers should be made aware and Ms. Ruffner stated she would make sure they are notified.  
173 Attorney Somers noted this would be in the condominium documents.

174  
175 Ms. Martel asked about the trash pickup and driveway and noted two spots were by the dumpster. Mr.  
176 Cowie noted trash pickup would be at a scheduled time.

177  
178 Ms. English asked if there were need for handicapped parking and Attorney Somers said no.

179  
180 Mr. Cameron noted he would have concerns with the cumulative effect of the off-site parking and  
181 would not vote in favor of the waiver although he was not opposed to the project itself. Ms. English  
182 noted she was struggling with the waiver although she also liked the project.

183  
184 Ms. Belanger noted she would discuss the need for the analysis in the CIP next year and while she also  
185 struggled with the waiver the DPW provided a plan b for now.

186  
187 **Mr. Grueter motioned after reviewing the criteria for granting waivers to approve the request of**  
188 **Exonian Properties, LLC., (PB Case #22-6) for a waiver from Section 9.13.1 of the Site Plan Review and**  
189 **Subdivision Regulations to permit less onsite parking than required. Ms. Belanger seconded the**  
190 **motion. A roll call vote was taken: Belanger – aye, Martel – aye, Cameron – abstained, Plumer -aye,**  
191 **Grueter – aye, Tyner – aye and English – nay. The motion passed 5-1-1.**

192  
193 Mr. Sharples read out loud the proposed conditions of the minor site plan:

- 194  
195 **1. a dwg file of the plan shall be provided to the Town Planner showing all property lines and**  
196 **monumentation prior to signing the final plans. This plan must be in NAD 1983 State Plane**  
197 **New Hampshire FIPS 2800 feet coordinates;**  
198 **2. A pre-construction meeting shall be arranged by the applicant and their contractor with the**  
199 **Town Engineer prior to any site work commencing;**  
200 **3. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is**  
201 **visible from adjacent properties and/or roadways; and**  
202 **4. The fencing at the bottom of the stairs on Front Street shall be removed.**

203  
204 **Ms. Belanger motioned that the request of Exonian Properties, LLC (PB Case #22-6) for a minor site**  
205 **plan be approved with the conditions read by the Town Planner Dave Sharples. Mr. Grueter seconded**  
206 **the motion. A roll call vote was taken: English – aye, Tyner – aye, Grueter – aye, Plumer – aye,**  
207 **Cameron – aye, Martel – aye and Belanger – aye. The motion passed 7-0-0.**

- 208  
209 4. The application of PSNH d/b/a Eversource Energy for a Wetland and Shoreland Conditional Use  
210 Permit for proposed maintenance/repair activities along the existing A126 Transmission Line; and  
211 the replacement of five (5) transmission structures within the limits of the existing ROW corridor  
212 between Route 101 eastbound and the Exeter/Brentwood town line; and approximately 1,500 feet  
213 west of Captain’s Way (to the west of Newfields Road/NH Route 85)  
214 RU, Rural and R-1, Low Density Residential zoning districts

215 Tax Map Parcels #25-1, #20-8, #24-3, #30-9, #30-8  
216 Planning Board Case #22-7

217  
218 Chair Plumer read out loud the Public Hearing Notice.

219  
220 Mr. Cameron recused himself on the basis of prior employment with the applicant.  
221 Mr. Sharples indicated the case was ready to be heard.

222  
223 ***Ms. Martel motioned to open Planning Board Case #22-7. Ms. Tyner seconded the motion. A vote***  
224 ***was taken, all were in favor, the motion passed unanimously 6-0-0.***

225  
226 Mr. Sharples noted the applicant is requesting wetlands conditional use permit and shoreland  
227 conditional use permit for the maintenance and repair of structures and has submitted plans and  
228 supporting documents. The applicant went before the Conservation Commission at their May 10, 2022  
229 meeting and they had no objection and recommended approval with the condition that the trail closure  
230 and notification be coordinated with the Natural Resource Planner Kristen Murphy prior to work  
231 commencing. The Planning Board letter of Chair Andrew Koff dated May 18, 2022 was provided to the  
232 Board. There are no waivers being requested and no TRC review, but the staff reviewed the proposal  
233 and had no issues.

234  
235 Chris Wilkes of VHB presented the application on behalf of Eversource. He noted the project was similar  
236 to the work done last year when they replaced three structures and removed one on the westbound  
237 side of 101 and Route 27. He noted Eversource does inspections annually and identifies wood poles that  
238 need replacement due to weathering or Wood Pecker damage to prevent outages.

239  
240 Mr. Wilkes noted this project would be to replace five structures (three in Exeter on the eastbound side  
241 of Route 101 and two of those in Brentwood). He noted access for the first part of the proposal was off  
242 Pine Road using the existing gated trail because there would be safety concerns accessing via Route 101,  
243 DOT permissions and a guardrail pushing the access further out into an unsafe highway. Eversource  
244 went to Brentwood already and got their approvals. Mr. Wilkes reviewed natural resource impacts, best  
245 management practices, timber matting and described the matting which would be pulled at the end of  
246 work. Vegetation would rebound on its own with no seeding or planting. Erosion controls would be in  
247 place and the work pad size is about a 100'x100' area. The wood poles would be replaced with  
248 weathered steel, two poles with H-frame support and cross brace with a brown coloration and no major  
249 excavation. The old material would be disposed of. The second part of the project is accessed to the  
250 west of Captain's Way for structures 166 and 167. There is one wetland near 166 but 167 is upland.  
251 There is a stream, not well defined. There are impacts in the WCD 40' buffers and temporary impacts to  
252 the wetlands. The stream system is the reason for impact within the 150' buffer for the shoreland  
253 district. They will be seeking state approvals prior to work starting via streamline Permit by Notification.

254  
255 Ms. English asked about the process to determine plant and animal species and Mr. Wilkes noted the  
256 Natural Heritage Bureau provides a report and turtles and Black Racer were identified as well as Pied  
257 Billed Grebe. He noted nearby is the Deer Hill Wildlife Management facility in Brentwood. He described  
258 training, identification and working with Fish & Game. Ms. English expressed concern with the timing of

259 the work in July and Mr. Wilkes noted the complexity of the work schedule given by regulators to deal  
260 with potential network outages.

261  
262 Ms. English asked about the additional height of the structures, 5-20' taller than existing and Mr. Wilkes  
263 noted the height clearance required to cross the highway and connect with the similar sized structure  
264 put in across the highway last year. 20' is over highway crossing for overland clearance to connect to  
265 the other side at matched height.

266  
267 Chair Plumer opened the hearing to the public for comments and questions at 8:37 PM and being none  
268 closed the hearing to the public for deliberations.

269  
270 Ms. Belanger noted she was at the Conservation Commission hearing and has no additional questions.

271  
272 ***Ms. Belanger motioned to approve the wetland conditional use permit for Eversource (PB Case #22-7)***  
273 ***with the condition stated in the May 18, 2022 memo of Andrew Koff of the Exeter Conservation***  
274 ***Commission that the trail closure and notification be coordinated with the Natural Resource Planner***  
275 ***Kristen Murphy prior to work commencing. Ms. Martel seconded the motion. A roll call vote was***  
276 ***taken: Belanger – aye, Martel – aye, Plumer – aye, Grueter – aye, Tyner – aye and English – aye. The***  
277 ***motion passed 6-0-0.***

278  
279 ***Ms. Belanger motioned to approve the shoreland conditional use permit for Eversource (PB Case #22-***  
280 ***7). Ms. English seconded the motion. A roll call vote was taken: English – aye, Tyner – aye, Grueter –***  
281 ***aye, Plumer – aye, Martel – aye and Belanger – aye. The motion passed 6-0-0.***

282  
283 Mr. Cameron requested of the Chair, to return to the meeting at 8:42 PM and Chair Plumer  
284 acknowledged Mr. Cameron's return to the meeting as a voting member.

285  
286 **V. OTHER BUSINESS**

- 287
- 288 • Master Plan Discussion
  - 289
  - 290 • Field Modifications
  - 291
  - 292 • Bond and/or Letter of Credit Reductions and Release
  - 293

294 **VIII. TOWN PLANNER'S ITEMS**

295 Coastal Waters Charter School – Two Holland Way

296 Mr. Sharples noted that Friends of Coastal Waters were present to discuss the educational facility at  
297 Two Holland Way which is a public charter school and as an agent of the state per RSA 674:54 exempt  
298 from local land use regulations. They provided 60 days' notice to the Town and at the last Planning  
299 Board meeting the Board opted to have them come in and discuss their opening while not accepting  
300 jurisdiction, to have only non-binding comments. There was no requirement to send abutter notices,

301 but the school agreed to reimburse the Town and notices were sent first class mail and posted at the  
302 Library and Town Hall. The Select Board will have the same procedure on Tuesday evening.

303 Attorney Francis Bruton of Bruton and Berube and Bill Libby the School Board Chair presented the  
304 proposal to convert the old Tyco Building to the Friends of Coastal Waters Charter School. Steve Haight  
305 the project engineer with Civil Works discussed the traffic turning at the intersection which he described  
306 as a right-hand turn coming in. He added there is extra room if needed off the travel way. He noted  
307 adequate parking for students with cars in the former manufacturing facility. Interior changes were  
308 described by Mr. Libby such as narrowing the wide hallways used by the former offices and the location  
309 of bathrooms. Students will bring their own lunches.

310 Ms. English asked about playground areas and athletic fields and Mr. Libby described the large open  
311 green space and old helicopter pad, woods, pond and trails. There are no plans to expand at this time.

312 Chair Plumer asked about the grade levels and Mr. Libby indicated K-12, with one class per grade.  
313 Kindergarten would have 20 and first through 12 would have 25 students per class.

314 Mr. Cameron expressed concerns with the intersection of Holland and Hampton Road heading east and  
315 the sharp right into the facility, and speeds traveled on those roads.

316 Mr. Grueter asked about buses and Mr. Libby noted there were no plans for now, but buses are being  
317 looked at. Pick up and drop off will be staggered at 8:15 and 8:30 with 50 or 60 cars at a time. Ms.  
318 English noted the Cooperative Middle School could have a different start time/flexibility. Mr. Libby  
319 noted that timing was something to consider. Ms. English noted 230 kids would be coming.

320 Ms. Tyner asked about a school zone sign and Mr. Sharples noted that would be up to the DPW and Mr.  
321 Libby stated he was happy to talk with them. Chair Plumer asked about the name of the school sign and  
322 Mr. Libby noted the school would have the name sign with *Coastal Waters Charter Public School*.

323 Ms. Belanger reiterated concerns with the intersection. Chair Plumer asked about safety inspections  
324 with the Fire Department and Mr. Libby explained they applied to the State Fire Marshall. Mr. Sharples  
325 added that the Charter School would be subject to life safety and building codes.

326 Chair Plumer opened the hearing to the public at 9 PM.

327 Paul Keenan of 61 Acadia Lane asked what the site plan looked like, and Mr. Sharples noted no exterior  
328 changes or stormwater, all were designed with prior use; setback requirements were met when the  
329 building was constructed. Mr. Sharples explained the exemption to local land use regulations and noted  
330 setbacks don't apply to the new occupant per RSA as a public school not charging tuition. Mr. Keenan  
331 noted there will be a traffic problem and asked if a traffic study could be needed but Mr. Sharples noted  
332 the Board had no authorization to require it. Mr. Keenan noted the tax impact and loss of tax revenue  
333 with the public-school exemption. He concluded that if there was ever a site plan, he would like to see  
334 it. Mr. Keenan asked about chemical labs in the building and Mr. Libby described the science projects  
335 and use of one building.

336 Donna Slaughter of 61 Acadia Road expressed concerns with traffic and noted the three accidents, rear  
337 end collisions, she knows of and speeding. She noted a stop light is needed there now.

338 Chair Plumer closed the hearing to the public at 9:07 PM.

339 Mr. Cameron recommended conveying the Board's comments to the school in writing and reviewed  
340 their concerns: the intersection; the school zone sign; and recommendation for staggering start and end  
341 time and coordination with Cooperative Middle School.

342 Mr. Sharples discussed prioritization of intersections to be upgraded in traffic studies in the CIP/Master  
343 plan process.

344 Parking Study Downtown

345 Ms. Tyner recommended Mr. Sharples urge the parking study be brought forward in the CIP and  
346 solutions to manage and perhaps issue resident parking permits.

347 **IX. CHAIRPERSON'S ITEMS**

348 Chair Plumer indicated the next Planning Board meeting is on June 9, 2022 at 7:00 PM.

349 **X. PB REPRESENTATIVE'S REPORT ON "OTHER COMMITTEE ACTIVITY"**

350 **XI. ADJOURN.**

351 *Mr. Grueter motioned to adjourn the meeting at 9:25 PM. Ms. Belanger seconded the motion. A vote*  
352 *was taken all were in favor, the motion passed 7-0-0.*

353

354 Respectfully submitted,

355 Daniel Hoijer,

356 Recording Secretary

357 Via Exeter TV





41

42 **IX. CHAIRPERSON'S ITEMS**

43 **X. PB REPRESENTATIVE'S REPORT ON "OTHER COMMITTEE ACTIVITY"**

44 **XI. ADJOURN.**

45 *A motion was made and seconded to adjourn the meeting at 7:10 PM. A vote was taken all were in*  
46 *favor, the motion passed 4-0-0.*

47

48 Respectfully submitted,

49 Daniel Hoijer,

50 Recording Secretary

51 Via Exeter TV



# TOWN OF EXETER

## *Planning and Building Department*

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**Date:** July 7, 2022  
**To:** Planning Board  
**From:** Dave Sharples, Town Planner  
**Re:** Willey Creek Company PB Case #22-3

The Applicant has submitted applications and plans for site plan review, a lot line adjustment and Wetlands and Shoreland Conditional Use Permits along with supporting documents, dated 3/29/22, for the proposed relocation of Building D of the Ray Farm Condominium development on Willey Creek Road (off of Ray Farmstead Road). The subject properties are located in the C-3, Epping Road Highway Commercial zoning district and are identified as Tax Map Parcel #47-8-1 and #47-9.

The Applicant is proposing to consolidate approximately 4.29-acres of upland area of the CKT property (Tax Map Parcel #47-8-1) and combine it with the Ray Farm property (Tax Map Parcel #47-8) to create the site for the proposed relocation of Building D. Building D will be constructed in the identical manner as Buildings A, B and C, inclusive of 32 units instead of the 20 units Building D was approved for in 2017.

The Applicant was originally scheduled to appear before the Planning Board at the May 26<sup>th</sup>, 2022 meeting, however was not prepared to present and requested to be continued to the June 9<sup>th</sup>, 2022 meeting. In discussion with the Applicant's counsel prior to the June 9<sup>th</sup>, 2022 meeting, the issue of whether the application was complete for the Board to accept jurisdiction was discussed, noting the outstanding items that had not yet been received. Applicant's counsel acknowledged they would not be prepared to submit those items for the June 9<sup>th</sup> meeting and again requested a continuance. The Board convened on June 9<sup>th</sup>, to act on this request and continued the application to the July 14<sup>th</sup>, 2022 meeting.

The Applicant submitted a supplemental filing yesterday that includes a letter from Attorney Pasay along with three waiver requests and other materials in response to the TRC comment letter. These documents are enclosed for your review.

The Applicant presented their applications for Shoreland and Wetland Conditional Use Permits to the Conservation Commission at their June 14<sup>th</sup>, 2022 meeting. The Commission recommended denial of the Shoreland Conditional Use Permit and approval

of the Wetland Conditional Use Permit. Attached is a memorandum from Conservation Commission Chairman Andrew Koff, dated June 15, 2022, for your review.

Subsequently, we have received correspondence from Attorney Pasay, dated July 1, 2022, requesting that the Conservation Commission reconsider their vote on their recommendation to the Planning Board regarding the Shoreland Conditional Use Permit. I have advised Kristen Murphy, our Conservation & Sustainability Planner that determination would rest with the Commission, and although not technically a land use board like the Planning Board or ZBA, I agree that they can reconsider their decision should they choose to do so. This request will be considered by the Conservation Commission at their July 12<sup>th</sup> meeting. Should the Commission decide to reconsider, then the matter will be placed on the next available agenda which I assume will be the August meeting. A copy of this request is enclosed for your review. I will be prepared to update the Board on their decision at the meeting.

I do recommend that the Board discuss Attorney Pasay's letter of July 6, 2022. I recommend that the Board take the opportunity to clarify the record, and specifically, the fact that Attorney Pasay is the one who continues to bring up the litigation between the town and the Applicant, not the TRC or staff. I would like to stress that the TRC and staff have been consistent not to mention the litigation or discuss it despite the fact that Attorney Pasay seems to mention it often. I would reiterate that the litigation should not be considered during this review of the application as it is a separate matter. It is simply irrelevant to the Board's consideration of the pending application. That being said, the Board cannot be required to ignore facts which may be relevant to the pending application, such as the existence of the right-of-way to access the Carlisle Property, the Board's prior approvals related to the Carlisle Property, or the fact that the Applicant's own engineer provided a design for the TIF Road extension. To the extent that the Board may consider these facts or other related facts relevant to the pending application, the Board may consider the facts. The Board's consideration of these facts is not analogous to consideration of the current litigation. This has been clearly articulated by the TRC and the Conservation Commission but the Applicant's attorney persists in mentioning the litigation in his correspondence.

I recommend that the Board at some point state for the record that the pending litigation is not relevant to its consideration of the pending application, nor will the Board take into consideration the pending litigation during its review, but equally, the same facts which may underly the pending litigation may be relevant to the Board's deliberations, and the existence of the litigation does not prohibit the Board from consideration of these same facts should the Board consider them relevant.

I will add that while people may refer to the right-of-way as the "TIF Road," that is merely common usage/phraseology at this point given the history of the right-of-way and should

not be understood as referring to the pending litigation. The Board may wish to clarify that point for the record as well.

The Applicant is requesting three waivers as outlined in Attorney Pasay's letter dated July 6, 2022. The first waiver is from Section 11.3.1.2.a. of the Board's Site Plan Review and Subdivision Regulations to allow less than a 25-foot setback between Building D and the driveway/parking area. A copy of the waiver request letter was provided with the application materials mailed for the 5/26/22 PB meeting and included in the July 6, 2022 letter as well.

The second waiver is from Section 9.13.1. to permit less off-street parking than required in accordance with Section 5.6.3.B and C and 5.6.5 of the Zoning Ordinance. A copy of the waiver request is provided in the enclosed July 6, 2022 letter. The third waiver is from Section 9.17.2 of the Site Plan Review and Subdivision Regulations regarding street length. It is important to provide additional context to this waiver request based on the filing.

The Applicant's written waiver request regarding the roadway length mentions a meeting that the Applicant had with Assistant Fire Chief Pizon at the Fire Department. Mr. Pasay did send a follow up email stating that it was Deputy Chief Fritz that they spoke with and not Mr. Pizon. In the letter, they appear to imply that Mr. Fritz did not take issue with the roadway length and it was a topic of discussion. The letter states "the Applicant and Denis Hamel, from GM2 Associates, Inc., sat down with Assistant Fire Chief Justin Pizon to review the plan for the relocation of Building D and to discuss, among other things, roadway length." Further in the written waiver response, Mr. Pasay writes "the Assistant Fire Chief did not express concern over the length of the roadway" and later "the Applicant has consulted with the Assistant Fire Chief, incorporated recommendations into the plan, and received no objection about road length." Mr. Pizon was aware of the meeting and both he and Mr. Fritz have a different view on this meeting than what Mr. Pasay describes. Neither were aware of what the roadway length was nor did they know, or were told by the Applicant, that the Applicant was seeking a waiver from the road length. In fact, upon speaking with Mr. Pizon, he stated that he understood the meeting to be about building construction and not roadway length. Mr. Pizon further stated to me that if he knew they were discussing a waiver regarding roadway length then he would've been present at the meeting to discuss his concerns.

Moreover, this meeting occurred on March 30, 2022 with Mr. Fritz, well before the TRC meeting on April 21, 2022. It was at the TRC meeting where I first mentioned the need for a waiver and the Applicant's representative Denis Hamel, questioned that a waiver was needed and specifically asked how a driveway could be considered a road. I advised the Applicant's representatives to review the pertinent section on roadway length and either submit a waiver request or articulate why you believe one isn't necessary and subsequently we received the enclosed request. Given these facts, I don't know how

any discussion about a roadway length waiver would have occurred on March 30, 2022 when the Applicant's engineer didn't know one was even needed until I informed him on April 21, 2022. That said, I have requested a memo from the Fire Department that will clarify their position on the roadway length. I will forward this memo along to the Board either before or at the meeting since I just got Mr. Pasay's submittal yesterday and Mr. Fritz needs time to prepare a response.

The waiver on roadway length appears to have a significant impact on the design. As such, I would request that the Planning Board at least discuss the waiver request at this meeting to get an understanding of where the Board may be headed regarding this waiver. The Board sometimes waits until the end of the meeting to discuss waivers but the vast majority of them can be remedied with a condition of approval regardless if they are approved. However, the outcome of this waiver could have a significant impact on the design that cannot be remedied with a condition and would likely warrant a revised plan set.

Finally, if the Board would like to hold a site walk then I would suggest scheduling it at this meeting.

#### **Waiver Motions:**

**Parking waiver motion:** After reviewing the criteria for granting waivers, I move that the request of Willey Creek Co. (PB Case #22-2) for a waiver from Section 11.3.1.2.a of the Site Plan Review and Subdivision Regulations to permit proposed parking within 15-feet of the existing/proposed building be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Parking space (number required) waiver motion:** After reviewing the criteria for granting waivers, I move that the request of Willey Creek Co. (PB Case #22-2) for a waiver from Section 9.13.1. to permit less off-street parking than required in accordance with Section 5.6.3.B and C and 5.6.5 of the Zoning Ordinance be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Dead End Streets/Cul-de-sacs waiver motion:** After reviewing the criteria for granting waivers, I move that the request of Willey Creek Co. (PB Case #22-2) for a waiver from Section 9.17.2 of the Site Plan Review and Subdivision Regulations regarding street length be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

#### **Planning Board Motions:**

**Lot Line Adjustment Motion:** I move that the request of Willey Creek Co. (PB Case #22-2) for Lot Line Adjustment approval be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

**Multi-Family Site Plan Motion:** I move that the request of Willey Creek Co. (PB Case#22-2) for Multi-Family Site Plan approval 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 Willey Creek Co. (PB Case #22-2) 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 Willey Creek Co. (PB Case #22-2) for a Conditional Use Permit be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

Thank You.

Enclosures



Barbara Mcevoy &lt;bmcevoy@exeternh.gov&gt;

**Re: [EXTERNAL] Re: Today's Filing**

1 message

**Justin L. Pasay** <jpasay@dtclawyers.com>

Thu, Jul 7, 2022 at 7:55 PM

To: David Sharples &lt;dsharples@exeternh.gov&gt;

Cc: Barbara McEvoy &lt;bmcevoy@exeternh.gov&gt;, Lisa Hayes &lt;lhayes@dtclawyers.com&gt;, Stephanie Carty &lt;scarty@dtclawyers.com&gt;

Sorry for the late response 'Dave. If you haven't already, yes please, just include this email exchange in the packet. I will correct the record in person as well. Thank you so much.

j  
Sent from my iPhone

On Jul 7, 2022, at 9:09 AM, David Sharples <dsharples@exeternh.gov> wrote:

Hello Justin,

It doesn't affect the completeness of the application so I will leave it to you if you want to correct it. I can include this email in the packet or you can send me a revised one but I am good either way.

Thanks,  
Dave

On Wed, Jul 6, 2022 at 4:49 PM Justin L. Pasay <jpasay@dtclawyers.com> wrote:

Hi Dave – just a brief follow-up after our filing today. Our road-length waiver request references a meeting between Jon, Deny Hamel and Assistant Chief Justin Pizon. I just learned that we misremembered the name and the meeting was actually not with Assistant Chief Justin Pizon, it was with Deputy Chief, Fire Prevention, Jason Fritz. I'm happy to amend the waiver and resend it to you or do you think this correction is sufficient? My apologies for the error.

j

Justin L. Pasay, Esq.

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July 6, 2022

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

Re: Supplement for Planning Board Case #22-3

Dear Chair Plumer and Board Members:

This firm represents Jonathan Shafmaster, Willey Creek Company and Ray Farm LLC (the "Applicant") with regard to the Ray Farm Condominium which is a 55+ senior living development in Exeter located on property off of Ray Farmstead Road (the "Project" or the "Applicant's Property"). Enclosed herewith, please find an updated Traffic Memorandum from Stephen G. Pernaw, PE, PTOE, of Stephen G. Pernaw & Company, Inc., and three waiver requests to include: 1) a waiver request pursuant to Article 5.6.5 of the Zoning Ordinance to permit 58 parking spaces where 72 are required; 2) a waiver request from Section 9.17.2 of the Site Plan and Subdivision Regulations (the "Regulations") to permit a dead-end road that is 1,656.2 feet in length where the maximum length under the Regulations is 1,200 feet; and 3) a waiver request from Section 11.3.1.2.a of the Regulations to permit a 15-foot distance between the proposed building and the parking lot in front of the building.

We also take this opportunity to address the issue of the so-called "TIF Road extension" over a private access owned by Scott Carlisle, to Scott Carlisle's abutting property (the "Carlisle Property"), which we briefly addressed via our TRC comment response letter dated 17 May 2022. That letter summarized the Applicant's objection to the Planning Board's consideration of this issue by virtue of the ongoing litigation involving the Town of Exeter, the Applicant, and Mr. Carlisle, and requested a condition of approval stating that if the extension of Ray Farmstead Road over the existing private access on the Applicant's Property was ever reviewed, approved and permitted, the Applicant would be required to pursue amended site plan approval to ensure

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compatibility with same. The Applicant maintains this request and suggests it is a reasonable way to resolve the underlying circumstances.

In the meantime, and in the context of the ongoing litigation, the Applicant has requested that: 1) the Town's lawsuit be withdrawn such that the Town's obligations to consult, cooperate and engage in the dispute resolution mechanisms required between the Town and the Applicant concerning Ray Farmstead Road (the "TIF Road Agreement") could be honored<sup>1</sup>; 2) the comments concerning the TIF Road extension be withdrawn such as to preserve the juror standard applicable to this Board; and 3) Town Counsel direct the Planning Board and Conservation Commission to *not* consider the issue of the Ray Farmstead Road extension.<sup>2</sup> To the Applicant's knowledge, the Town has taken none of the foregoing steps as evidenced most recently by the Conservation Commission meeting on 14 June 2022 at which the Commission raised the issue again.

While the Applicant has no intention of discussing or debating the merits of the Town's legal claims in the ongoing litigation before the Planning Board, both the TRC and Mr. Carlisle, through his legal counsel, have inserted the issue of the Ray Farmstead Road extension into this case. As a result, the Applicant has an interest and an obligation in ensuring the record of these proceedings includes the documents which support the Applicant's perspective on the underlying matters. In that context, below please find a summary outline of foundational facts of this case from the Applicant's perspective.

- In 2001, the Rockingham County Superior Court issued an order interpreting the nature and scope of Mr. Carlisle's easement on the Applicant's Property. To summarize, Mr. Carlisle has a 50 ft *private* right of way over the Applicant's Property that runs with the Carlisle Property and benefits that property's owner (the "Carlisle Private Access")<sup>3</sup> The Carlisle Private Access is not now, nor has it ever been, public in nature.
- In 2015, the Town Meeting approved Articles 10, 28 and 29 of the Town Warrant which established the Epping Road TIF District (the "TIF") and a TIF Development Plan which proposed to install new sewer and water improvements along Epping Road as well as a new industrial road, with sewer and water, over Carlisle's Private Access on the Applicant's Property to Mr. Carlisle's Property. The Town did not then, and has never

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<sup>1</sup> See *infra*.

<sup>2</sup> The Town's lawsuit, which seeks to enjoy proceedings on this application, is a tacit acknowledgement that these matters are not appropriately considered by this Board because if the Planning Board had jurisdiction to consider and resolve same, the underlying lawsuit would be unnecessary.

<sup>3</sup> See Enclosure 1, Order, W. Scott Carlisle, III v. CKT & Associates, 00-E-0072, pg. 18 (emphasis added).

since, acquired any agreement or commitment from the Applicant to convey to the Town the real property interests necessary to build a public road on the Applicant's Property.

- In July of 2017, the Applicant received Planning Board approvals for the Ray Farm 55+ Project.<sup>4</sup> That review and approval did not include a local review of Ray Farmstead Road. Rather, the Conditional Approval required that the final design of the "TIF Road" that was to be built and serve the Project be completed prior to any site construction activities.<sup>5</sup> Further, the Conditional Approval stated that before a Certificate of Occupancy would issue, full access must be provided from the proposed "TIF Road" to be constructed by the Town or its designee.<sup>6</sup> The approved and recorded Site Plan depicts Ray Farm Stead Road terminating after access to the Ray Farm Project is provided.<sup>7</sup>
- On 24 August 2017, the Planning Board approved a minor subdivision of the Carlisle Property which proposed a cul-de-sac that would be accessed via "the future T.I.F. Roadway from Epping Road" (the "Carlisle Subdivision").<sup>8</sup> The approved plan includes a reference that the "proposed TIF Road to be constructed within existing 50' wide right-of-way to Epping Road (RTE 27) BK 3794, PG 1963 (Plan Ref. 3)."<sup>9</sup> Subdivision Note 6 states that "[u]pon approval by the Town, the proposed road will be conveyed to the Town."<sup>10</sup> The conditional approval of the Planning Board states that "[t]his approval shall not be final until the applicant presents to the Board, and the Board and its engineers approve, a design for both the un-built portion of the so-called TIF road to the applicant's property, and the roadway and cul-de-sac within the property" ("Condition 2").<sup>11</sup> The Town and Mr. Carlisle maintain that this approval "dedicated" a public road over Carlisle's Private Access on the Applicant's Property but Carlisle's Subdivision Application did not include an authorization from the Applicant, the owner of the land upon which Mr. Carlisle was proposing improvements, which is required by Exeter regulations and New Hampshire law. Further, neither Mr. Carlisle nor the Town acquired consent from the Applicant to site the "TIF Road extension" directly over the Carlisle Private Access or a commitment from the Applicant to convey the fee interest in the roadway extension over the Applicant's Property to the Town, as required by Subdivision

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<sup>4</sup> See Enclosure 2, Conditional Approval dated 27 July 2017.

<sup>5</sup> See Id. Condition 4.

<sup>6</sup> Id., Condition 15.

<sup>7</sup> See Enclosure 3, Recorded Site Plan.

<sup>8</sup> See Enclosure 4, Minor Subdivision Application.

<sup>9</sup> See Enclosure 5, Approved Carlisle Subdivision Plan.

<sup>10</sup> Id.

<sup>11</sup> See Enclosure 6, Planning Board Conditional Approval Letter dated 25 August 2017.

Note 6.

- On 8 November 2017, NHDES issued AoT Permit number 1335 which covered the Ray Farm Project itself.<sup>12</sup> In April of 2019, that permit was amended to include construction of Ray Farmstead Road to its current terminus.<sup>13</sup> The existing AoT Permit only covers the built-portion of Ray Farmstead Road. To date, and to the Applicant's knowledge, the State has not reviewed or issued an AoT Permit for the extension of Ray Farmstead Road.
- A State Dredge and Fill Wetlands Permit (File #2017-01530) was issued for the Project on 16 August 2017 (the "State Wetland Permit"). On 1 February 2018, Gove Environmental Services, Inc., sought an amendment to the State Wetland Permit to cover an additional 368 square feet of impact caused by Ray Farmstead Road. The amendment request provides relevant context and states:

The need to amend the permit is related to timing. The full design and permitting of the TIF road was supposed to have been undertaken by the Town of Exeter such that this project, the first in the area to be served by the road, could proceed in a timely manner. The design and permitting of the public road has, however, lagged behind and is now preventing the start of work on the project since the road provides access to the site entrance drive. The applicant intends to enter into an agreement with the Town of Exeter to design and construct the section of roadway up to the entrance drive so work on the approved residential development can begin as soon as possible.<sup>14</sup>

- The Amended Wetland Permit was issued by NHDES on 14 February 2018.<sup>15</sup> The State Wetland Permit, as amended, only covers the construction of Ray Farmstead Road to its current terminus. The Amended State Wetland Permit does not cover the extension of Ray Farmstead Road, which, to the Applicant's knowledge, has not been reviewed or approved by any local entity or the State.
- Towards the end of 2017 and into 2018, the Town and the Applicant negotiated the terms of the TIF Road Agreement whereby the Applicant was to construct Ray Farmstead Road

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<sup>12</sup> See Enclosure 7.

<sup>13</sup> See Enclosure 8.

<sup>14</sup> See Enclosure 9.

<sup>15</sup> See Enclosure 10.

over a portion of Carlisle's Private Access.<sup>16</sup> The TIF Road Agreement required the Applicant to build Ray Farmstead Road to the Town's satisfaction and then deed the Town the underlying fee to the improved Ray Farmstead Road to its current terminus.<sup>17</sup> The TIF Road Agreement does not require the Applicant to convey the fee title interest in the remaining area of Carlisle's Private Access to the Town. In fact, the Applicant expressly refused to do so during the negotiation of the TIF Road Agreement, which is why Section 8.2 of the Agreement states that "[t]he Parties recognize that there are other matters involving the [Project] where [the Applicant] has or will request further reasonable cooperation and future consideration from the Town or its Boards and staff, including but not limited to ... consultation and consideration regarding the location of the further extension of the TIF Road on the property of CKT Associates so as to preserve the development potential of CKT's remaining land."<sup>18</sup>

- During the negotiation of the TIF Road Agreement, the Town requested that in addition to the design for Ray Farmstead Road that would serve the Project, the Applicant provide design plans for Ray Farmstead Road's extension over Carlisle's Private Access. In good faith, the Applicant, through its civil engineers at the time, Cammett Engineering, provided engineered plans for a Ray Farmstead Road extension over Carlisle's Private Access (the "Cammett Extension Plans"), as it provided other plans to the Town for utility improvements along Epping Road. The Applicant did not authorize the Town or Mr. Carlisle to utilize these plans as the final design of the Ray Farmstead Road extension and made no representation that it agreed with the Cammett Extension Plans as the final plan for Ray Farmstead Road extension. As noted above, the TIF Road Agreement expressly contemplates the potential relocation of the extension to accommodate the development of the Applicant's remaining land.
- In June of 2019, acting on behalf of Mr. Carlisle, Jones & Beach Engineers, Inc. ("JBE") sent a letter to the Planning Board cc'ing Attorney Hilliard, but not the Applicant, which purports to satisfy Condition 2 of the Carlisle Conditional Subdivision Approval which states that the approval is not final "until the applicant presents to the Board, and the Board and its engineers approve, a design for both the un-built portion of the so-called TIF road to the applicant's property, and the roadway and cul-de-sac within the

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<sup>16</sup> See Enclosure 11, TIF Road Agreement.

<sup>17</sup> The Applicant subsequently complied with the terms of the Planning Board approval and the TIF Road Agreement and provided as-built plans for Ray Farmstead Road to its current terminus to the Town and conveyed to the Town the existing built Ray Farmstead Road. See Enclosure 12, Recorded Road Deed.

<sup>18</sup> See Enclosure 11, pg. 18. This reflects that the Town understood that it does not hold the necessary rights to forcibly extend Ray Farmstead Road through the Applicant's Property over the Carlisle Private Access over the Applicant's objection.

property.”<sup>19</sup> Specifically, the JBE letter provided a set of plans for the cul-de-sac terminus of the “TIF Road”, produced by JBE, and a copy the Cammett Extension Plans provided to the Town pursuant to the TIF Agreement negotiation. No authorization from the Applicant was requested or obtained by JBE to advance those plans as the final plans for the extension. Further, the cover letter states Jones & Beach “assumes” that the stormwater flow from the proposed cul-de-sac on the Carlisle Property was included in Cammett Engineer’s design, though that is not the case.

- In response to Jones & Beach’s filing, the Town’s Assistant Engineer sent an email to JBE, cc’ing several Town Officials and Attorney Hilliard, which states in part that “DPW has no other comments on the proposed road layout” and that “[t]hese plans are acceptable for final approval.” All of this occurred without the knowledge or consent of the Applicant. Further, Mr. Carlisle still has not satisfied the express language of Condition 2 of his Subdivision Approval which requires the *Planning Board* to review and approve the design of the Ray Farmstead Road extension over the Applicant’s Property, which review would obviously require the authorization of the Applicant, who is the property owner, in the first instance. Further, as pointed out above, to the Applicant’s knowledge, there has been no local review or State permitting for the extension of Ray Farmstead Road over the Carlisle’s Private Access.
- In 2021, the Applicant decided to relocate Building D of the Project which required a use variance from the Zoning Board of Adjustment (the “ZBA”), among other Planning Board relief. In the spirit of collaboration, the Applicant reached out to Mr. Carlisle to discuss the proposal and even shared a conceptual plan depicting an alternative to the Private Access/Ray Farmstead Road extension to access the Carlisle Property from Commerce Way. The Applicant received a unanimous approval from the ZBA for the use variance. No appeal was taken from that decision.
- Also in 2021, the Applicant began hearing rumors in Town that the Town Counsel and/or Mr. Carlisle believed that the Town could use TIF funds to extend Ray Farmstead Road over Carlisle’s Private Access to the Carlisle Property over the Applicant’s objection. In an effort to understand the Town’s position, the Applicant reached out to counsel for Mr. Carlisle as well as the Town Counsel and solicited the Town’s perspective in early 2022. After a brief phone call with Town Counsel, the Applicant wrote a letter to the Town expressing an objection to the extension of Ray Farmstead Road over Carlisle’s Private Access, but proposing an alternative access to the Carlisle Property over other land

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<sup>19</sup> See Enclosure 13.

Langdon Plumer, Chair  
Exeter Planning Board  
July 6, 2022  
Page 7

owned by the Applicant, and requesting a meeting with the Town to discuss.<sup>20</sup> The Town never responded to this letter. Rather, shortly after filing its request for a preliminary consultation with the Planning Board in March of 2022, the Town filed a lawsuit seeking, among other things, to enjoin proceedings on this application.

We appreciate your time and review of this information as we work to ensure the record includes the documents which the Applicant's perspective is based on.

Very truly yours,

DONAHUE, TUCKER & CIANDELLA, PLLC



Justin L. Pasay  
JLP/sac  
Enclosures

cc: Jonathan Shafmaster  
Denis Hamel, GM2  
Brendan Quigley, Gove Environmental

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<sup>20</sup> See Enclosure 14.

## WAIVER FOR PARKING

The Applicant requests a waiver from the parking requirements in accordance with Article 5.6.5 of the Zoning Ordinance to allow 58 parking spaces where 72 spaces are required. A similar waiver was granted by the Planning Board for other buildings within the Project via the original Conditional Approval from July of 2017.

Article 5.6.5 of the Zoning Ordinance states that the “Planning Board may grant reductions in the number and size of required off-street parking spaces in conjunction with its site plan review” when such reductions “promote better utilization of parking areas, including shared parking, or a reduction in impervious surface, and conservation of open space lands and buffers.” In accordance with Article 5.6.3.B and C and 5.6.5 of the Zoning Ordinance, the Applicant requests a reduction in the parking requirements because:

1. The nature of the Project, where residents will be over 55, and the Applicant’s research re: similar properties, indicates that the required parking is not necessary to support the use, which analysis has been confirmed by the full occupation of Buildings A and B within the Project.

2. Reducing the amount of parking and impervious surface will benefit and advance the goals of the Wetlands Conservation Overlay District Ordinance and the Shoreland Protection District Ordinance; and

### SITE PLAN REVIEW REGULATIONS WAIVER REQUIREMENTS:

#### **13.7.1. The granting of the waiver will not be detrimental to the public safety, health and welfare or injurious to other property.**

The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property. In fact, the reduction in parking will allow the development to proceed with less impervious surface thereby creating additional protection for nearby wetlands which is a benefit for the public. Further, the Applicant’s experience with the fully occupied Buildings A and B constitutes proof positive that its parking proposal satisfies the needs of Project residents.

#### **13.7.2 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 uplands upon which the relocated Building D will be sited are in close proximity to sensitive wetlands and shoreland areas. This area is further challenged by steep topography and collectively, these conditions constitute unique circumstances. The Applicant requests the waiver in order mitigate the Project’s Conservation District and Shoreland District impacts, which is reasonable under the circumstances and consistent with relief provided by the Planning Board to this Project in the past.



**13.7.3 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.**

If the Applicant was required to provide the full parking amount, it would be required to cause addition impacts the Wetlands Conservation District or the Shoreland District, or would infringe on the Private Access Way on the property. Given these unique circumstances, in addition to the existing topography, granting this waiver offers greater protection to allow more of the site to remain in its nature state and further protects the wetlands.

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

The spirit and intent of the regulations includes promoting reasonable development and minimizing impacts to sensitive wetland or wetland buffer or shoreland areas. Granting this waiver would secure the objectives, as well as the standards and requirements of the Town's regulations by reducing impervious surface on the site.

**13.7.5 The waiver will not, in any manner, vary the provisions of the Exeter Zoning Ordinance or Master Plan.**

The Zoning Ordinance specifically allows the Planning Board, in its discretion, to reduce the required parking under circumstances that warrant such a reduction. Given the above, granting this waiver would be consistent with the Zoning Ordinance and the Town's Master Plan because it will promote the reduction of impervious surface area and the protection of shoreland area in accordance with Article 5.6.5.B and C of the Zoning ordinance.

## WAIVER FOR PARKING LOT SETBACKS FROM BUILDING

The Applicant requests a waiver from the requirements of Section 11.3.1.2.a of the Site Plan Review and Subdivision Regulations (the “Regulations”) to allow a 15-foot distance between the proposed building and its corresponding front parking lot where the minimum distance required is 25 feet. A similar waiver was granted by the Planning Board for other buildings within the Project via the original Conditional Approval from July of 2017.

### **SITE PLAN REVIEW REGULATIONS WAIVER REQUIREMENTS:**

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

The site has been designed to allow for safe pedestrian and vehicular traffic and has been designed to minimize impacts to the Wetland Conservation District and Shoreland Protection District. Allowing the reduced building/parking setback allows less impact to the wetland and corresponding buffers on the site which benefits the public health, safety and welfare. Further, the architecture and parking configuration will be consistent with Buildings A, B and C which are already constructed and will, therefore, maintain a uniform aesthetic within the Project. Finally, there is a substantial amount of landscaping proposed for the areas between the building and the parking which will achieve the objective of the regulation.

**13.7.2 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.**

Given the site’s existing topography and wetlands, granting this waiver offers greater protection to allow more of the site to remain in its nature state and further protects the wetlands. Additionally, this request is consistent with identical relief already provided to this Project.

**13.7.3 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.**

Again, given the site’s existing topography and wetlands, granting this waiver offers greater protection to allow more of the site to remain in its nature state and further protects the wetlands and shoreland area.

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

Granting this waiver for this relatively minor deviation would secure the objectives, standards and requirements of the Town’s regulation by reducing impacts on the wetland buffer

without impacting public safety or the aesthetics of the Project which will be thoroughly landscaped and consistent with what is already built.

**13.7.5 The waiver will not, in any manner, vary the provisions of the Exeter Zoning Ordinance or Master Plan.**

Allowing the reduced setback will not violate the spirit of the Zoning Ordinance or Exeter Master Plan and will allow less impact in the wetland buffer.

## WAIVER FOR ROADWAY LENGTH

The Applicant requests a waiver from the dead-end streets and cul-de-sacs stated in Section 9.17.2 of the Site and Subdivision Regulations, to allow a road length of 1656.2 feet where the maximum allowed is 1,200 feet.

In preparation for the filing of its Planning Board applications, the Applicant and Denis Hamel, from GM2 Associates, Inc. ("GM2"), sat down with Assistant Fire Chief Justin Pizon to review the plan for the relocation of Building D and to discuss, among other things, roadway length. The result of that meeting was input provided by Assistant Chief Pizon regarding the proposed internal roadway connecting Building C with Building D which was incorporated into the Plan by GM2. The Assistant Fire Chief expressed no concerns over the proposed length of the roadway. Further, under the circumstances, the Applicant's proposed access from Building C constitutes the least impactful means of providing access to the underlying upland area where Building D will be relocated and the purpose of the underlying regulation, which is rooted in providing fire safety, is satisfied by the project because Building D will be sprinkled like Buildings A, B and C.

### **SITE PLAN REVIEW REGULATIONS WAIVER REQUIREMENTS:**

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

As detailed in the Applicant's Conditional Use Permit filings, which filings are incorporated herein by reference, the extension of the access road from Building C to Building D is the least environmentally impactful means of providing access to the underlying uplands that exists. For this reason, the Applicant's proposal advances the public health, safety and welfare. Further, the occupants of Building D will be protected from a life safety and fire perspective, by a sprinkled building and the Assistant Fire Chief did not express concern over the length of the roadway. Under the circumstances, not only will granting the waiver not be detrimental to the public health, safety and welfare or injurious to other property, but it will advance all those things.

**13.7.2 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.**

As described in other application filings, the Property is unique by virtue of its topography and the distinct and separated upland areas which, in this case, are surrounded by Wetland Conservation District and/or the Shoreland Protection District. As a result of these unique circumstances, the proposed access from Building C is the least impactful means of providing access to the upland area. These conditions are unique to the Property and not applicable generally to other properties.

**13.7.3 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.**

As described above, given the nature of the development, the site limitations including topography and proximity to the Wetlands Conservation and Shoreland Protection Districts, the proposed access from Building C is the most reasonable course of action as any other means would cause far more environmental impacts than what the Applicant proposes as detailed in the Applicant's Conditional Use Permit filings. Requiring the Applicant to provide access to the underlying upland area via a means that will cause more environmental impact is a particular hardship.

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

The spirit and intent of the underlying regulation, as referenced above, is to provide fire protection. Here, the Applicant has consulted with the Assistant Fire Chief, incorporated recommendations into the plan, and received no objection about road length. Further, Building D will be sprinkled like Buildings A, B and C and so the spirit and intent of the regulation is satisfied. Beyond this, the spirit and intent of the regulations incorporates the notion of avoidance and minimization of wetland impacts, which the Applicant's proposal accomplishes.

**13.7.5 The waiver will not, in any manner, vary the provisions of the Exeter Zoning Ordinance or Master Plan.**

The provisions of the Zoning Ordinance and Master Plan will be protected because the Project contemplates the reasonable provision of fire safety to Building D via its sprinkler system, and because the proposed extension of the internal access road is the least impactful means of providing access to the underlying upland area.

**MEMORANDUM**

Ref: 2218A

To: Bill Blackett  
Ray Farm Condominiums

From: Stephen G. Pernaw, P.E., PTOE

Subject: Proposed Residential Development  
Exeter, New Hampshire

Date: May 27, 2022

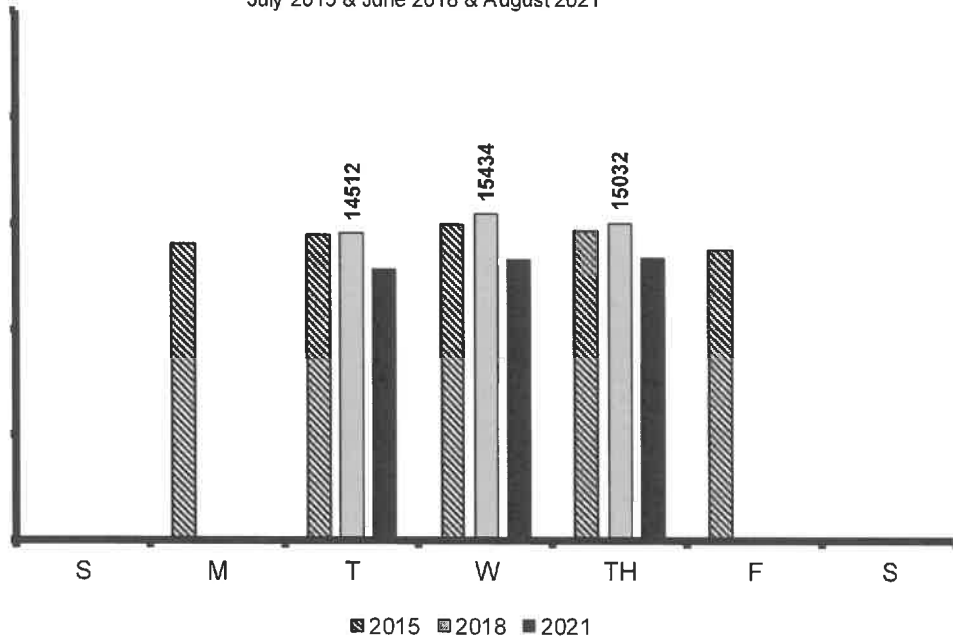
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Background – On June 26, 2017 our office prepared a “*Traffic Impact Assessment*” report for Willey Creek Company, LLC, for the proposed Active Adult Community (55+) with 116 dwelling units on a site located on the east side of NH Route 27 in Exeter, New Hampshire. The current development proposal calls for +12 additional dwelling units, bringing the total to 128 dwelling units. The purpose of this memorandum is to update the trip generation analysis, and to update our previous research of available traffic count data. This memorandum also addresses the fact that the ITE Trip Generation Manual has undergone two revisions since the publication of the original study. To summarize:

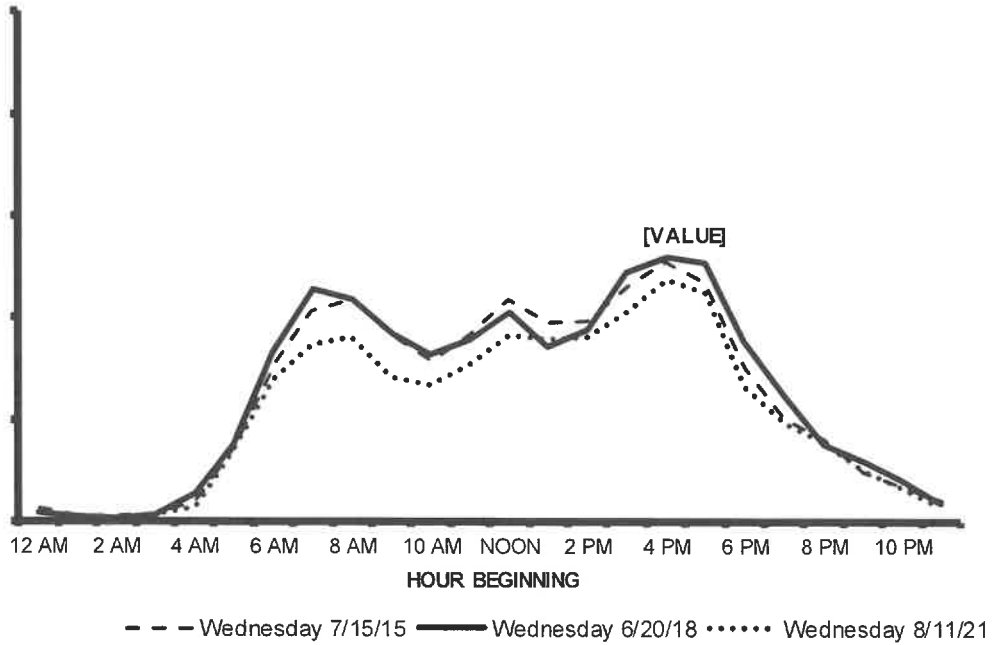
Proposed Development – According to the plan entitled “*Overall Site Plan*,” prepared by GM2 (see Attachment 1), the proposed development project involves the construction of one new building that increases the dwelling unit count to 128 units. Access to the proposed building will be provided via a continuation of the existing full-access site driveway, also known as Ray Farmstead Road.

Existing Traffic Volumes - Research at the NHDOT revealed that the closest short-term Automatic Traffic Recorder count station to the site is located on NH27, south of NH101 Exit 9, approximately 0.25-miles north of Ray Farmstead Road. According to the NHDOT reports, this section of NH27 carried an Annual Average Daily Traffic (AADT) volume of approximately 11,302 vehicles per day (vpd) in 2021, down from a high of 13,128 vpd in 2019 (see Attachment 2). This data clearly shows the effects of the ongoing pandemic. The most recent data demonstrates that weekday traffic volumes typically reach peak levels from 8:00 to 9:00 AM and from 4:00 to 5:00 PM, thus corresponding to the typical commuter periods (see Attachments 3 & 4). The diagrams on Page 2 summarize the daily and hourly variations in traffic demand along NH27.

**DAILY TRAFFIC VARIATIONS**  
 NH 27 (Epping Road) South of NH101 Exit 9  
 July 2015 & June 2018 & August 2021



**HOURLY TRAFFIC VARIATIONS**



**Trip Generation** - To estimate the quantity of vehicle-trips that will be produced by the +12 additional dwelling units, Pernaw & Company, Inc. considered the standard trip generation rates and equations published by the Institute of Transportation Engineers<sup>1</sup> (ITE). The most applicable ITE Land Use Code (LUC) for this type of development is LUC 252 (Senior Adult Housing).

Table 1 summarizes the results of the trip generation analyses for the three cases below: using the previous traffic study (ITE 9<sup>th</sup> Edition), and for this 2022 Update (ITE 11<sup>th</sup> Edition) using 116 units and 128 units. In all cases, the number of dwelling units was used as the independent variable (see Attachments 5 – 10).

Table 1	Trip Generation Summary / Comparison Ray Farm Condominium, Exeter, New Hampshire				
	2017 TIA <sup>1</sup>	2022 UPDATE <sup>2</sup>		Net Change <sup>3</sup>	Change <sup>4</sup> (with respect to 2017 Study)
	116 Units (ITE 9th Edition)	116 Units (ITE 11th Edition)	128 Units (ITE 11th Edition)		
<b>Weekday (24 hours)</b>					
Entering	184 veh	180 veh	198 trips	18 veh	14 trips
Exiting	<u>184 veh</u>	<u>180 veh</u>	<u>198 trips</u>	<u>18 veh</u>	<u>14 trips</u>
Total	368 trips	360 trips	396 trips	36 trips	28 trips
<b>AM Street Peak Hour</b>					
Entering	8 veh	8 veh	8 trips	0 veh	0 trips
Exiting	<u>15 veh</u>	<u>15 veh</u>	<u>17 trips</u>	<u>2 veh</u>	<u>2 trips</u>
Total	23 trips	23 trips	25 trips	2 trips	2 trips
<b>PM Street Peak Hour</b>					
Entering	16 veh	16 veh	18 trips	2 veh	2 trips
Exiting	<u>13 veh</u>	<u>13 veh</u>	<u>14 trips</u>	<u>1 veh</u>	<u>1 trips</u>
Total	29 trips	29 trips	32 trips	3 trips	3 trips

<sup>1</sup> "Traffic Impact Assessment - Proposed Active Adult Community " dated 6/26/17 by Pernaw & Company, Inc.

<sup>2</sup> ITE Land Use Code 252 - Senior Adult Housing (Trip Equation Method)

<sup>3</sup> Column 3 minus Column 2

<sup>4</sup> Column 3 minus Column 1

This table shows that the overall development will generate its highest traffic flow rate during the weekday PM commuter peak hour, with an increase of approximately +3 vehicle-trips (2 arrivals, 1 departure) due to the 12 additional units. An increase of +3 vehicles that will be split between points north and south on NH27, is de minimis from an overall impact standpoint.

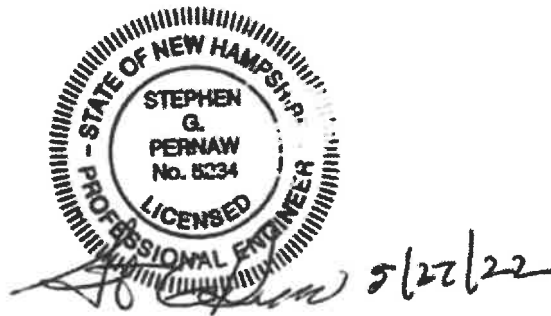
<sup>1</sup> Institute of Transportation Engineers, *Trip Generation Manual*, Eleventh Edition (Washington, D.C., 2021)



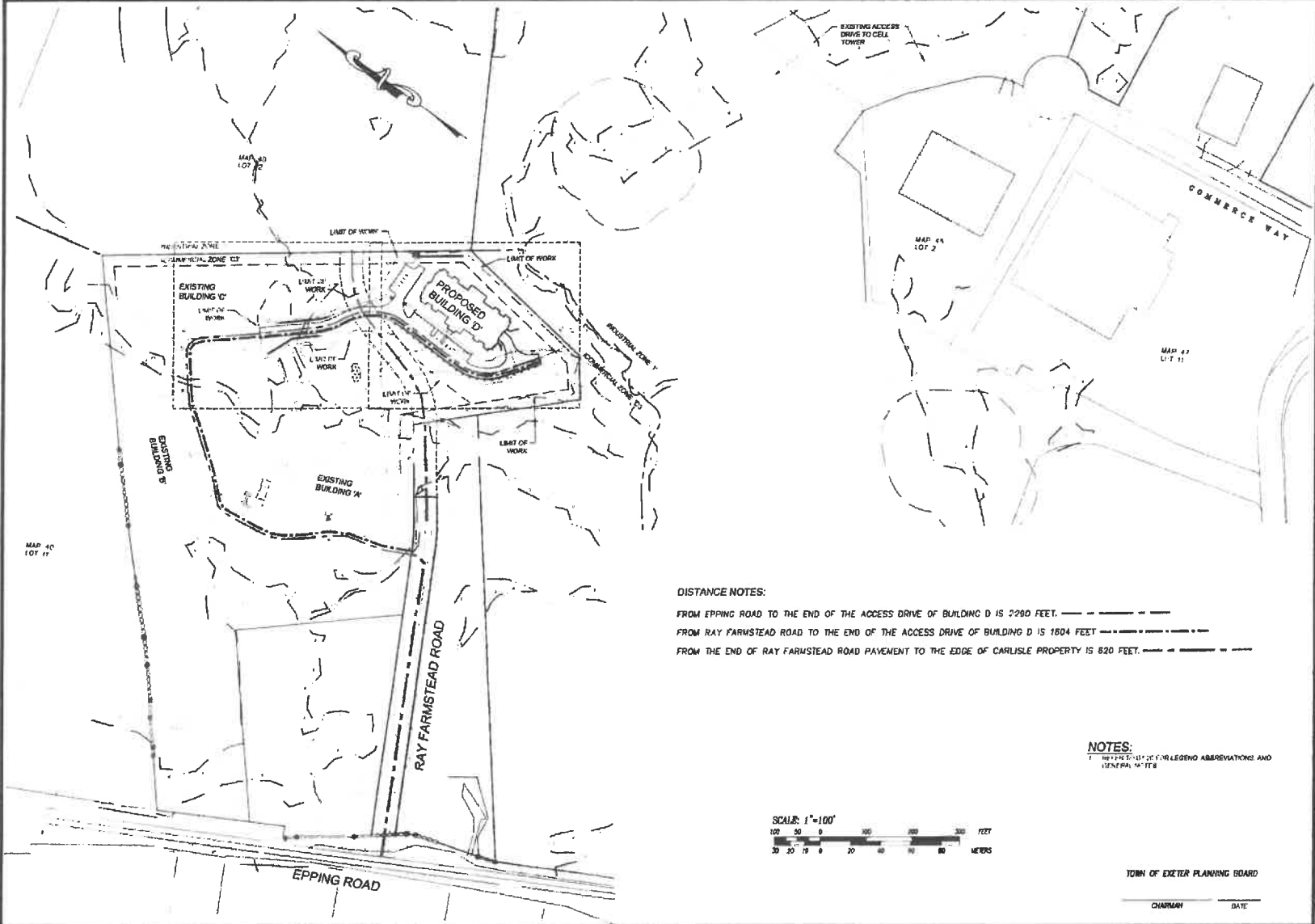
Findings & Conclusions:

1. According to the NHDOT reports, this section of NH27 north of Ray Farmstead Road carried an Annual Average Daily Traffic (AADT) volume of approximately 11,302 vehicles per day (vpd) in 2021, down from a high of 13,128 vpd in 2019. These volumes clearly show the effects of the ongoing pandemic.
2. As a result of the +12 additional condominium units, the amount of site traffic during the worst-case PM peak hour period will increase from approximately 29 vehicle-trips to 32 vehicle-trips (+3 trips). Traffic changes of this order of magnitude, when spread out over a one-hour period, are de minimis from a transportation impact and traffic operations standpoint.
3. The prevailing Levels of Service at the NH27 / Ray Farmstead Road intersection will not change as a result of the +12 additional condominium units.

Attachments



## ATTACHMENTS



P:\PROJECTS\CIVIL\30-2016\3002 BLDG 01.0 SHEET FILES\1504.DWG DSG 04.dwg 5/10/2016 9:59 AM

**DISTANCE NOTES:**

FROM EPPING ROAD TO THE END OF THE ACCESS DRIVE OF BUILDING D IS 2280 FEET. -----

FROM RAY FARMSTEAD ROAD TO THE END OF THE ACCESS DRIVE OF BUILDING D IS 1804 FEET. -----

FROM THE END OF RAY FARMSTEAD ROAD PAVEMENT TO THE EDGE OF CARLISLE PROPERTY IS 820 FEET. -----

**NOTES:**  
 1. REFER TO SET FOR LEGEND ABBREVIATIONS AND GENERAL NOTES



TOWN OF EXETER PLANNING BOARD

CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_

8 CHESTNUT STREET, AMESBURY, MA  
 Phone: (878) 330-2137  
 CONSULTING ENGINEERS &  
 LAND SURVEYORS SINCE 1988  
 www.gim2co.com

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Project Name  
**OVERALL SITE PLAN**

Project Name  
**Ray Farm Condominium**  
 Ray Farmstead Road  
 Exeter, NH 03833  
 Rockingham County

---

Applicant Name  
**Ray Farm, LLC**  
 158 Shattuck Way  
 Newington, NH 03801

---

REVISION BLOCK			
NO	DATE	DESC	BY
1	5/10/22	TRC COMMENTS	DH

---

Project Name	RAY FARM
FIELD	J. SULLAGGIO, R. SMITH
DESIGN	D. HAMEL
DRAWN	D. HAMEL
CHECKED	D. GARDNER
DATE	5/10/22
FILE	30-2016-3002
JOB #	1504.D

SHEET **C1.0**



Transportation Data Management System

List View

All DIRs

Record	1	of 1	Goto Record	go
Location ID	82153064	MPO ID		
Type	SPOT	HPMS ID		
On NHS	No	On HPMS	Yes	
LRS ID	Y1530001__	LRS Loc Pt.		
SF Group	04	Route Type		
AF Group	04	Route		
GF Group	E	Active	Yes	
Class Dist Grp	Default	Category	3	
Seas Class Grp	Default			
WIM Group	Default			
QC Group	Default			
Funct'l Class	Other Principal Arterial	Milepost		
Located On	Epping Rd			
Loc On Alias	NH 27 (EPPING RD) SOUTH OF NH 101 EXIT 9			
More Detail ▶				
STATION DATA				

Directions:  2-WAY  EB  WB  ?

AADT

Year	AADT	DHV-30	K %	D %	PA	BC	Src
2021	11,302	1,165	10	60	10,273 (91%)	1,029 (9%)	
2020	11,080 <sup>3</sup>		10	60	10,083 (91%)	997 (9%)	Grown from 2019
2019	13,128 <sup>3</sup>		10	60	12,025 (92%)	1,103 (8%)	Grown from 2018
2018	12,972	1,303	10	60	11,959 (92%)	1,013 (8%)	
2017	12,485 <sup>3</sup>						Grown from 2016

> >> 1-5 of 14

Travel Demand Model										
Model Year	Model AADT	AM PHV	AM PPV	MD PHV	MD PPV	PM PHV	PM PPV	NT PHV	NT PPV	

VOLUME COUNT			
Date	Int	Total	
Thu 8/12/2021	60	13,390	
Wed 8/11/2021	60	13,241	
Tue 8/10/2021	60	12,862	
Thu 6/21/2018	60	15,032	
Wed 6/20/2018	60	15,434	
Tue 6/19/2018	60	14,512	
Fri 7/17/2015	60	13,695	
Thu 7/16/2015	60	14,647	
Wed 7/15/2015	60	14,934	

VOLUME TREND	
Year	Annual Growth
2021	2%
2020	-16%
2019	1%
2018	4%
2017	2%
2016	2%
2015	0%
2012	0%

STATE OF NEW HAMPSHIRE, DEPARTMENT OF TRANSPORTATION - BUREAU OF TRAFFIC  
 IN COOPERATION WITH U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION  
 AUTOMATIC TRAFFIC RECORDER DATA FOR THE MONTH OF JULY 2015

2/22/2016

82 153064 EXETER- NH 27 (EPPING RD) SOUTH OF NH 101 EXIT 9

M O N T H	D A Y	D A Y	12 AM 1 AM 2 AM 3 AM 4 AM 5 AM 6 AM 7 AM 8 AM 9 AM 10 AM 11 AM 12 PM 1 PM 2 PM 3 PM 4 PM 5 PM 6 PM 7 PM 8 PM 9 PM 10 PM 11 PM																		Total						
			12 AM	1 AM	2 AM	3 AM	4 AM	5 AM	6 AM	7 AM	8 AM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM		6 PM	7 PM	8 PM	9 PM	10 PM	11 PM
7	13	2	44	19	13	25	88	367	700	1030	984	806	867	796	990	779	905	1045	1137	1154	755	509	422	303	153	100	13991
7	14	3	61	33	35	34	91	379	751	1024	1084	846	740	841	983	863	919	1162	1255	1136	772	490	410	282	167	107	14465
7	15	4	70	25	29	34	92	367	760	1027	1085	918	787	921	1092	979	982	1157	1272	1168	749	502	400	246	169	103	14934
7	16	5	66	32	32	37	115	397	727	988	1037	844	749	851	938	836	918	1163	1298	1175	774	567	451	290	206	156	14647
7	17	6	56	31	30	40	76	344	659	881	877	858	734	801	976	901	883	1069	1086	1000	767	519	401	341	210	155	13695



TYPE	STATION	YEAR	MONTH	NO. DAYS	AVERAGE SUNDAY	AVERAGE WEEKDAY	AVERAGE SATURDAY	AVERAGE DAILY	COMPUTED VOLUME	PERCENT GAIN	PERCENT LOSS
82	153064	2015	July	5	0	14346	0	*	*		

PEAK HOUR VOLUMES:

	AVERAGE AM:	AVERAGE MIDDAY:	AVERAGE PM:	
SUNDAY	*	*	*	AM - 6 AM TO 10 AM
WEEKDAY	1023	996	1213	MIDDAY - 10 AM TO 2 PM
SATURDAY	*	*	*	PM - 2 PM TO 8 PM



Excel Version

Weekly Volume Report			
Location ID:	82153064	Type:	SPOT
Located On:	Epping Rd	:	
Direction:	2-WAY		
Community:	EXETER	Period:	Mon 6/18/2018 - Sun 6/24/2018
AADT:	12972		

Start Time	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Avg	Graph
12:00 AM		39	46	58				48	0.3%
1:00 AM		29	28	22				26	0.2%
2:00 AM		24	16	20				20	0.1%
3:00 AM		49	35	57				47	0.3%
4:00 AM		133	139	131				134	0.9%
5:00 AM		400	379	392				390	2.6%
6:00 AM		783	827	817				802	5.4%
7:00 AM		1056	1135	1097				1,096	7.3%
8:00 AM		1034	1093	1077				1,068	7.1%
9:00 AM		808	919	867				865	5.8%
10:00 AM		851	817	804				824	5.5%
11:00 AM		854	893	858				868	5.8%
12:00 PM		1010	1026	934				990	6.6%
1:00 PM		855	859	905				873	5.8%
2:00 PM		900	942	979				940	6.3%
3:00 PM		1152	1227	1205				1,195	8.0%
4:00 PM		1229	1303	1270				1,267	8.5%
5:00 PM		1228	1275	1205				1,236	8.2%
6:00 PM		741	884	808				811	5.4%
7:00 PM		476	617	503				532	3.5%
8:00 PM		374	382	451				402	2.7%
9:00 PM		285	300	271				285	1.9%
10:00 PM		132	199	211				181	1.2%
11:00 PM		90	93	92				92	0.6%
Total	0	14,512	15,434	15,832	0	0	0		
24hr Total		14512	15434	15032				14,993	
AM Pk Hr		7:00	7:00	7:00					
AM Peak		1056	1135	1097				1,096	
PM Pk Hr		4:00	4:00	4:00					
PM Peak		1229	1303	1270				1,267	
% Pk Hr		8.47%	8.44%	8.45%				8.45%	



Excel Version

Weekly Volume Report			
Location ID:	82153064	Type:	SPOT
Located On:	Epping Rd	:	
Direction:	2-WAY		
Community:	EXETER	Period:	Mon 8/9/2021 - Sun 8/15/2021
AADT:	11302		

Start Time	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Avg	Graph
12:00 AM		35	45	58				46	0.3%
1:00 AM		18	26	18				21	0.2%
2:00 AM		8	17	14				13	0.1%
3:00 AM		19	35	29				28	0.2%
4:00 AM		76	75	88				80	0.6%
5:00 AM		393	348	390				377	2.9%
6:00 AM		706	687	669				687	5.2%
7:00 AM		906	866	888				887	6.7%
8:00 AM		934	906	911				917	7.0%
9:00 AM		731	710	717				719	5.5%
10:00 AM		694	675	812				727	5.5%
11:00 AM		736	769	798				768	5.8%
12:00 PM		915	916	930				920	7.0%
1:00 PM		832	896	855				861	6.5%
2:00 PM		864	904	916				895	6.8%
3:00 PM		995	1030	1032				1,019	7.7%
4:00 PM		1162	1189	1158				1,170	8.9%
5:00 PM		992	1121	1090				1,064	8.1%
6:00 PM		638	660	638				645	4.9%
7:00 PM		416	484	480				460	3.5%
8:00 PM		350	392	352				365	2.8%
9:00 PM		217	252	285				251	1.9%
10:00 PM		153	167	185				168	1.3%
11:00 PM		72	71	87				77	0.6%
Total	0	12,862	13,241	13,390	0	0	0		
24hr Total		12862	13241	13390				13,164	
AM Pk Hr		8:00	8:00	8:00					
AM Peak		934	906	911				917	
PM Pk Hr		4:00	4:00	4:00					
PM Peak		1162	1189	1158				1,170	
% Pk Hr		9.03%	8.98%	8.65%				8.89%	



# Graph Look Up

Query

**DATA SOURCE:**  
 Trip Generation Manual, 11th Ed

**SEARCH BY LAND USE CODE:**  
 252

**LAND USE GROUP:**  
 (200-299) Residential

**LAND USE:**  
 252 - Senior Adult Housing - Multifamily

**LAND USE SUBCATEGORY:**  
 All Sites

**SETTING/LOCATION:**  
 General Urban/Suburban

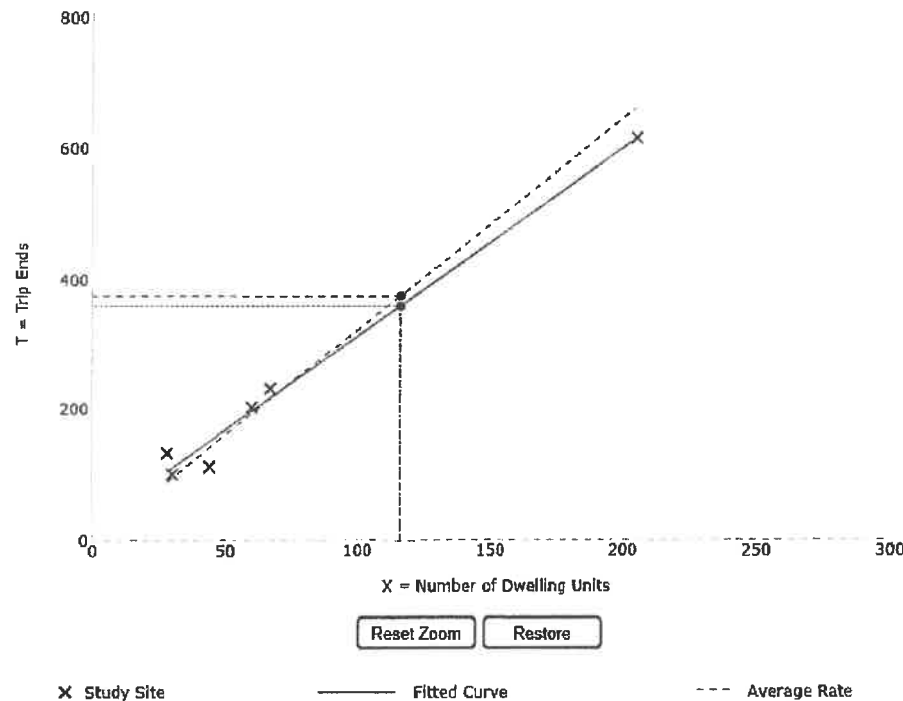
**INDEPENDENT VARIABLE (IV):**  
 Dwelling Units

**TIME PERIOD:**  
 Weekday

**TRIP TYPE:**  
 Vehicle

**ENTER IV VALUE TO CALCULATE TRIPS:**  
 116

## Data Plot and Equation



## DATA STATISTICS

**Land Use:**  
 Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

**Independent Variable:**  
 Dwelling Units

**Time Period:**  
 Weekday

**Setting/Location:**  
 General Urban/Suburban

**Trip Type:**  
 Vehicle

**Number of Studies:**  
 6

**Avg. Num. of Dwelling Units:**  
 72

**Average Rate:**  
 3.24

**Range of Rates:**  
 2.59 - 4.79

**Standard Deviation:**  
 0.53

**Fitted Curve Equation:**  
 $T = 2.89(X) + 24.82$

**R<sup>2</sup>:**  
 0.99

**Directional Distribution:**  
 50% entering, 50% exiting

**Calculated Trip Ends:**  
 Average Rate: 376 (Total), 188 (Entry), 188 (Exit)  
 Fitted Curve: 360 (Total), 180 (Entry), 180 (Exit)

Use the mouse wheel to Zoom Out or Zoom In.  
 Hover the mouse pointer on data points to view X and T values.

# Graph Look Up

Query

**DATA SOURCE:**

Trip Generation Manual, 11th Ed

**SEARCH BY LAND USE CODE:**

252

**LAND USE GROUP:**

(200-299) Residential

**LAND USE:**

252 - Senior Adult Housing - Multifamily

**LAND USE SUBCATEGORY:**

All Sites

**SETTING/LOCATION:**

General Urban/Suburban

**INDEPENDENT VARIABLE (IV):**

Dwelling Units

**TIME PERIOD:**

Weekday, Peak Hour of Adjacent Street Traffic

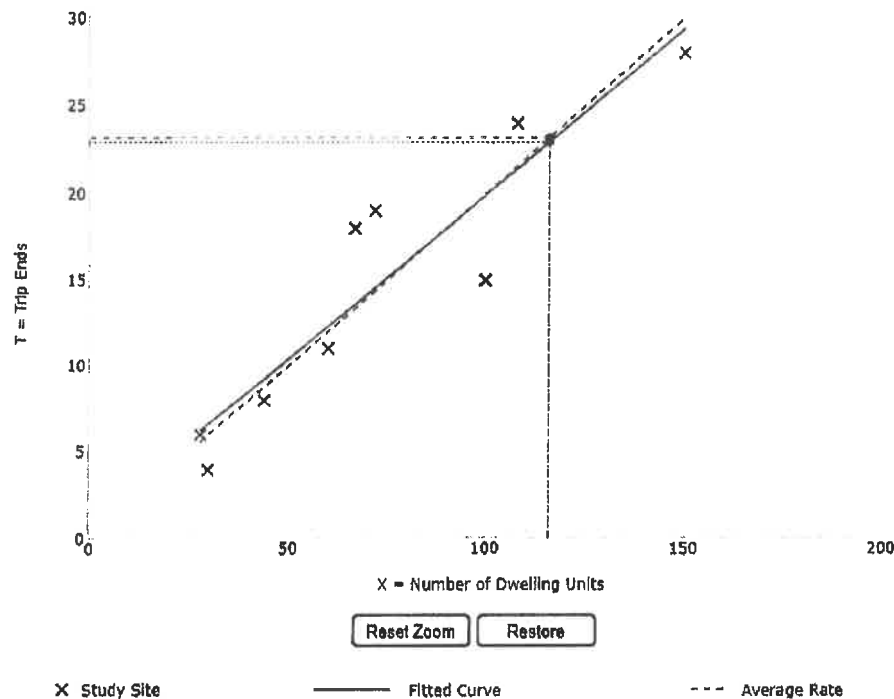
**TRIP TYPE:**

Vehicle

**ENTER IV VALUE TO CALCULATE TRIPS:**

116

**Data Plot and Equation**



**DATA STATISTICS**

**Land Use:**  
Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

**Independent Variable:**  
Dwelling Units

**Time Period:**  
Weekday  
Peak Hour of Adjacent Street Traffic  
One Hour Between 7 and 9 a.m.

**Setting/Location:**  
General Urban/Suburban

**Trip Type:**  
Vehicle

**Number of Studies:**  
9

**Avg. Num. of Dwelling Units:**  
73

**Average Rate:**  
0.20

**Range of Rates:**  
0.13 - 0.27

**Standard Deviation:**  
0.04

**Fitted Curve Equation:**  
 $T = 0.19(X) + 0.90$

**R<sup>2</sup>:**  
0.85

**Directional Distribution:**  
34% entering, 66% exiting

**Calculated Trip Ends:**  
Average Rate: 23 (Total), 8 (Entry), 15 (Exit)  
Fitted Curve: 23 (Total), 8 (Entry), 15 (Exit)

Use the mouse wheel to Zoom Out or Zoom In.  
Hover the mouse pointer on data points to view X and T values.



# Graph Look Up

Query

**DATA SOURCE:**  
 Trip Generation Manual, 11th Ed

**SEARCH BY LAND USE CODE:**  
 252

**LAND USE GROUP:**  
 (200-299) Residential

**LAND USE:**  
 252 - Senior Adult Housing - Multifamily

**LAND USE SUBCATEGORY:**  
 All Sites

**SETTING/LOCATION:**  
 General Urban/Suburban

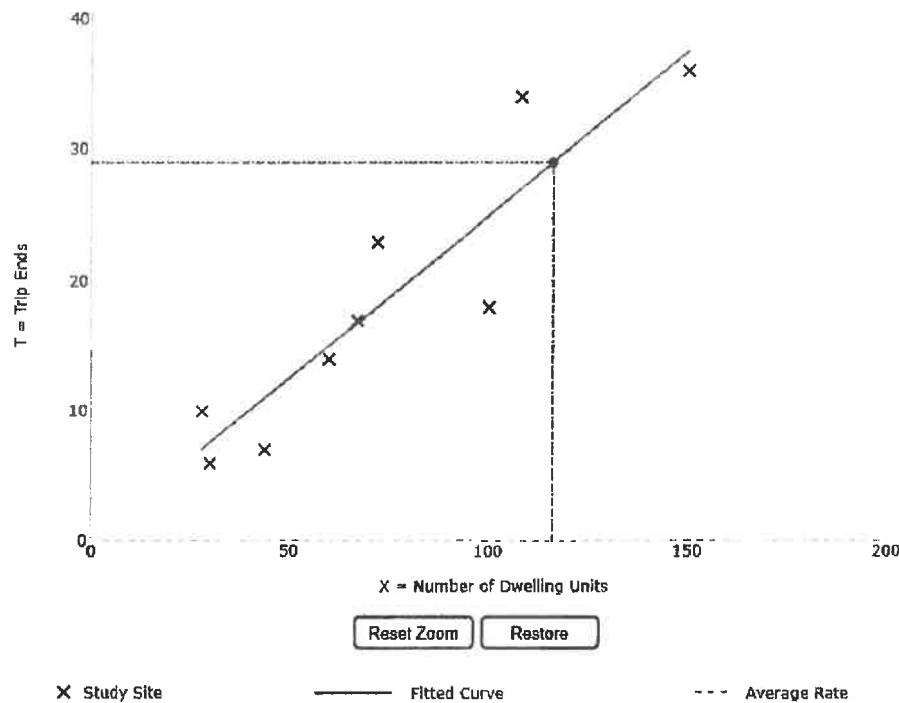
**INDEPENDENT VARIABLE (IV):**  
 Dwelling Units

**TIME PERIOD:**  
 Weekday, Peak Hour of Adjacent Street Traffic

**TRIP TYPE:**  
 Vehicle

**ENTER IV VALUE TO CALCULATE TRIPS:**  
 116

## Data Plot and Equation



## DATA STATISTICS

**Land Use:**  
 Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

**Independent Variable:**  
 Dwelling Units

**Time Period:**  
 Weekday  
 Peak Hour of Adjacent Street Traffic  
 One Hour Between 4 and 6 p.m.

**Setting/Location:**  
 General Urban/Suburban

**Trip Type:**  
 Vehicle

**Number of Studies:**  
 9

**Avg. Num. of Dwelling Units:**  
 73

**Average Rate:**  
 0.25

**Range of Rates:**  
 0.16 - 0.36

**Standard Deviation:**  
 0.06

**Fitted Curve Equation:**  
 $T = 0.25(X) + 0.07$

**R<sup>2</sup>:**  
 0.84

**Directional Distribution:**  
 56% entering, 44% exiting

**Calculated Trip Ends:**  
 Average Rate: 29 (Total), 16 (Entry), 13 (Exit)  
 Fitted Curve: 29 (Total), 16 (Entry), 13 (Exit)

Use the mouse wheel to Zoom Out or Zoom In.  
 Hover the mouse pointer on data points to view X and T values.

# Graph Look Up

Query

**DATA SOURCE:**  
 Trip Generation Manual, 11th Ed

**SEARCH BY LAND USE CODE:**

**LAND USE GROUP:**  
 (200-299) Residential

**LAND USE:**  
 252 - Senior Adult Housing - Multifamily

**LAND USE SUBCATEGORY:**  
 All Sites

**SETTING/LOCATION:**  
 General Urban/Suburban

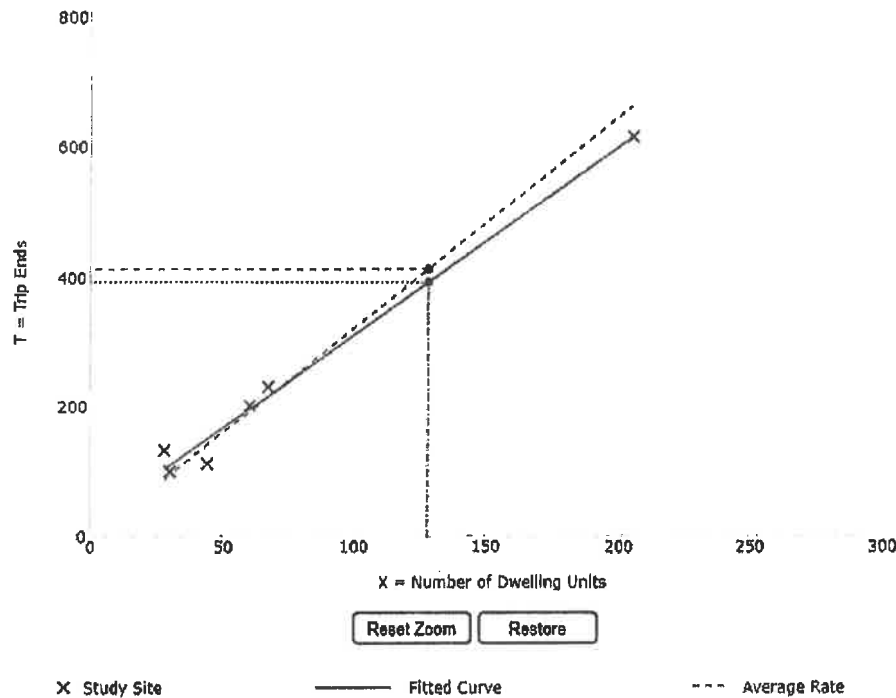
**INDEPENDENT VARIABLE (IV):**  
 Dwelling Units

**TIME PERIOD:**  
 Weekday

**TRIP TYPE:**  
 Vehicle

**ENTER IV VALUE TO CALCULATE TRIPS:**

## Data Plot and Equation



## DATA STATISTICS

**Land Use:**  
 Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

**Independent Variable:**  
 Dwelling Units

**Time Period:**  
 Weekday

**Setting/Location:**  
 General Urban/Suburban

**Trip Type:**  
 Vehicle

**Number of Studies:**  
 6

**Avg. Num. of Dwelling Units:**  
 72

**Average Rate:**  
 3.24

**Range of Rates:**  
 2.59 - 4.79

**Standard Deviation:**  
 0.53

**Fitted Curve Equation:**  
 $T = 2.89(X) + 24.82$

**R<sup>2</sup>:**  
 0.99

**Directional Distribution:**  
 50% entering, 50% exiting

**Calculated Trip Ends:**  
 Average Rate: 415 (Total), 207 (Entry), 208 (Exit)  
 Fitted Curve: 395 (Total), 197 (Entry), 198 (Exit)

Use the mouse wheel to Zoom Out or Zoom In.  
 Hover the mouse pointer on data points to view X and T values.

# Graph Look Up

Query

**DATA SOURCE:**  
 Trip Generation Manual, 11th Ed

**SEARCH BY LAND USE CODE:**  
 252

**LAND USE GROUP:**  
 (200-299) Residential

**LAND USE:**  
 252 - Senior Adult Housing - Multifamily

**LAND USE SUBCATEGORY:**  
 All Sites

**SETTING/LOCATION:**  
 General Urban/Suburban

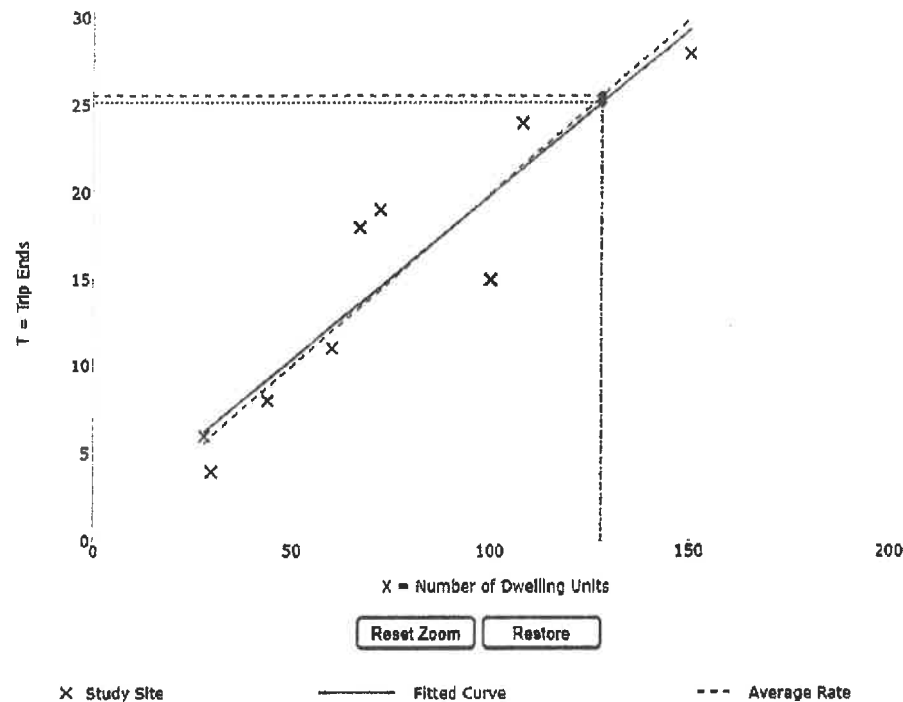
**INDEPENDENT VARIABLE (IV):**  
 Dwelling Units

**TIME PERIOD:**  
 Weekday, Peak Hour of Adjacent Street Traffic

**TRIP TYPE:**  
 Vehicle

**ENTER IV VALUE TO CALCULATE TRIPS:**  
 128

## Data Plot and Equation



## DATA STATISTICS

**Land Use:**  
 Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

**Independent Variable:**  
 Dwelling Units

**Time Period:**  
 Weekday  
 Peak Hour of Adjacent Street Traffic  
 One Hour Between 7 and 9 a.m.

**Setting/Location:**  
 General Urban/Suburban

**Trip Type:**  
 Vehicle

**Number of Studies:**  
 9

**Avg. Num. of Dwelling Units:**  
 73

**Average Rate:**  
 0.20

**Range of Rates:**  
 0.13 - 0.27

**Standard Deviation:**  
 0.04

**Fitted Curve Equation:**  
 $T = 0.19(X) + 0.90$

$R^2:$   
 0.85

**Directional Distribution:**  
 34% entering, 66% exiting

**Calculated Trip Ends:**  
 Average Rate, 26 (Total), 9 (Entry), 17 (Exit)  
 Fitted Curve, 25 (Total), 8 (Entry), 17 (Exit)

Use the mouse wheel to Zoom Out or Zoom In.  
 Hover the mouse pointer on data points to view X and T values.

# Graph Look Up

Query

DATA SOURCE:  
 Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:  
 252

LAND USE GROUP:  
 (200-299) Residential

LAND USE:  
 252 - Senior Adult Housing - Multifamily

LAND USE SUBCATEGORY:  
 All Sites

SETTING/LOCATION:  
 General Urban/Suburban

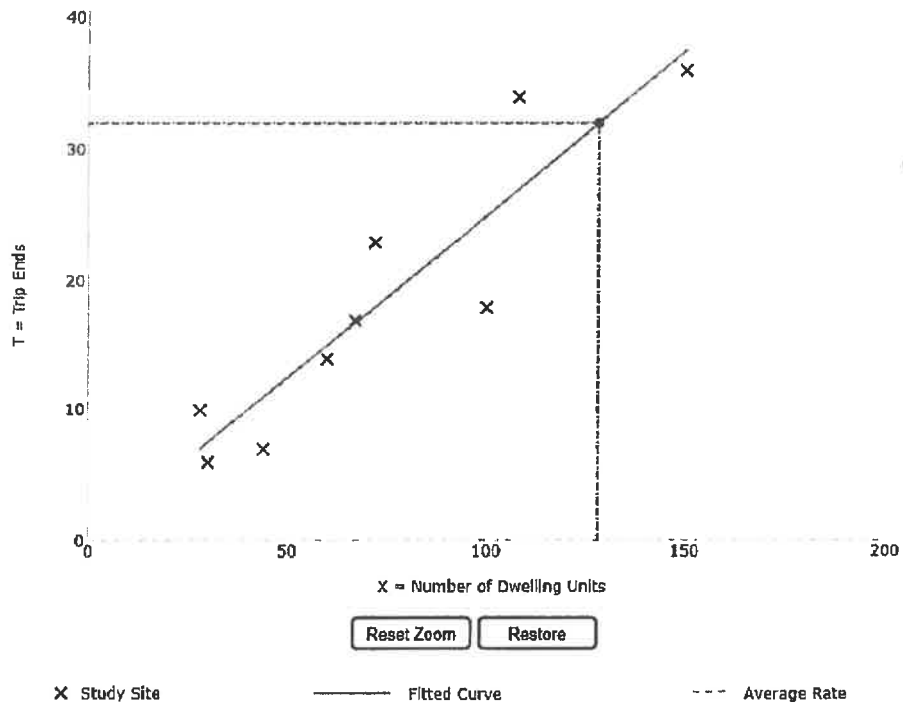
INDEPENDENT VARIABLE (IV):  
 Dwelling Units

TIME PERIOD:  
 Weekday, Peak Hour of Adjacent Street Traffic

TRIP TYPE:  
 Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:  
 128

## Data Plot and Equation



Use the mouse wheel to Zoom Out or Zoom In.  
 Hover the mouse pointer on data points to view X and T values.

## DATA STATISTICS

**Land Use:**  
 Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

**Independent Variable:**  
 Dwelling Units

**Time Period:**  
 Weekday  
 Peak Hour of Adjacent Street Traffic  
 One Hour Between 4 and 6 p.m.

**Setting/Location:**  
 General Urban/Suburban

**Trip Type:**  
 Vehicle

**Number of Studies:**  
 9

**Avg. Num. of Dwelling Units:**  
 73

**Average Rate:**  
 0.25

**Range of Rates:**  
 0.16 - 0.36

**Standard Deviation:**  
 0.06

**Fitted Curve Equation:**  
 $T = 0.25(X) + 0.07$

**R<sup>2</sup>:**  
 0.84

**Directional Distribution:**  
 56% entering, 44% exiting

**Calculated Trip Ends:**  
 Average Rate: 32 (Total), 18 (Entry), 14 (Exit)  
 Fitted Curve: 32 (Total), 18 (Entry), 14 (Exit)

DEC 26 2001

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

W. Scott Carlisle, III

v.

CKT & Associates

00-E-0072

ORDER

This order addresses the status, scope and location of an easement by which petitioner claims a right of way over respondent's property to Epping Road in Exeter, New Hampshire.

According to petitioner, the easement which is appurtenant to his property was first referenced in his chain of title in 1848. petitioner's property is located in an industrial development zone off of Epping Road in Exeter. Because the property is landlocked, petitioner cannot effectively use or develop it without the benefit of the disputed easement.

According to respondent, the deeded easement claimed by petitioner has long been extinguished by either abandonment or prescription. While respondent concedes that petitioner may be entitled to an easement by necessity, it contends that such an easement would properly be along a very different course than the one along which petitioner claims entitlement by deed. According to respondent, if petitioner got the easement along the course he claims, respondent's development plans would be ruined.

The court conducted a multi-day bench trial upon these issues and took a view of the disputed property. As a result of the

evidence presented at the hearing and the view, the court finds and rules as follows.

On the one hand, the petitioner's parcel of land is bordered on the west by a parcel of land owned by respondent and on the south by another parcel of land owned by respondent. Together, these three parcels comprise about 100 acres. Petitioner's property is bounded on the north by State Route 101, which is a limited access highway. On the other hand, respondent's parcels are bounded on the west by State Route 27, or Epping Road, to which respondent has direct access. Petitioner has no access to either that highway or any other roadway.

Respondent's two parcels mentioned above, which are hereafter referred to as lot #1 and lot #2, together form one "L" shaped 83 acre tract. Petitioner's parcel, which is hereafter referred to as lot #3, is an approximate 17 acre rectangular-shaped lot bounded on the south by respondent's lot #1, on the west by respondent's lot #2, and on the east by a lot formerly owned by Nicholas and Samuel Clark, which is hereafter referred to as lot #4.

State Route 101, which abuts petitioner's northerly boundary line, provides no direct access to any of the lots mentioned above. Route 27, or Epping Road, is one of the limited access points to Route 101. Governmental regulations applicable to Route 27 allow all properties abutting it to have one access point for every 600 feet of developed roadway. Respondent's plans are to utilize all of the access points it expects to have to Epping Road upon completing the development of its property. Petitioner's only means of ingress and

egress via Epping Road is through the disputed right-of-way over respondent's property.

All four lots identified above are derived from the same source which was property titled in the name of James R. Thing as of January 28, 1848. On that date, Mr. Thing subdivided his property by conveying lot #4 to the Clarks. Lot #4 is described as a seventeen acre woodland lot without access to any roadway. In making this conveyance, Thing granted the Clarks the following easement:

The said Clarks their heirs and assigns to have the unmolested privilege of passing from said road to and from said lot with teams loose cattle or otherwise in the path commonly used on condition of their closing all gates and bars which they have occasion to open.

(Pet'rs Ex. 5). It is not disputed that "said road" is Epping Road. (Pet'rs Ex. 2-4 & 7-8). At the time of this grant, the right-of-way in question passed from lot #4 through lot #3, and then along the boundary line between lots #2 and #1 to Epping Road.

On January 28, 1848, Mr. Thing also transferred lot #3 to John Gerrish and Silas Gould. Lot #3 is described as "a certain piece of wood and pasture land situated in said Exeter on the Easterly side of the road leading from Exeter to Epping containing seventeen acres and sixty rods more or less...." (Pet'rs Ex. 3). Since this lot also lacked access to Epping Road, Mr. Thing granted Messers. Gerrish and Gould the following easement to lot #3:

said Gerrish and Gould their heirs and assigns to have the privilege of passing and repassing from said road to said lot with teams loose cattle or otherwise in the path commonly used as often as occasion may require they closing all gates and bars which they open.

(Pet'rs Ex. 3). Mr. Thing fully warranted this transfer against adverse title claims, except for a "right of way which I this day



conveyed to Nicholas A. and Samuel B. Clark to pass and repass to their lot." Id. Gerrish eventually transferred his interest in this lot to Gould in 1854, granting the same interests described in the original deed. (Pet'rs Ex. 6). Gould then transferred title to George Watson in 1865. (Pet'rs Ex. 7).

By reference to the interest conveyed in the 1848 deed to Gerrish and Gould, the easement as described above passed in the chain of title to petitioner's father in 1956. (Pet'rs Ex. 9). Title to lot #3 then remained in petitioner's father until his death in 1986. Petitioner inherited lot #3 upon his father's death and has owned it ever since. In 1959, petitioner's father transferred a small portion of the northerly part of lot #3 to the State of New Hampshire for construction of State Route 101. (Def's Ex. A).

Mr. Thing retained exclusive title to lots #1 and #2 until August 17, 1866, when he transferred what are now respondent's two lots to John F. Moses. (Pet'rs Ex. 8). In this transfer, Mr. Thing reserved to himself and all persons claiming titles under him:

[A] right to pass and repass with servants and teams from said road over said premises to land of said George Watson in the usual travelled path in the pasture on the north side of same, the persons there passing to put up all gates and bars.

(Pet'rs Ex. 8). Respondent agrees that this easement is the same as those referenced in the lot #3 and lot #4 chains of title. Lots #1 and #2 then passed through a series of owners between 1866 and 1913, including a Deborah Ricker, Deborah French, George Carter, and Katherine Smith. At some point during this series of transfers, the language reserving the above easement was lost. However, when Ms.



Smith transferred her title to both lots to the Ray family in 1947, she reserved the following easement:

reserving a right of way to the three acre parcel situate at the northeasterly corner of the premises herein conveyed through the pasture which begins at Epping Road and runs along the Watson and Carlisle properties lying north of the granted premises.

(Deft's Ex. F). Subsequent deeds from the Ray family members to respondent's predecessor companies state that the transfer of the 83 acre parcel is subject to all easements of record. (Pet'rs Ex. 10-12). However, these deeds do not specifically describe the reservations and easements they reference.

Petitioner and respondent's predecessor in title, Richard Ray, both testified about what they knew as to the uses of lots #1, #2, and #3.<sup>1</sup> As evident in the foregoing title history, petitioner's family has owned lot #3 since 1956. Mr. Ray's family owned lots #1 and #2 from 1947 until 1986, when they transferred the lots to respondent's family of companies.

Mr. Ray, who now lives in Florida, was raised in the small house at the southwest corner of respondent's lot #2. Mr. Ray obtained title to these lots after his father's death in 1970. However, he has not lived on the land since sometime in the 1950's. Mr. Ray has no knowledge of petitioner's easement to Epping Road across the Ray family's former land. According to Mr. Ray, no member of petitioner's family ever used the easement since 1947.

Mr. Ray testified about some of the uses to which he and others have put respondent's land. Specifically, during his youth, Mr. Ray

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<sup>1</sup> Petitioner testified at the hearing, and Mr. Ray testified by video deposition.

used all three lots at different times for hunting, trapping, hiking, and playing. He recalled that all of the lots were separated by fairly continuous barbed wire fences or stone walls. A former tenant of the Ray family knocked down a portion of one of the stone walls separating respondent's lots #1 and #2, so as to get better access to lot #1 for logging.

Mr. Ray further recalled a blueberry patch located in what is now the north-central to northeast portion of lot #1. He explained that the only rights of way that he did know of allowed the Rays' tenants and predecessors in title access from Epping Road to the blueberry patch. He stated that this was his only understanding of the easement reserved in his own deed. Mr. Ray knew that there was an old rutted woods road behind his family home extending east toward the Carlisle property and the blueberry patch, but he did not know when it was created. In fact, Mr. Ray thought that this woods road was used only for recent logging activities.

Petitioner testified that he too has no personal knowledge that his family ever used the claimed easement. However, he does know that his father often walked the perimeters of all of his properties in Exeter, and that he would not have been able to access lot #3 after 1959 when Route 101 was constructed, without using the easement. Petitioner's family owns several parcels of land north of Route 101 in addition to lot #3. Petitioner himself did not walk upon the easement until either 1987 or 1989, when he learned of respondent's proposed subdivision of lots #1 and #2.

Upon learning of respondent's proposed development, petitioner decided to survey his own property and explore potential development

uses. In 1987, petitioner retained Durgin Schofield & Associates (DSA) to survey his property and prepare a plan of the easement for access to Epping Road. Toward this end, DSA found evidence of barbed wire fencing, posts, and two barways on the south and west boundaries of petitioner's lot. Testimony from both sides confirmed that posts such as these are often evidence of "gates and bars" from former pasture land, and that barways generally indicated the presence of a road or passageway between pastures. However, this evidence existed along both boundaries of petitioner's lot, and DSA could not confirm in 1987 the precise location of the easement. While unable to delineate petitioner's easement in 1987, DSA did note its existence as granted to Gerrish and Gould as well as to the Clarks. (Pet'rs Ex. 13). In 1989, DSA returned to the property at petitioner's behest on account of a planning board dispute regarding respondent's subdivision of lots #1 and #2. DSA subsequently amended its 1987 plan to show new evidence presented at the planning board hearing.

In anticipation of subdivision, respondent had retained Holden Engineering and Surveying Company to conduct a survey of its lots and the surrounding areas. (Pet'rs Ex. 14 (A)-(C) & 17). Holden surveyors found the same evidence of fencing and barways as DSA. In addition, Holden confirmed the presence of an old woods road extending west from the southwest corner of petitioner's lot, following the boundary of respondent's lots #1 and #2 and ending just before Epping Road near the Ray homestead. (Pet'rs Ex. 14-B). Upon reviewing the Holden plan and comparing it with its original plan, DSA again returned to petitioner's lot and this time found evidence of the woods road. DSA promptly amended its plan to reflect this



woods road as the referenced easement to Gerrish and Gould in 1848. (Pet'rs Ex. 13). All 1987 and 1989 Holden and DSA plans and the later 1999 Civilworks plan as well as all surveys introduced into evidence note the various easements of record.

The Exeter Planning Board held a final hearing on respondent's subdivision application on November 2, 1989. The Planning Board found that petitioner had presented evidence as to the existence of an easement but declined to address its precise location or scope. According to the Planning Board, such issues were for the Superior Court to decide. The Planning Board approved respondent's subdivision application upon the condition that each plan clearly reflect the existence of a right of way in petitioner's favor. (Pet'rs Ex. 20 & 30). The Planning Board also declined to express an opinion about the potential wetlands impact that the subdivision and easement would create, but it required that any such impact be mitigated before development.

According to petitioner, since the easement is appurtenant and runs with his land, it cannot be extinguished by non-use or omission from a deed. Petitioner also asserts that the location of the easement is clearly delineated in his chain of title, in recorded town plans, and in the various property surveys and development plans. Finally, petitioner contends that the scope of the easement should be determined by the minimum scope allowed by law for private rights of way, thereby allowing access to his landlocked parcel from Epping Road consistent with all applicable Exeter zoning ordinances. According to respondent, any deeded easement relied upon by petitioner was either extinguished by prescription or abandoned by



non-use. Therefore, respondent argues, the court must be guided by the rule of reason in granting petitioner any easement by necessity and in determining the proper location and scope of any such easement. Respondent contends that the rule of reason requires the easement to be so limited in scope and location as to have the least detrimental impact upon respondent's land.

Whether an easement exists is always a question of law for the court. See Quality Disct. Mkt. Corp. v. Laconia Planning Bd., 132 N.H. 734, 739 (1990). Therefore, in view of the parties' positions, the court must determine the following issues: 1) Has petitioner abandoned its deeded easement? 2) Has the deeded easement been extinguished by adverse possession? 3) If the deeded easement is still effective, what is its proper location and scope? 4) If the deeded easement is ineffective, what is the proper location and scope of any easement by necessity? The court will now address the issues in dispute.

First, contrary to respondent's contention, where an express easement is granted by deed, it cannot be extinguished merely because the need for it no longer exists, it is not actually used, or it is omitted from a deed in a chain of title. See Titcomb v. Anthony, 126 N.H. 434, 437 (1985); Downing House Realty v. Hampe, 127 N.H. 92, 95 (1985); see also RSA 477:26. Moreover, such an easement is not terminable at the will of the owner of the servient estate.

To prove that an easement has been abandoned, there must be "clear, unequivocal and decisive acts by the owner of the dominant estate." Titcomb, 126 N.H. at 437 (quotation omitted). These affirmative acts must show a clear, "present intent to relinquish the

easement or a purpose inconsistent with its further existence." Id. (citation omitted). Even the dominant owner's acquiescence to a fence being maintained by the servient owner along a portion of the easement "is not sufficient to compel a finding of an 'unequivocal' act of abandonment." Downing House Realty, 127 N.H. at 95.

In this case, there are no acts to show that petitioner abandoned his right to the deeded easement. In fact, the only evidence presented at trial showed that petitioner's lot has never been used for any purpose other than pasturage or trapping. The fences that were maintained are consistent with the grant of the easement indicating the land was used as pasturage for cows. Neither petitioner nor his predecessors in title erected any immovable structures across the easement. Nor did petitioner's father transfer the deeded easement to the State during its construction of Route 101. The only affirmative acts which petitioner or his father ever took as to the property were those related to surveying and the plotting of the path of the easement. These acts are not consistent with any intent to abandon.

Accordingly, the court rules that neither petitioner nor his predecessors in title ever affirmatively abandoned the deeded easement granting access to Epping Road. Therefore, the easement has not been extinguished by either abandonment or non-use.

Second, respondent's claim of extinguishment by prescription or adverse possession is misplaced. Although both adverse possession and prescription require a possessory period of 20 years, there is a difference between acquiring title to an easement over another's property by adverse possession and extinguishing a deeded easement

over one's own land by prescription. To achieve title by adverse possession there must be 20 years of uninterrupted adverse use of another's property, and such use must be so adverse as to give the original owner a legal claim for damages. See Flanagan v. Prudhomme, 138 N.H. 561, 572 (1994).

However, for the servient owner to extinguish an easement by prescription, he must assert rights over a non-possessory interest on his own property rather than asserting rights against the title to property of another. Prescription requires a clearly adverse act against the owner of the easement to begin the twenty year prescriptive period. Titcomb, 126 N.H. at 437. This act must be so hostile and adverse that the owner of the dominant estate would be placed on notice that an adverse claim was being made against his right of use. Id. Moreover, the act must be completely incompatible with the right of use granted by the easement, although it may only be incompatible with a portion of such right. Id. at 438.

In this case, as Mr. Ray testified, there was nothing done on lot #1 or lot #2 that was clearly adverse to the owner of the right of way to Epping Road. Mr. Ray's family used these lots for hunting, trapping, hiking and playing. In addition, they allowed their tenants and others to do logging on the lots. Finally, the Ray family and their predecessor in title used the woods road and their lots to access a blueberry patch. These are not overtly hostile actions that would place petitioner or his predecessors in title on notice of an adverse claim to their easement. Nor are these actions incompatible with a right of way from lot #3 to Epping Road.



The only adverse act of any real significance challenging petitioner's easement rights occurred during the hearings on respondent's subdivision application before the Exeter Planning Board in 1989. At these hearings, respondent manifested a clear intention to obstruct petitioner's use of the easement through development and subdivision of lots #1 and #2. However, petitioner clearly challenged any curtailment of his easement rights by respondent during these hearings. For instance, petitioner retained a surveying firm to delineate the location of his easement and to determine potential uses for development of his lot #3. Therefore, neither respondent nor his predecessors in title have taken continuous, uninterrupted, adverse or hostile action to prevent petitioner or his predecessor in title from using the easement for the required twenty year period.

At the earliest, the prescriptive period began to run in 1989, but the evidence of logging, blueberry picking, and surveying all show that third parties have accessed and used the land at the same time. This third party use alone negates any adverse claim to the easement rights. See Seward v. Loranger, 130 N.H. 570, 576-77 (1988). Accordingly, petitioner's deeded easement has not been extinguished by adverse possession or prescription. Petitioner continues to have an effective deeded easement for access from lot #3 to Epping Road. The issue at hand then turns to the location and scope of the easement over lots #1 and #2.

The scope and location of an easement must be determined by the language of the deed and the actions of the parties affected by the easement. See Thurston Enterprises, 128 N.H. at 765-66. Of course,



the interpretation of deeds in any property dispute is an issue of law. Greenan v. Lobban, 143 N.H. 18, 21 (1998). The court will look first to the language contained in the deeds and then to the intentions of the parties when those deeds were given. See id. When the language of a deed is patently ambiguous, extrinsic evidence will be used to properly interpret the deed and determine the intentions of the parties. Id. at 22. Language contained in a deed is considered ambiguous when it could refer to two different subjects or if it unclearly references other documents. Flanagan v. Prudhomme, 138 N.H. at 566.

The language of petitioner's deeded easement clearly grants a right of way to access Epping Road by stating:

to have the privilege of passing and repassing from said road to said lot with teams loose cattle or otherwise in the path commonly used as often as occasion may require they closing all gates and bars which they open.

(Pet'rs Ex. 3). This language is unambiguous in the right it grants. Therefore, respondent's argument that an easement to Commerce Drive in Exeter is more economical, reasonable and beneficial as to its property is irrelevant. The servient estate to an easement has absolutely no right to insist on any alternative direction or means of access for the easement. See Downing House Realty, 127 N.H. at 96. This is true regardless of the convenience or expense to the dominant or servient estate. Id. The only time that alternative locations or uses should be given to an easement is when maintenance of the deeded course would unreasonably expand the rights that it was intended to create. Id. Accordingly, the court rules that the

easement extends from petitioner's property to Epping Road and not over any alternative path that may be available on Commerce Drive.

However, the language of the deed does not clearly designate the location of this right of way over respondent's lot # 1 or lot #2 to Epping Road. "In such a situation, a reasonably convenient and suitable way across the servient land is presumed to be intended." Barton's Motel, Inc. v. Saymore Trophy Co., Inc., 113 N.H. 333, 335 (1973). Accordingly, the court must look at all of the surrounding circumstances presented to find the most reasonable course. Id. This overriding principle is defined as "the rule of reason, which gives detailed definition to rights created by general words either actually used in the deed or whose existence is implied by law." Dumont v. Town of Wolfboro, 137 N.H. 1, 5-6 (1993) (internal quotation marks and citation omitted).

The parties presented evidence of three alternative paths for petitioner's easement. One of these paths led from petitioner's southern border to Commerce Drive, which the court has already ruled is not the easement intended by the deed. This path, proposed by respondent, takes an entirely different route than what the deeded easement describes. The other two paths (path 1 and path 2) run respectively from petitioner's northwest and southwest corners of lot #3, each heading due west to Epping Road.

Path 1 traverses significant wetlands and woods, and its course is not consistent with the physical evidence on the ground other than the fact that it begins at a boundary marker post with pieces of aged barbed wire indicative of a fence. All of the expert witnesses agreed that physical evidence of a right of way, even if minimal, can



always be found if the right of way in fact existed. Such evidence may consist of fence lines delineating borders, barways or openings in stone walls, posts indicating gates for access, ruts in the road, stream crossings, or changes in tree composition showing an area with significantly younger plant life than its surroundings. While Path 1 contained few of the foregoing types of physical evidence, Path 2 contained almost all of them.

Path 2 begins at a barway opening to Epping Road near the corner of the old Ray homestead. It has most recently been used by third parties for logging and blueberry picking, and it contains ruts clearly delineating its direction, which follows an old stone wall separating respondent's lot #1 and lot #2. Path 2 runs directly to lot #3, to a barway opening in the barbed wire fence, an opening which also has two old cedar posts indicating a gate. Moreover, if path 2 is followed further east, to the outer boundary of lot #3, it meets the old Clark property, or lot #4, at a point where there is also a barway and cedar posts. These are physical indications that Path 2 probably provided the "unmolested privilege of passing" granted to the Clarks, (Pet'rs Ex. 5), as well as the right of way reserved to petitioner, which is "molested" by the Clark easement running through it.

Path 2 is further identified in both the DSA and Holden plans of 1989 as an "old woods road," and in the 1999 Civilworks plan by a path marked with symbols. Moreover, Path 2 contains significant physical evidence including ruts indicating wagon or vehicle use, fencing, gate posts, and a stream crossing. This stream crossing is the only wetland Path 2 traverses. On the other hand, Path 1 crosses



at least 2 significant wetlands so that its impact would have to be mitigated if it were used as petitioner's right of way. Path 2 is also consistent with the Smith easement granting a right of way from Epping Road to a three-acre blueberry patch. As noted above, respondent's two lots form an "L" shape, which means that they technically possess two northeast corners to which this easement could run. One of these corners is the boundary of lot #3, which is reached if one directly follows Path 2.

The preponderance of the evidence clearly shows that Path 2 is either the intended easement referenced in the deeds or the most reasonable course for petitioner's easement. Since a road already exists to some extent for the use of Path 2, it would require less demolition than any other alternative. Moreover, the use of Path 2 would require significantly less mitigation of wetlands impact. Furthermore, the use of Path 2 would appear to be most consistent with the intentions of Mr. Thing in 1848 when he granted the rights of way to each of the properties. Accordingly, the court rules that the deeded easement is probably located upon Path 2 and that it runs as walked on the view and as shown in Mr. Gove's photographs and the Civilworks plan. (Pet'rs Ex. 25 & 26).

Finally, the court must determine the scope of this easement. The unambiguous language of the deeds refers to a right of way for "teams loose cattle or otherwise." (Pet'rs Ex. 3 & 5). Similarly, the later grant reserved by Mr. Thing to himself allows a right of way for "servants and teams." (Pet'rs Ex.8). Considering the needs associated with our modern times, the scope of the easement will necessarily be different than for the movement of servants, teams of



cattle, or blueberry pickers. To determine the scope of this easement, the court must examine the reasonableness of its uses, based upon the intentions of the parties when it was established. See Dumont v. Town of Wolfboro, 137 N.H. at 6-7.

When the easement was established, Mr. Thing plainly intended that servants and teams or loose cattle from three different pastures or farms would be passing and repassing over the "path commonly used." This language bespeaks a much greater use, presumably for commercial farming purposes of earlier times, than respondent's proposed driveway allowing access for one car at a time to an industrial lot. Petitioner contends that for paved access to Lot #3 he is entitled to a 50 foot private right of way. A 50 foot span is the width required for all private rights of way passing through approved subdivisions. See Exeter Planning Board Site Plan Review and Subdivision Regulations (2000) (Pet'rs Ex. 16). Respondent contends that a 50 foot paved right of way is too much of an interference with the use of its property and that petitioner is entitled to no more than a thirty foot width for a driveway in and out of lot #3.

The petitioner's position is more reasonable than respondent's. These lots are entirely located in the commercial and industrial zones of Exeter. Moreover, their past use was largely for commercial purposes related to logging and farming. Therefore, the most reasonable use consistent with past uses is one which is commercial and which must necessarily comply with local land use regulations. As petitioner correctly observes, the local regulations require a 50 foot width for any private right of way running through a



subdivision. See (Pet'rs Ex. 15 & 16). It is noteworthy that this right of way runs directly through respondent's approved subdivision which is expected to have various other streets devoted to commercial traffic.

In conclusion, so as to comply with local regulations and fit the character of respondent's own planned development, petitioner is entitled to develop its easement as a private right of way which is 50 feet wide and located along Path 2 as designated on the Civilworks plan. (Pet'rs Ex. 25 & 26). Petitioner shall be solely responsible for all costs involved in mitigating any wetlands impact resulting from the development and use of its easement, and for all costs in constructing, developing and maintaining the easement in conformity with all local land use regulations.

Each party has submitted requests for findings of fact and rulings of law. The court rules upon these requests as follows, with the qualification that the narrative part of this order controls over any conflict between the narrative portion and the ruling on any request.

Petitioner's Requests:


GRANTED: 1 (omit emphasis), 2-4, 5 (omit emphasis), 6-10, 12-13, 15-19, 21-24;  
DENIED: 11, 14 (as worded), 20 (as worded).

Respondent's Requests:

GRANTED: 2 (but with gates and bars);  
DENIED: 1, 3-10.

So ORDERED.

12/21/01  
DATE

  
PHILIP S. HOLLMAN  
Presiding Justice



## 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)

July 28, 2017

Michael J. Donahue, Esquire  
Donahue, Tucker & Ciandella PLLC  
16 Windsor Lane  
POB 630  
Exeter, New Hampshire 03833

Re: PB Case #17-23 Willey Creek Co., LLC  
Multi-Family Site Plan Review, Minor Subdivision and Shoreland Conditional Use  
Permit for an "Active Adult Community" development – Epping Road, Exeter, N.H.  
Tax Map Parcel #47-8

Dear Attorney Donahue:

Please be advised that at the meeting of July 27<sup>th</sup>, 2017, the Exeter Planning Board voted to **APPROVE** the above-captioned application(s) for the proposed construction of a minor subdivision of a 22.04 acre parcel (identified as Tax Map Parcel #47-8) into two parcels; and a multi-family residential site plan review for the proposed construction of an active adult community (with four buildings containing 116 units and a 2,000 s.f. clubhouse) and associated site improvements, as presented, subject to the following conditions:

### Minor Subdivision Plan:

1. A dwg file of the site plan shall be provided to the Town Planner showing all property lines and monumentation prior to signing the final plans; and,
2. All monumentation shall conform to Section 9.25 of the Site Plan Review and Subdivision regulations and granite shall be shown on final plan consistent with this section. All monumentation shown on the final plan shall be installed by the applicant and verified by the Town Planner prior to Certificate of Occupancy for any residential building.

### Multi-family Site Plan

1. An electronic As-Built Plan of the entire property with details acceptable to the Town shall be provided prior to the issuance of a Certificate of Occupancy (C/O). This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;

2. A preconstruction meeting shall be arranged by the applicant and his contractor with the Town engineer prior to any site work commencing. The following must be submitted for review and approval prior to the preconstruction meeting.
  - i. The SWPPP (storm water pollution prevention plan), if applicable, be submitted to and reviewed for approval by DPW prior to preconstruction meeting.
  - ii. A project schedule and construction cost estimate.
3. All comments in the Underwood Engineer Inc. review letter dated July 26, 2017 and the comments from Jen Mates, the Town's Assistant Engineer, in a letter dated July 26, 2017 shall be addressed to the satisfaction of the Town Planner prior to signing the final plans;
4. As recommended in the July 26, 2017 review letter from UEI, the final design of the TIF road shall be completed prior to any site construction activities. However, construction activities may occur earlier if approved by the Town Planner and Town Engineer;
5. The entity(s) responsible for the design and construction of the TIF Road shall be determined prior to any construction activities;
6. All project improvements (utilities, access drive, fire protection, & drainage) will be shown to be fully compatible with TIF road design prior to the preconstruction meeting.
7. All appropriate fees to be paid including but not limited to: sewer/water connection fees, impact fees, and inspection fees prior to the issuance of a building permit;
8. A Maintenance Log and Inspection & Maintenance Checklist for all onsite stormwater management systems shall be provided to the satisfaction of the Town Planner prior to signing the final plans. A completed log and checklist shall be submitted to the Town Engineer annually on or before January 1<sup>st</sup>. This requirement shall be an ongoing condition of approval;
9. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and/or roadways;
10. All landscaping shown on plans shall be maintained and any dead or dying vegetation shall be replaced, no later than the following growing season, as long as the site plan remains valid. This condition is not intended to circumvent the revocation procedures set forth in State statutes;
11. All applicable State permit approval numbers shall be noted on the final plans;
12. The relevant portions of the condominium documents as outlined in a document submitted by the applicant with a footer that reads: "P:\Shafmaster\Town of Exeter\2017 06 27 Planning Board Resubmittal\2017 06 26 town items to be addressed in condo docc.docx" shall be submitted to the Town Planner for review and approval prior to signing the final plans. In the event the Town Planner deems that review is needed by the Town attorney, this review shall be at the applicant's expense;



13. Easements to the Town shall be provided for the sewer pump station and any other public utilities that fall outside of the 50 foot ROW shown on the plan. The easements shall be recorded prior to a Certificate of Occupancy for any of the residential units. This condition may also be satisfied by the applicant deeding the land supporting any public utilities to the Town in fee simple;
14. Site Plan to be revised to incorporate minor change to Subdivision Plan (revised 7/20/2017) as presented so as to slightly reconfigure 11.6 +/- acre parcel prior to signing the final plans;
15. Prior to issuance of a Certificate of Occupancy, full access to be provided from proposed TIF Road to be constructed by the Town or its designee, as shown on the Plan with sidewalk to Epping Road to be constructed at Applicant's expense.
16. The applicant shall construct the project in self-contained phases as designated on the final plans;
17. The applicant shall have two years (until July 27, 2019) to complete active and substantial development (as defined in the Site Plan Review and Subdivision Regulations) on phase 1 and five years (until July 27, 2022) to complete active and substantial development on all remaining phases;
18. The limit of cut/disturbance shall be flagged in the field prior to any site work and these flags shall be maintained until Certificate of occupancy is issued;
19. The applicant shall submit proposed names of the private access drives to the E911 Committee for review in accordance with Town Ordinance Chapter 14; and,
20. This approval shall be valid until July 27, 2018. All precedent conditions (#'s 3, 10, 11, and 13 above) of this approval are to be completed within 180 days of this conditional approval.

The following waivers were **APPROVED** in conjunction with the multi-family site plan:

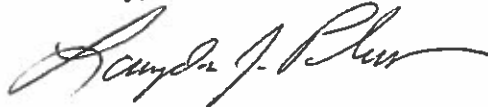
- Parking waiver from Section 5.6.3.B. and 5.6.5 of the Zoning Ordinance for reduction in the parking requirements
- Wetland Buffer Impacts waiver from Section 9.9.2 of the Site Plan Review and Subdivision Regulations regarding buffer impacts
- Parking Setbacks (from Building) waiver from Section 11.3.1.2 of the Site Plan and Subdivision Regulations to allow less than 25 feet between the buildings and driveway
- Grading within 5 feet of property line waiver from Section 9.5.1.4 of the Site Plan Review and Subdivision Regulations regarding grading within 5 feet of the property line.

- Recreational Space waiver from Section 11.3.4. of the Site Plan Review and Subdivision Regulations regarding the requirement to provide area for joint recreational space

Shoreland Conditional Use Permit was approved with no conditions.

Please feel free to contact the Planning Department at 773-6114 with any questions.

Sincerely,



Langdon J. Plumer  
Chairman  
Exeter Planning Board

cc: Jonathan S. Shafmaster, Willey Creek Co., LLC  
CKT Associates, property owner  
✓ Steve Leonard, Owner's Construction Representatives & Consultants, LLC  
Jim Gove/Brendan Quigley, Gove Environmental Services  
Denis Hamel, W.C. Cammett Engineering  
Douglas Eastman, Building Inspector/Code Enforcement Officer  
Janet Whitten, Assessing Office

LJP:bsm

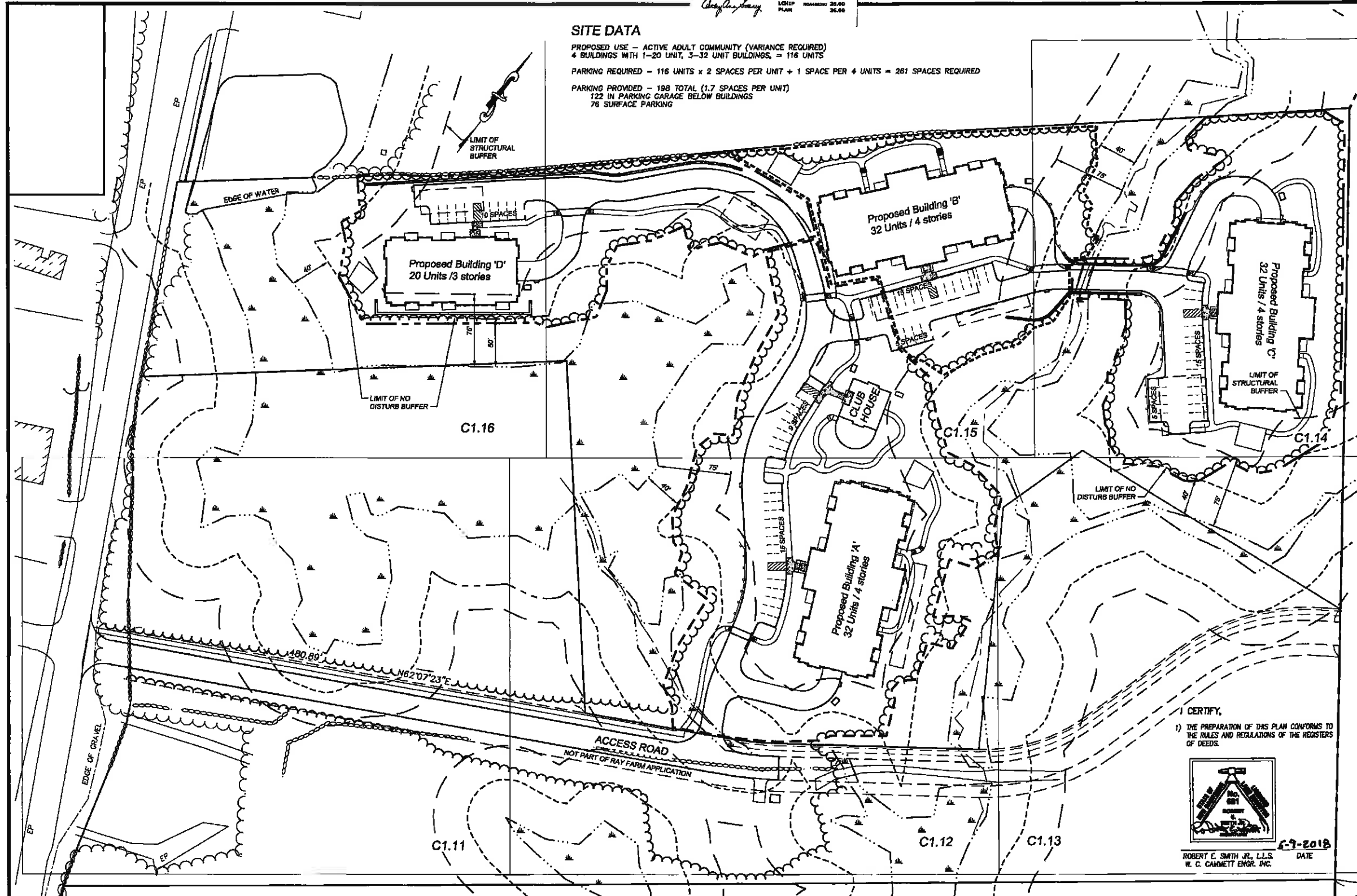
*f:\town planner\planning\decision letters\pb #17-23 willey creek co. llc epping road m-f spr-let docx*

# Enclosure 3

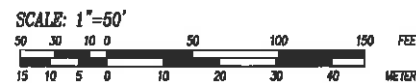
D-40822 05/09/2018 03:21:07 PM  
 Register of Deeds, Rockingham County  
 LCMIP PLAN ROADWAY 28.00 26.00

### SITE DATA

PROPOSED USE - ACTIVE ADULT COMMUNITY (VARIANCE REQUIRED)  
 4 BUILDINGS WITH 1-20 UNIT, 3-32 UNIT BUILDINGS, = 116 UNITS  
 PARKING REQUIRED - 116 UNITS x 2 SPACES PER UNIT + 1 SPACE PER 4 UNITS = 261 SPACES REQUIRED  
 PARKING PROVIDED - 198 TOTAL (1.7 SPACES PER UNIT)  
 122 IN PARKING GARAGE BELDW BUILDINGS  
 76 SURFACE PARKING



- NOTES:**
1. REFER TO G1.20 FOR LEGEND, ABBREVIATIONS, AND GENERAL NOTES.
  2. ACCESS ROAD SHOWN DEPICTS DESIGN INTENT ONLY. FINAL DESIGN TO BE COORDINATED WITH RESULTS OF THE TIF PROGRAM DESIGN.



I CERTIFY,  
 1) THE PREPARATION OF THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.



ROBERT E. SMITH JR., L.L.S. DATE 5-9-2018  
 W. C. CAMMETT ENGR. INC.

TOWN OF EXETER PLANNING BOARD  
 Chairman DATE 2/16/18



297 ELM STREET, AMESBURY, MA.  
 Phone: (978) 388-2157 Fax: (978) 388-0428  
 CONSULTING ENGINEERS & LAND SURVEYORS SINCE 1975  
 Visit us on the WEB at www.cammatt.com

Sheet Title:  
**Overall Site Plan**  
 Project Title:  
**"Ray Farm" Active Adult Community**  
 Epping Road  
 Exeter, NH 03833  
 Rockingham County

Applicant:  
**Willey Creek Company**  
 158 Shattuck Way  
 Newington, NH 03801  
 Owner:  
**CKT & Associates**  
 158 Shattuck Way  
 Newington, NH 03801

REVISION			
NO.	DATE	DESCRIPTION	BY
A	5.8.2017	TO PLANNING BOARD	DH
B	6.27.2017	PEER REVIEW	DH
C	11.27.17	2nd PEER REVIEW	DH
D	02.07.18	3rd PEER REVIEW	DH

PROJ. MGR.: D. HAMEL  
 FIELD: M. MICHAUD / J. SALVAGGIO  
 DESIGN: D. HAMEL  
 DRAWN: D. HAMEL  
 CHECKED: W. CAMMETT/R. BLANCHETTE  
 DATE: 3/23/2017  
 FILE: 16042 SP-OVERALL 22X34.DWG  
 FBK:  
 JOB #: 16042

SHEET

D-40822

# JONES & BEACH ENGINEERS INC.

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

July 11, 2017

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

**RE: Carlisle Subdivision Application  
Off Epping Road, Exeter, NH  
Tax Map 40, Lot 12  
JBE Project No. 15098**

Dear Mr. Sharples,


On behalf of our client, W. Scott Carlisle, III, we respectfully submit a Subdivision Application for the Planning Board. The intent of this project is to create three (3) lot parcels for future commercial development.

The following items are provided in support of this Application:

1. Fee check in the amount of \$ 355.00.
2. Complete Subdivision Application.
3. Waiver Request Letter.
4. Letter of Authorization.
5. Current Deed.
6. Abutters List and three (3) sets of mailing labels.
7. Tax Map.
8. Seven (7) full-size (24" x 36") plans.
9. Fifteen (15) reduced size (11" x 17") plans (pending).

Thank you very much for your time.

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

  
Jonathan S. Ring, PE  
President

cc: W. Scott Carlisle, III, applicant (application and plans via email)  
Russ Hilliard, Upton Hatfield (application and plans via email)

**TOWN OF EXETER PLANNING DEPARTMENT  
 PLANNING AND ZONING FEE SCHEDULE  
 EFFECTIVE JANUARY 1, 2008**

(changes adopted by the Board of Selectmen 12/17/07)

*Effective  
3/2017*

**PUBLICATIONS**

ZONING ORDINANCE	\$ 15.00
MASTER PLAN	\$ 35.00
CAPITAL IMPROVEMENTS PROGRAM	\$ 15.00
SUBDIVISION & SITE PLAN REVIEW REGS	\$ 15.00
PUBLIC WORKS SPECIFICATIONS (at DPW)	\$ 20.00
HDC PRESERVATION GUIDELINES	\$ 10.00
POSTAGE	\$ 5.00 (per publication)

**BOARD OF ADJUSTMENT**

VARIANCE APPLICATION	\$ 100.00
SPECIAL EXCEPTION APPLICATION	\$ 100.00
APPEAL FROM ADMINISTRATIVE DECISION	\$ 100.00
ABUTTER NOTICE	\$ 10.00 (per abutter)
LEGAL NOTICE FEE	Applicant billed for actual cost

**PLANNING BOARD**

LOT LINE ADJUSTMENT	\$ 60.00
SUBDIVISION	
• APPLICATION (includes Open Space Dev.)	\$ 125.00
• PER LOT OR OPEN SPACE UNIT FEE	\$ 50.00 per lot (up to 3 new lots) <i>50 x 3 = \$ 150.00</i>
	\$ 100.00 per lot (for 4 or more new lots)
NON-RESIDENTIAL SITE PLAN REVIEW	
• APPLICATION	Minor - \$100.00      Major - \$ 250.00
• PLAN REVIEW	\$ 60.00/1,000 s.f. of total building floor area (Example: 30,000 SF building = \$ 1,800. review fee)
MULTI-FAMILY SITE PLAN REVIEW	Same as N/R Site Plan Review
LEGAL NOTICE	Applicant billed for actual cost
ABUTTER NOTICE	\$ 10.00 (per abutter) <i>8 x \$10 = \$ 80.00</i>

**SITE INSPECTION SERVICE** – Fee to be based upon a reasonable estimate of the cost of anticipated site inspections (typically 1-3% of the estimated construction costs for the project). Additional funds to be collected as needed; any unexpended fees to be returned to the Applicant upon completion of all site improvements.

**HISTORIC DISTRICT COMMISSION**

APPLICATION & PLAN REVIEW	No fees
ABUTTER NOTICE	\$ 10.00 (if applicable)

*Total = \$ 355.00*

**MISCELLANEOUS**

• SIGN PERMITS	\$ 25.00 (per sign)
• HOME OCCUPATION USE PERMITS	\$ 25.00
• FLOOD INSURANCE CERTIFICATES	\$ 15.00
• COPIES	\$ .50 (per page)
• TRAIL MAPS	\$ 2.50
• WETLAND MARKERS	\$ 1.00/each

<p><b>SUBDIVISION APPLICATION CHECKLIST</b></p>
---

**A COMPLETED APPLICATION FOR SUBDIVISION MUST CONTAIN THE FOLLOWING:**

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

**TOWN OF EXETER  
SUBDIVISION APPLICATION**

**OFFICE USE ONLY**

**THIS IS AN APPLICATION FOR:**

OPEN SPACE DEVELOPMENT

STANDARD SUBDIVISION

NUMBER OF LOTS 3

_____	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: W. Scott Carlisle III

ADDRESS: 14 Cass Street, Exeter, NH 03833

TELEPHONE: (603) 772-2086

2. NAME OF APPLICANT: Same

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: Off Epping Road, Exeter, NH

TAX MAP: 40 PARCEL #: 12 ZONING DISTRICT: Industrial

AREA OF ENTIRE TRACT: 18.55 Acres PORTION BEING DEVELOPED: 10 +/- Acres

5. **EXPLANATION OF PROPOSAL:** Subdivide Map 40 Lot 12 into three (3) lot parcels for future commercial development. Access will be via the future T.I.F. Roadway from Epping Road.

6. **ARE MUNICIPAL SERVICES AVAILABLE? (YES/NO)** Yes, via T.I.F. Road.  
**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)** No IF YES, ATTACH COPY.

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

**NAME:** Jonathan S. Ring, P.E., Jones & Beach Engineers, Inc.  
**ADDRESS:** 85 Portsmouth Avenue, PO Box 219, Stratham, NH 03885  
**PROFESSION:** Engineer **TELEPHONE** (603) 772-4746

10. **LIST ALL IMPROVEMENTS AND UTILITIES TO BE INSTALLED:** Subdivision of land only.  
No lot development at this time.



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.

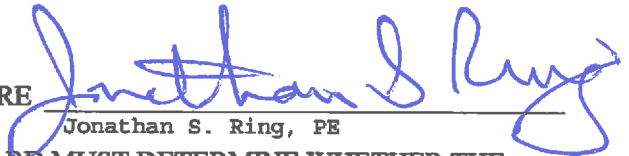
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**NOTICE:** I CERTIFY THAT THIS APPLICATION AND THE ACCOMPANYING PLANS AND SUPPORTING INFORMATION HAVE BEEN PREPARED IN CONFORMANCE WITH ALL APPLICABLE TOWN REGULATIONS, INCLUDING BUT NOT LIMITED TO THE "SITE PLAN REVIEW AND SUBDIVISION REGULATION" 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 July 11, 2017

APPLICANT'S SIGNATURE



Jonathan S. Ring, PE

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 SEE ATTACHED LIST  
NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
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PLEASE ATTACH ADDITIONAL SHEETS, IF NEEDED.

## CHECKLIST FOR SUBDIVISION - PLAN PREPARATION

The checklist on the following page has been prepared to assist you in the preparation of your subdivision plan. The checklist items listed correspond to the subdivision plan requirements set forth in Section 7 of the "Site Plan Review and Subdivision Regulations". Unless otherwise indicated, all section references within this Checklist, refer to these regulations. Each of the items listed on this checklist must be addressed prior to the technical review of subdivision plans by the Technical Review Committee (TRC). See Section 6.5 of the "Site Plan Review and Subdivision Regulations". This checklist **DOES NOT** include all of the detailed information required for subdivision plans and therefore should not be the sole basis for the preparation of these plans. For a complete listing of subdivision plan requirements, please refer to Section 7 of the "Site Plan Review and Subdivision Regulations". In addition to these required plan items, the Planning Board will review subdivision plans based upon the standards set forth in Sections 8 and 9 of the "Site Plan Review and Subdivision regulations". As the applicant, it is **YOUR RESPONSIBILITY** to become familiarized with these standards and to prepare your plans in conformance with them.

Please complete this checklist by marking each item listed in the column labeled "Applicant" with one of the following: "X" (information provided); "NA" (note applicable); "W" (waiver requested). For all checklist items marked "NA", a final determination regarding applicability will be made by the TRC. For all items marked "W", please refer to Section 11 of the "Site Plan Review and Subdivision Regulations" for the proper waiver request procedure. All waiver requests will be acted upon by the Planning Board at a public hearing. Please contact the Planning Department office if you have any questions concerning the proper completion of this checklist.

All of the required information for the plans listed in the checklist must be provided on separate sheets, unless otherwise approved by the TRC.

**NOTE: AN INCOMPLETE CHECKLIST WILL BE GROUNDS FOR REJECTION OF YOUR APPLICATION.**

## 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 type="checkbox"/> Waiver	<input type="checkbox"/>	7.4.7. Natural features including watercourses and water bodies, tree lines, significant trees (16-inches diameter (caliber) or greater measured 12-inches above ground), 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 type="checkbox"/> Waiver	<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	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."
<input checked="" type="checkbox"/>	<input type="checkbox"/>	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.
<input type="checkbox"/> N/A	<input type="checkbox"/>	7.4.13. The lines of existing abutting streets and driveway locations within 200-feet of the site.
<input type="checkbox"/> N/A	<input type="checkbox"/>	7.4.14. The location, elevation, and layout of existing catch basins and other surface drainage features.
<input type="checkbox"/> N/A	<input type="checkbox"/>	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.
<input type="checkbox"/> N/A	<input type="checkbox"/>	7.4.16. The size and location of all existing public and private utilities, including off-site utilities to which connection is planned.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.17. The location of all existing easements, rights-of-way, and other encumbrances.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.19. All other features which would fully explain the existing conditions of the site.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.4.20. Name of the site plan or subdivision.

**7.5. 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"/>	7.5.1. 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"/>	7.5.2. Name of the subdivision.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.5.3. 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"/>	7.5.4. Title, date, north arrow, scale, and Planning Board Case Number.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.5.5. Tax map reference for land/site under consideration with those of abutting properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.5.6. Zoning (including overlay) district references.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7.5.7. 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"/>	7.5.8. 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"/>	7.5.9. The locations, dimensions, and areas of all proposed lots.
<input type="checkbox"/> N/A	<input type="checkbox"/>	7.5.10. The location of all test pits and the 4,000-square-foot septic reserve areas for each newly created lot, if applicable.
<input type="checkbox"/> Waiver	<input type="checkbox"/>	7.5.11. 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"/>	7.5.12. 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"/>	7.5.13. 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"/>	7.5.14. 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 type="checkbox"/> N/A	<input type="checkbox"/>	7.5.15. 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"/> X	<input type="checkbox"/>	7.5.16. 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"/> X	<input type="checkbox"/>	7.5.17. Newly created lots shall be consecutively numbered or lettered in alphabetical order. Street address numbers shall be assigned in accordance with <u>Section 9.17 Streets</u> of these regulations.
<input checked="" type="checkbox"/> X	<input type="checkbox"/>	7.5.18. The following notations shall also be shown: Explanation of proposed drainage easements, Explanation of proposed utility easement, Explanation of proposed site easement, Explanation of proposed reservations Signature block for Board approval
<input checked="" type="checkbox"/> X	<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)**

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

# JONES & BEACH ENGINEERS INC.

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

July 11, 2017

Town of Exeter Planning Board  
10 Front Street  
Exeter, NH 03833

**RE: Waiver Request Letter (Carlisle Subdivision)  
Off Epping Road, Exeter, NH  
Tax Map 40 Lot 12  
JBE Project No. 15098**

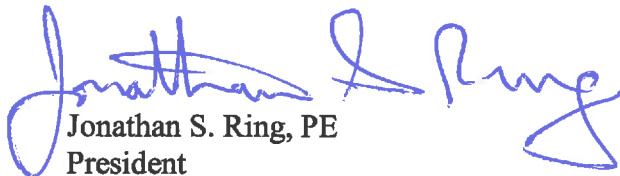
Dear Board:

We respectfully request waivers from the following sections featured in the Site Plan Review and Subdivision Regulations for the Town of Exeter, New Hampshire.

- 1. Section 7.4.7 – “Natural Features.”** This section requires survey location of all trees over 16” diameter, and we feel that this expense is unwarranted given the size of the parcel. Other natural features, such as all wetlands, trails, stone walls, topography, and boulder/ledge outcrops are shown on the plan.
- 2. Sections 7.4.10 & 7.5.11 -- HISS Map.** This project will be on Municipal water and sewer, so the HISS map related to on-site septic system lot size is unwarranted.

We look forward to discussing of these waivers at the Planning Board Hearing scheduled for August 10, 2017. Thank you very much for your time.

Very Truly Yours,  
JONES & BEACH ENGINEERS, INC.

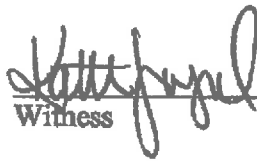
  
Jonathan S. Ring, PE  
President



**Letter of Authorization**

I, W. Scott Carlisle, III, 14 Cass Street, Exeter, NH 03833, owner of property located in Exeter, NH, known as Tax Map 40, Lot 12, do hereby authorize Jones & Beach Engineers, Inc., PO Box 219, Stratham, NH, to act on my behalf concerning the Town of Exeter Planning Board review process for the previously-mentioned property. The parcel is accessed by right of way running east from Epping Road, and is bounded to its north by NH Route 101.

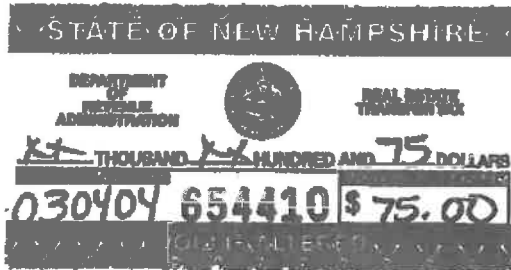
I hereby appoint Jones & Beach Engineers, Inc., as my agent to act on my behalf in the review process.

  
Witness

  
W. Scott Carlisle, III

  
Date

BK4244PG1653



0016500

**RELEASE DEED**

KNOW ALL MEN BY THESE PRESENTS, that JOHN GILMAN SAWYER of 35 Pelham Lane, New Haven, Connecticut 06511, for consideration paid, grants to W. SCOTT CARLISLE III of 14 Cass Street, Exeter, Rockingham County, New Hampshire 03833, WITHOUT COVENANTS, his interest, if any, to the following described premises:

A certain piece of wood land situated in Exeter, County of Rockingham, State of New Hampshire, on the Easterly side of the road leading from said Exeter to Epping containing seventeen acres and sixty rods more or less bounded thus.

Beginning on the Northerly side of said lot by land formerly of John Watson at a stake and stone at the Northerly corner of other land formerly of James R. Thyng seventy-four rods and fourteen links from the Easterly side of said road. Thence North fifty-nine degrees East fifty-one rods and three and three-fourths links to stake and stone by land which was conveyed to N.A. and S.B. Clarks. Thence by said Clarks land South twenty-three degrees East about fifty rods to other land formerly of said Thyng at a stake and stone; thence South seventy and one-half degrees West fifty-one rods three and three-fourths links to stake and stone; thence North twenty-three degrees West by other land formerly of said Thyng about forty-nine rods to the bounds first mentioned.

The Grantee, his heirs and assigns, to have the privilege of passing and repassing from said road to said lot with teams loose cattle or otherwise in the path commonly used as often as occasion may require they closing all gates and bars which they open.

Meaning and intending to be the same premises described in the Estate of George Watson, Rockingham County Probate Court #27140, being the share inherited by Arthur G. Sawyer (father of the Grantor; Grantor was the sole heir of Arthur G. Sawyer). See Estate of Arthur G. Sawyer, Town of Hamden, Connecticut, Probate File # None.

2004 MAR -4 AM 11:21

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

BK4244PG1654

This is not the homestead property of the Grantor.

EXECUTED this 11<sup>th</sup> day of FEBRUARY, 2004.

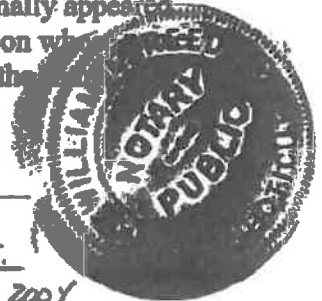
W. Reed  
Witness

John Gilman Sawyer  
John Gilman Sawyer

STATE OF CONNECTICUT  
COUNTY OF Fairfield, ss Stafford

On this 11 day of February, 2004, before me, personally appeared John Gilman Sawyer, known to me or satisfactorily proven to be the person who is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

W. Reed  
Notary Public  
Printed Name: William Reed Jr.  
My Commission expires: March 31, 2007



**ABUTTERS LIST (DIRECT)  
CARLISLE SITE PLAN  
OFF EPPING ROAD, EXETER, NH  
JBE PROJECT No. 15098  
MAY 2, 2017  
REVISED JUNE 29, 2017**

**OWNER OF RECORD/APPLICANT:**

TAX MAP 40/ LOT 12 (ROUTE 101) SUBJECT PROPERTY  
TAX MAP 40/ LOT 15 (WATSON RD.) ABUTTING PROPERTY  
W. SCOTT CARLISLE III  
14 CASS ST.  
EXETER, NH 03833  
BK 4244 / PG 1653

**ABUTTERS:**

40/8 (1 WATSON RD.) & 14 (0 ROUTE 101)  
STATE OF NEW HAMPSHIRE  
PO BOX 483  
CONCORD, NH 03302  
2992/896 – LOT 8  
2368/1332 – LOT 14

40/11 (191 EPPING RD.)  
NET LEASE REALTY I INC.  
ATTN. INGRID IRVIN  
450 S ORANGE AVE., SUITE 900  
ORLANDO, FL 32801  
5731/1874 (06/24/16)

40/13 (0 ROUTE 101)  
TOWN OF EXETER  
CONSERVATION COMMISSION  
10 FRONT ST.  
EXETER, NH 03833  
3667/2469 (11/02/01)

47/4 (164 EPPING RD.)  
164 EPPING RD., LLC  
3 BROOKHAVEN RD.  
KINGSTON, NH 03848  
3775/0784 (05/23/02)

47/8 (183 EPPING RD.) & 9 (159 EPPING RD.)  
CKT ASSOCIATES  
158 SHATTUCK WAY  
NEWINGTON, NH 03801  
3231/2722 (08/14/97)

**ENGINEERS/SURVEYORS:**

JONES & BEACH ENGINEERS, INC.  
ATTN: JONATHAN S. RING, PE  
PO BOX 219  
STRATHAM, NH 03885

**WETLAND CONSULTANT:**

GOVE ENVIRONMENTAL SERVICES, INC.  
ATTN. JAMES GOVE  
8 CONTINENTAL DRIVE, UNIT H  
EXETER, NH 03833-7507

W. SCOTT CARLISLE III  
14 CASS ST.  
EXETER, NH 03833

STATE OF NEW HAMPSHIRE  
PO BOX 483  
CONCORD, NH 03302

NET LEASE REALTY I INC.  
ATTN. INGRID IRVIN  
450 S ORANGE AVE., SUITE 900  
ORLANDO, FL 32801

TOWN OF EXETER  
CONSERVATION COMMISSION  
10 FRONT ST.  
EXETER, NH 03833

164 EPPING RD., LLC  
3 BROOKHAVEN RD.  
KINGSTON, NH 03848

CKT ASSOCIATES  
158 SHATTUCK WAY  
NEWINGTON, NH 03801

JONES & BEACH ENGINEERS, INC.  
ATTN: JONATHAN S. RING, PE  
PO BOX 219  
STRATHAM, NH 03885

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INC.  
ATTN. JAMES GOVE  
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W. SCOTT CARLISLE III  
14 CASS ST.  
EXETER, NH 03833

STATE OF NEW HAMPSHIRE  
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CONCORD, NH 03302

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ORLANDO, FL 32801

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CONSERVATION COMMISSION  
10 FRONT ST.  
EXETER, NH 03833

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KINGSTON, NH 03848

CKT ASSOCIATES  
158 SHATTUCK WAY  
NEWINGTON, NH 03801

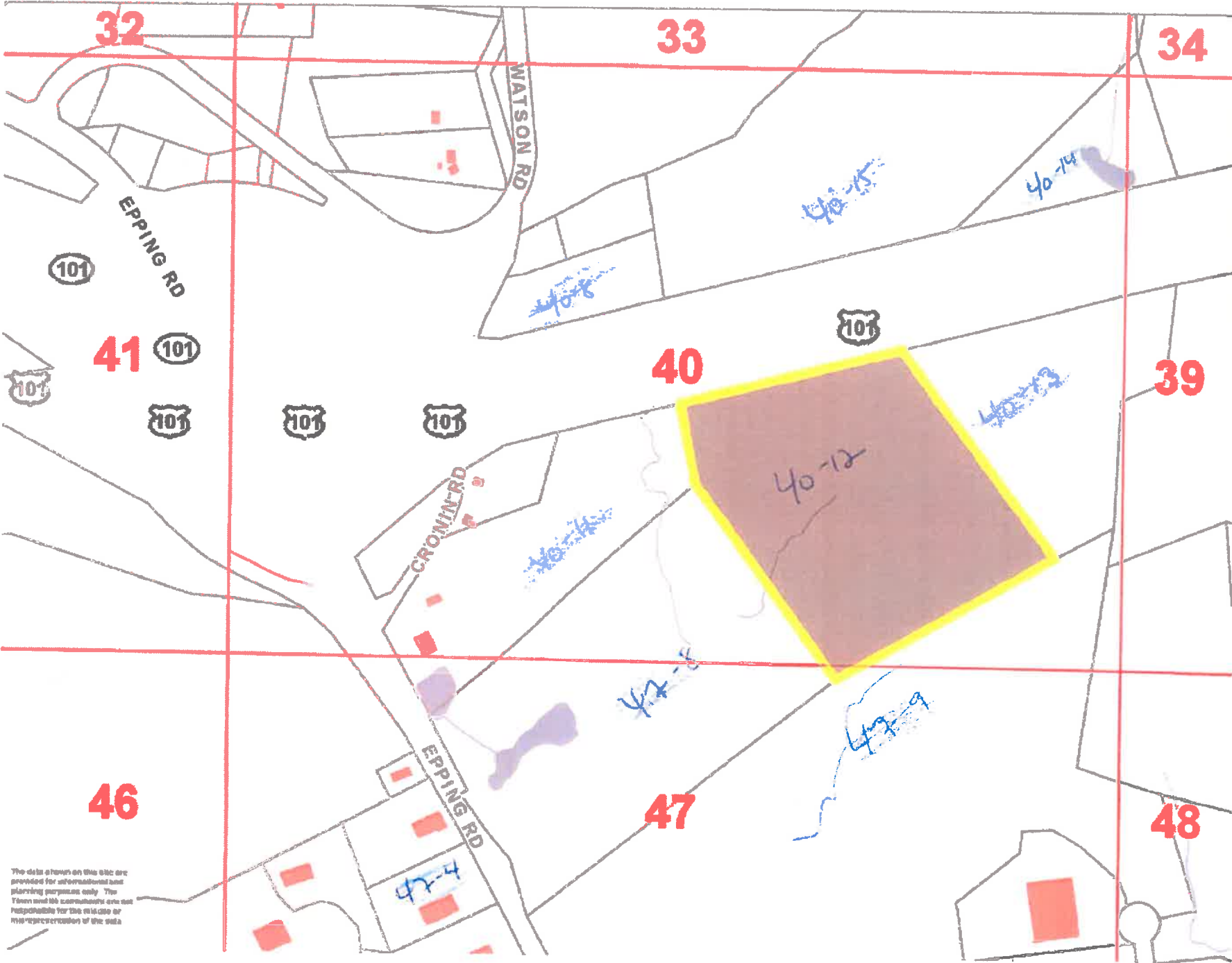
JONES & BEACH ENGINEERS, INC.  
ATTN: JONATHAN S. RING, PE  
PO BOX 219  
STRATHAM, NH 03885

GOVE ENVIRONMENTAL SERVICES,  
INC.  
ATTN. JAMES GOVE  
8 CONTINENTAL DRIVE, UNIT H  
EXETER, NH 03833-7507





- Parcel Map Index
- Parcel
- NH Highway
- Interstate
- US Highway
- State Highway
- Town Boundary
- Acting Towns
- Streets (Updated September)
- Met Stream
- Perennial Stream
- Open Water
- Buildings



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 05/04/2017 at 11:30 AM

Exeter MapsOnline



# Enclosure 5

## PLAN REFERENCES

- "PLAT OF LAND EXETER, N.H. FOR W. SCOTT CARLISLE, III," BY DURGIN-SCHOFIELD ASSOCIATES, DATED FEBRUARY 23, 1989, RECORDED AT RCRD AS PLAN D-19078.
- "PLAT OF LAND EXETER, N.H. FOR W. SCOTT CARLISLE, III," BY DURGIN-SCHOFIELD ASSOCIATES, DATED FEBRUARY 23, 1989, RECORDED AT RCRD AS PLAN D-17892.
- "A SURVEY AND LAYOUT OF A RIGHT-OF-WAY SEE NOTE #17 PREPARED FOR W. SCOTT CARLISLE III AND SITUATED IN THE TOWN OF EXETER, N.H.," DATED MARCH 17, 2003, PREPARED BY RSL LAYOUT & DESIGN, INC., RECORDED AT RCRD AS PLAN D-30523.

## ABUTTERS

TAX MAP 40 LOT 13  
TOWN OF EXETER CONSERVATION COMMISSION  
10 FRONT STREET  
EXETER, NH 03833  
BK: 3667 PG: 2469

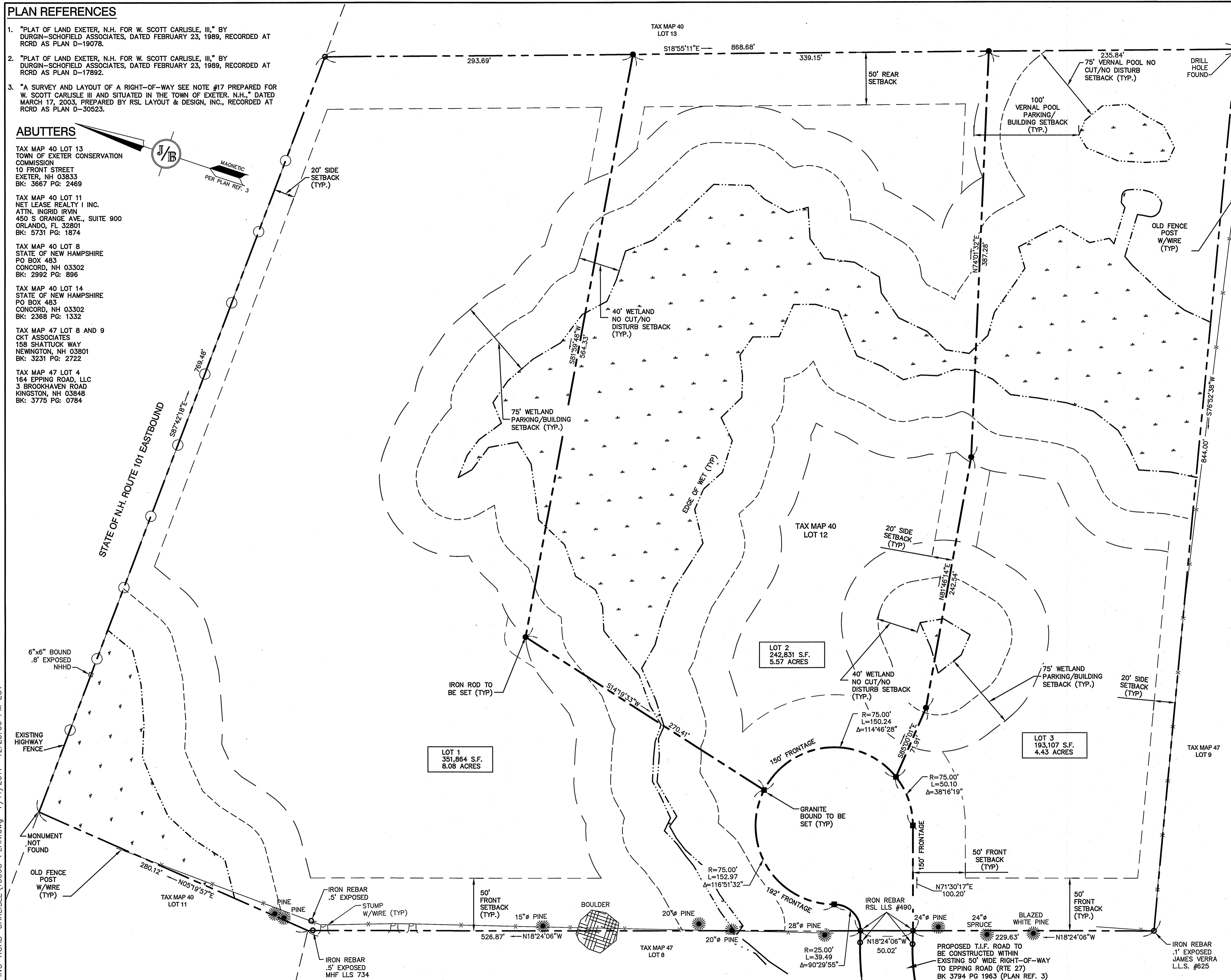
TAX MAP 40 LOT 11  
NET LEASE REALTY I INC.  
ATTN. INGRID IRVIN  
450 S ORANGE AVE., SUITE 900  
ORLANDO, FL 32801  
BK: 5731 PG: 1874

TAX MAP 40 LOT 8  
STATE OF NEW HAMPSHIRE  
PO BOX 483  
CONCORD, NH 03302  
BK: 2992 PG: 896

TAX MAP 40 LOT 14  
STATE OF NEW HAMPSHIRE  
PO BOX 483  
CONCORD, NH 03302  
BK: 2368 PG: 1332

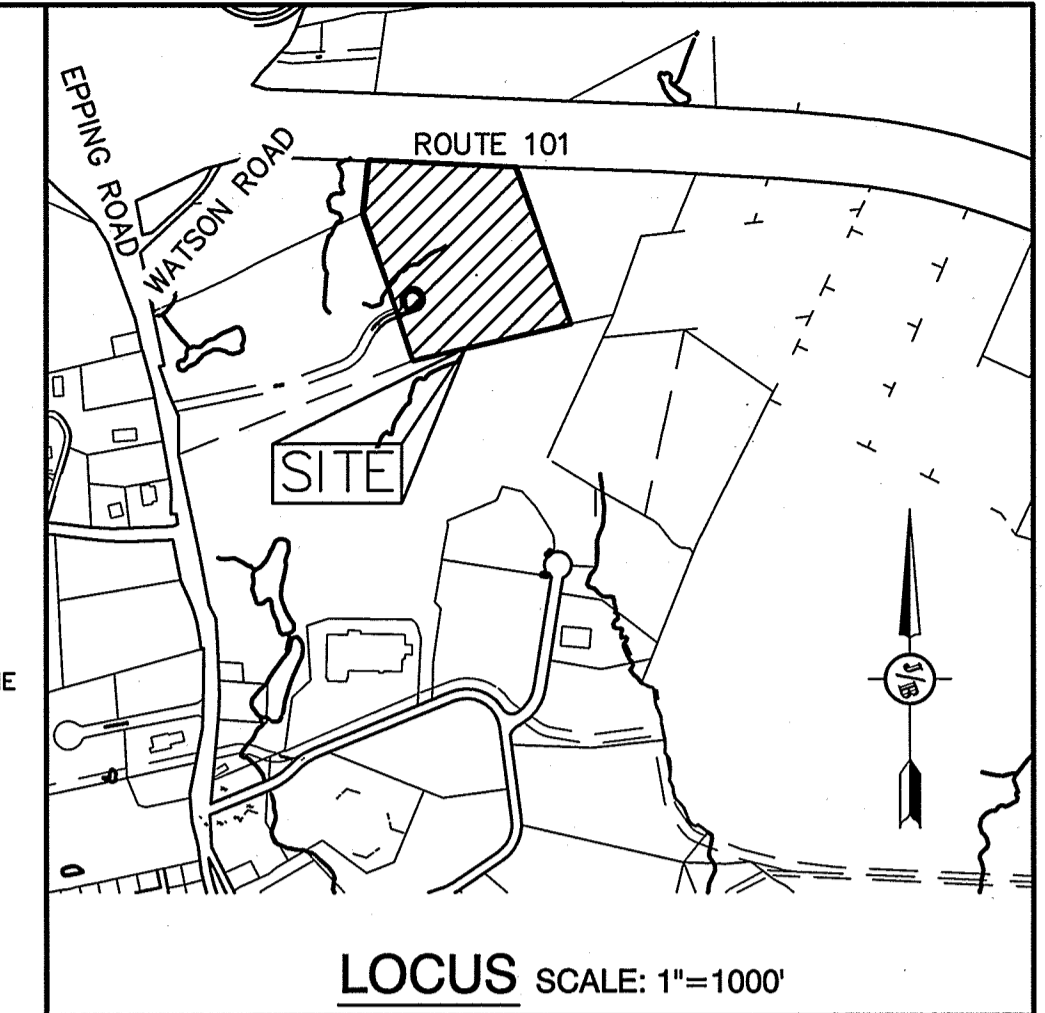
TAX MAP 47 LOT 8 AND 9  
OXT ASSOCIATES  
158 SHATTUCK WAY  
NEWINGTON, NH 03801  
BK: 3231 PG: 2722

TAX MAP 47 LOT 4  
164 EPPING ROAD, LLC  
3 BROOKHAVEN ROAD  
KINGSTON, NH 03848  
BK: 3775 PG: 0784



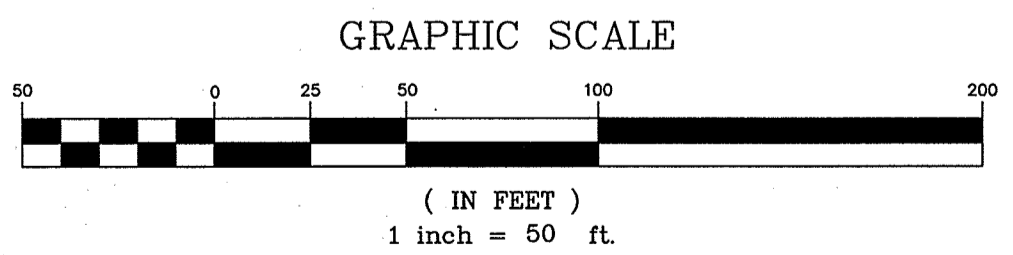
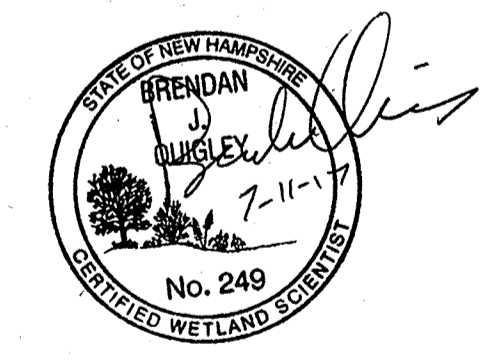
### LEGEND

EXISTING	DESCRIPTION
○	PROPERTY LINES
+	IRON PIPE/IRON ROD
□	DRILL HOLE FOUND
○	BOUND FOUND
▲	ROW FENCE POST
☼	TREE W/ WIRE
—	STUMPS W/ WIRE
—	MAJOR CONTOUR
—	MINOR CONTOUR
—	FRESHWATER WETLANDS LINE
●	IRON ROD/DRILL HOLE
■	STONE/GRANITE BOUND



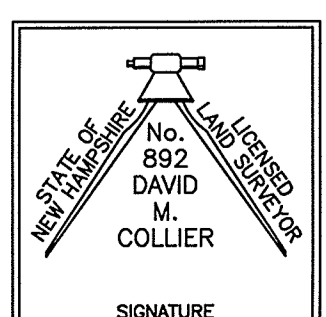
### SUBDIVISION NOTES:

- THE INTENT OF THIS PLAN IS TO SUBDIVIDE MAP 40, LOT 12 INTO THREE (3) LOTS FOR COMMERCIAL DEVELOPMENT PURPOSES, TO BE SERVICED BY MUNICIPAL WATER AND SEWER WITH ACCESS VIA THE PROPOSED T.I.F. ROAD.
- ZONING DISTRICT: INDUSTRIAL  
LOT AREA MINIMUM = 40,000 SF  
LOT FRONTAGE MINIMUM = 150' (GRANDFATHERED)  
BUILDING SETBACKS (MINIMUM):  
FRONT SETBACK = 50'  
SIDE SETBACK = 20'  
REAR SETBACK = 50'  
WETLAND SETBACK = 50'  
WETLAND NO CUT/NO DISTURB SETBACK = 40'  
WETLAND PARKING/BUILDING SETBACK = 75'  
MAX. BUILDING HEIGHT = 50'  
MAX. BUILDING COVERAGE = 40%  
OPEN SPACE MINIMUM = 25%
- SUBJECT PROPERTY IS NOT LOCATED WITHIN FEDERALLY DESIGNATED 100 YEAR FLOOD HAZARD ZONE. REFERENCE FEMA COMMUNITY PANEL NUMBERS: 33015C0238E, 33015C0401E, 33015C0239E, AND 33015C0402E, DATED MAY 17, 2005.
- GRANITE BOUNDS TO BE SET AT ALL ROADWAY POINTS OF CURVATURE AND TANGENCY. IRON RODS WITH SURVEY CAPS TO BE SET AT ALL PROPERTY CORNERS AND ANGLE POINTS, UNLESS OTHERWISE INDICATED. ALL MONUMENTS SET ARE 5/8" IRON RODS WITH ALUMINUM CAPS MARKED "JONES & BEACH ENGINEERS BOUNDARY, DO NOT DISTURB, STRATHAM, N.H." AS SHOWN.
- WETLANDS WERE DELINEATED BY GOVE ENVIRONMENTAL SERVICES, INC. DURING SUMMER, 2015, AND LOCATED BY JONES & BEACH ENGINEERS, INC.
- LANDOWNERS ARE RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL WETLAND REGULATIONS, INCLUDING PERMITTING REQUIRED UNDER THESE REGULATIONS.
- UPON APPROVAL BY THE TOWN, THE PROPOSED ROAD WILL BE CONVEYED TO THE TOWN.
- ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.
- ALL BOOK AND PAGE NUMBERS REFER TO THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.
- THE TAX MAP AND LOT NUMBERS AND ABUTTING OWNERS ARE BASED ON THE TOWN OF EXETER TAX RECORDS AND ARE SUBJECT TO CHANGE.
- ADDITIONAL RESEARCH WILL BE PERFORMED AT THE TOWN OF EXETER ASSESSOR'S OFFICE AND THE ROCKINGHAM COUNTY REGISTRY OF DEEDS PRIOR TO RECORDING.
- THIS SURVEY IS NOT A CERTIFICATION TO OWNERSHIP OR TITLE OF LANDS SHOWN. OWNERSHIP AND ENCUMBRANCES ARE MATTERS OF TITLE EXAMINATION NOT OF A BOUNDARY SURVEY. THE INTENT OF THIS PLAN IS TO RETRACE THE BOUNDARY LINES OF DEEDS REFERENCED HEREON. OWNERSHIP OF ADJOINING PROPERTIES IS ACCORDING TO ASSESSOR'S RECORDS. THIS PLAN MAY OR MAY NOT INDICATE ALL ENCUMBRANCES EXPRESSED, IMPLIED OR PRESCRIPTIVE.
- ANY USE OF THIS PLAN AND OR ACCOMPANYING DESCRIPTIONS SHOULD BE DONE WITH LEGAL COUNSEL TO BE CERTAIN THAT TITLES ARE CLEAR, THAT INFORMATION IS CURRENT, AND THAT ANY NECESSARY CERTIFICATES ARE IN PLACE FOR A PARTICULAR CONVEYANCE, OR OTHER USES.
- ALL BOUNDARY SURVEY AND DATA TAKEN FROM PLAN REF. 1, RCRD PLAN D-19078.



<b>PROJECT PARCEL</b> TOWN OF EXETER TAX MAP 40, LOT 12
<b>APPLICANT/OWNER</b> W. SCOTT CARLISLE, III 14 CASS STREET EXETER, NH 03833 BK 4244, PG 1653
<b>TOTAL LOT AREA</b> 808,074 SQ. FT. 18.55 ACRES

Design: JSR	Draft: PLB	Date: 8/1/16
Checked: JSR	Scale: 1"=50'	Project No.: 15098
Drawing Name: 15098-CONCEPT.dwg		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.		



REV.	DATE	REVISION	BY
1	7/11/17	ISSUED FOR PLANNING BOARD	PLB
0	5/9/17	ISSUED FOR REVIEW	PLB
		REVISION	BY

Designed and Produced in NH

## J/B Jones & Beach Engineers, Inc.

85 Portsmouth Ave. Civil Engineering Services 603-772-4746  
PO Box 219 Stratham, NH 03885 FAX: 603-772-0227  
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	<b>SUBDIVISION PLAN</b>
Project:	<b>CARLISLE SUBDIVISION OFF EPPING ROAD, EXETER, NH</b>
Owner of Record:	<b>W. SCOTT CARLISLE, III 14 CASS STREET, EXETER, NH 03833</b>
TOWN OF EXETER PLANNING BOARD	CASE NO. XXXXX
CHAIRPERSON	DATE:

DRAWING No.

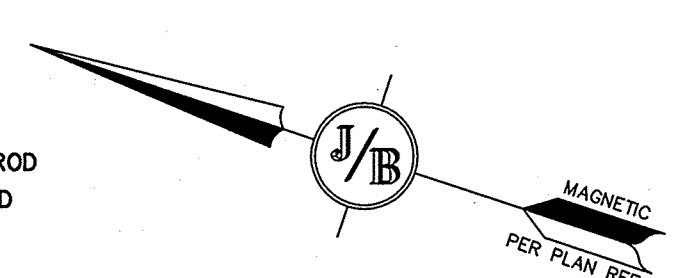
# A1

SHEET 1 OF 2  
JBE PROJECT NO. 15098

F:\15098-EXETER-EPPING-ROAD-CARLISLE\15098-PLAN.dwg 7/11/2017 12:25:50 PM EST

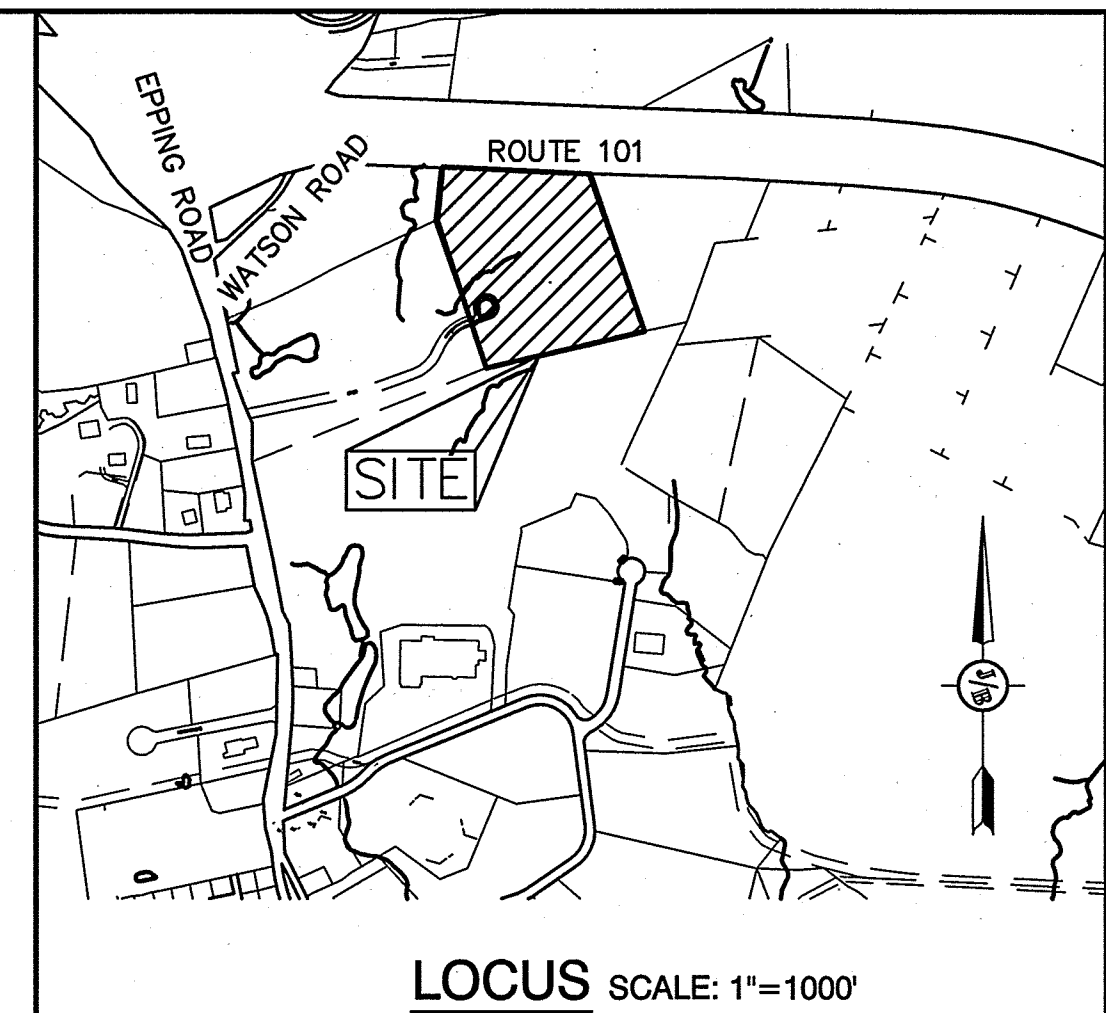
**LEGEND**

EXISTING	DESCRIPTION
○	PROPERTY LINES
+	IRON PIPE/IRON ROD
□	DRILL HOLE FOUND
■	BOUND FOUND
▲	ROW FENCE POST
●	TREE W/ WIRE
⊕	STUMPS W/ WIRE
— 100 —	MAJOR CONTOUR
— 98 —	MINOR CONTOUR
- - - - -	FRESHWATER WETLANDS LINE



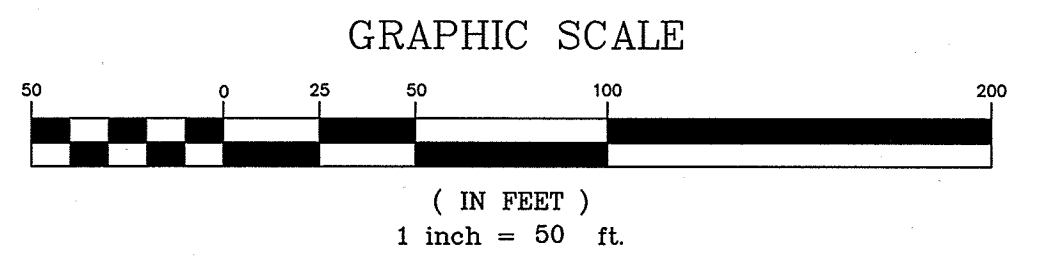
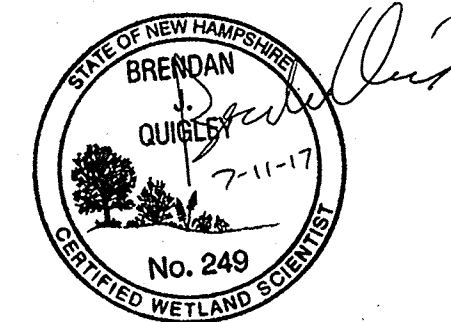
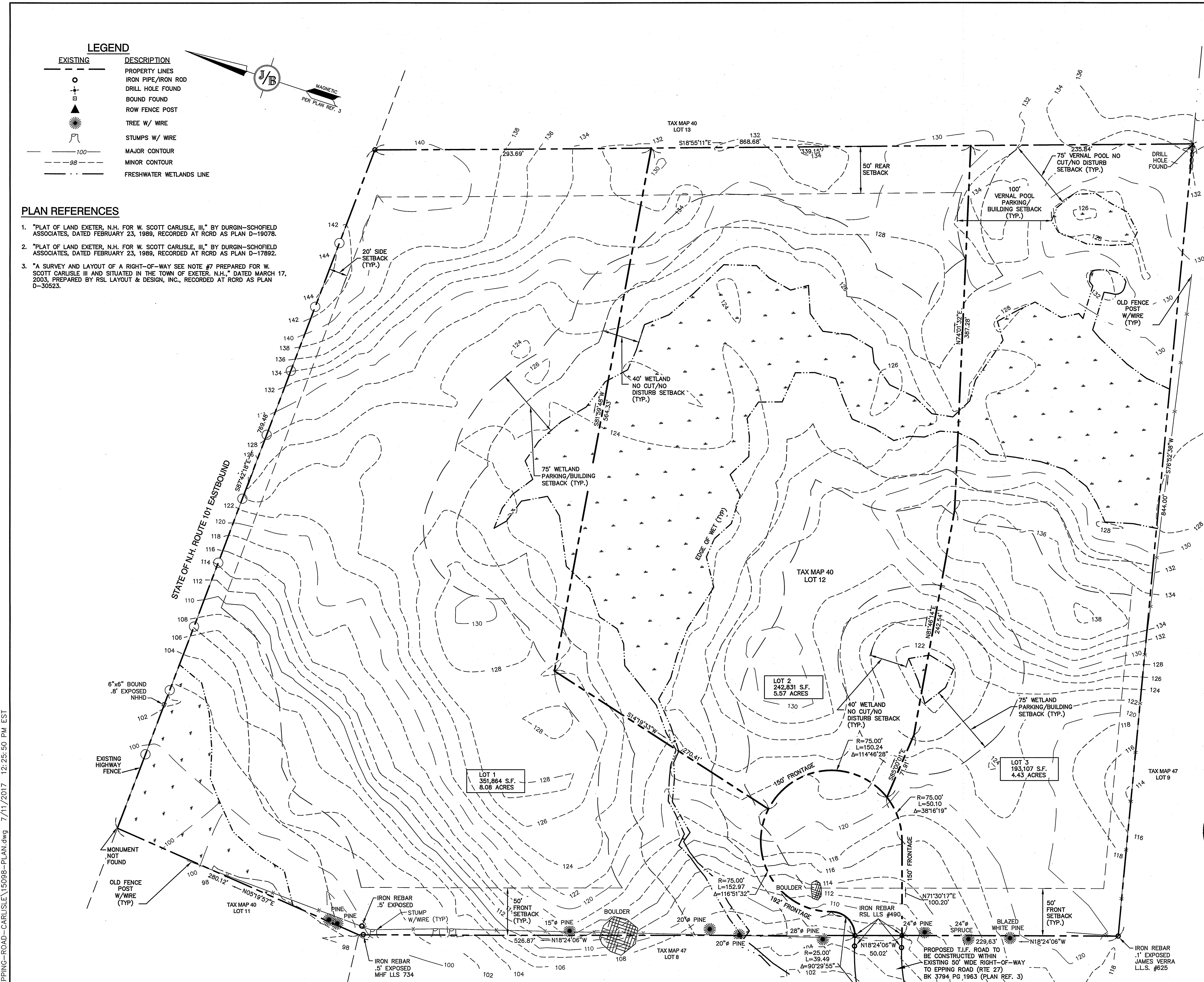
**PLAN REFERENCES**

- "PLAT OF LAND EXETER, N.H. FOR W. SCOTT CARLISLE, III," BY DURGIN-SCHOFIELD ASSOCIATES, DATED FEBRUARY 23, 1989, RECORDED AT RCRD AS PLAN D-19078.
- "PLAT OF LAND EXETER, N.H. FOR W. SCOTT CARLISLE, III," BY DURGIN-SCHOFIELD ASSOCIATES, DATED FEBRUARY 23, 1989, RECORDED AT RCRD AS PLAN D-17892.
- "A SURVEY AND LAYOUT OF A RIGHT-OF-WAY SEE NOTE #7 PREPARED FOR W. SCOTT CARLISLE III AND SITUATED IN THE TOWN OF EXETER, N.H.," DATED MARCH 17, 2003, PREPARED BY RSL LAYOUT & DESIGN, INC., RECORDED AT RCRD AS PLAN D-30523.



**EXISTING CONDITIONS NOTES:**

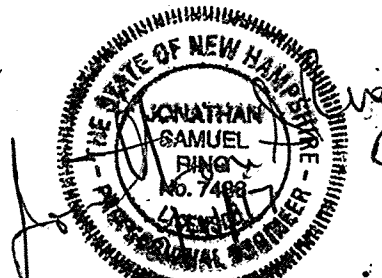
- UNDERGROUND FACILITIES, UTILITIES AND STRUCTURES HAVE BEEN PLOTTED FROM FIELD OBSERVATION AND THEIR LOCATION MUST BE CONSIDERED APPROXIMATE ONLY. NEITHER JONES & BEACH ENGINEERS, INC., NOR ANY OF THEIR EMPLOYEES TAKE RESPONSIBILITY FOR THE LOCATION OF ANY UNDERGROUND STRUCTURES OR UTILITIES NOT SHOWN THAT MAY EXIST. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO HAVE ALL UNDERGROUND STRUCTURES AND/OR UTILITIES LOCATED PRIOR TO EXCAVATION WORK BY CALLING 1-888-DIG-SAFE (1-888-344-7233).
- VERTICAL DATUM: ASSUMED. HORIZONTAL DATUM: ASSUMED.
- SUBJECT PROPERTY IS NOT LOCATED WITHIN FEDERALLY DESIGNATED 100 YEAR FLOOD HAZARD ZONE. REFERENCE FEMA COMMUNITY PANEL NUMBERS: 33015C0238E, 33015C0401E, 33015C0239E, AND 33015C0402E, DATED MAY 17, 2005.
- THE LIMITS OF JURISDICTIONAL WETLANDS WERE DELINEATED BY JAMES GOVE, OF GOVE ENVIRONMENTAL SERVICES, INC. DURING SUMMER, 2015 IN ACCORDANCE WITH THE FOLLOWING GUIDANCE DOCUMENTS:
  - THE CORPS OF ENGINEERS FEDERAL MANUAL FOR IDENTIFYING AND DELINEATING JURISDICTIONAL WETLANDS.
  - THE NORTH CENTRAL & NORTHEAST REGIONAL SUPPLEMENT TO THE FEDERAL MANUAL.
  - THE CURRENT VERSION OF THE FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, AS PUBLISHED BY THE NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION AND/OR THE CURRENT VERSION OF THE FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, AS PUBLISHED BY THE USDA, NRCS, AS APPROPRIATE.
  - THE CURRENT NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS, AS PUBLISHED BY THE US FISH AND WILDLIFE SERVICE.
- WETLAND IMPACTS SHALL NOT OCCUR UNTIL ALL PERMITS HAVE BEEN ACQUIRED AND IMPACT MITIGATION REQUIREMENTS HAVE BEEN SATISFIED.
- WETLAND BOUNDARIES AND CONSTRUCTION LIMITS ARE TO BE CLEARLY MARKED PRIOR TO THE START OF CONSTRUCTION.
- ALL WATER, SEWER, ROAD (INCLUDING PARKING LOTS), 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, NH.
- VERY POORLY DRAINED SOILS 10 OR MORE FEET INSIDE CENTRAL EDGE OF WETLAND LINE.



<b>PROJECT PARCEL</b> TOWN OF EXETER TAX MAP 40, LOT 12
<b>APPLICANT/OWNER</b> W. SCOTT CARLISLE, III 14 CASS STREET EXETER, NH 03833 BK 4244, PG 1653
<b>TOTAL LOT AREA</b> 808,074 SQ. FT. 18.55 ACRES

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Design: JSR	Draft: PLB	Date: 8/1/16
Checked: JSR	Scale: 1"=50'	Project No.: 15098
Drawing Name: 15098-CONCEPT.dwg		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.		



REV.	DATE	REVISION	BY
	7/11/17	ISSUED FOR PLANNING BOARD	PLB
0	5/9/17	ISSUED FOR REVIEW	PLB

Designed and Produced in NH

**J/B Jones & Beach Engineers, Inc.**

Civil Engineering Services

85 Portsmouth Ave.  
PO Box 219  
Stratham, NH 03885

603-772-4746  
FAX: 603-772-0227  
E-Mail: JBE@JONESANDBEACH.COM

Plan Name:	<b>EXISTING CONDITIONS PLAN</b>
Project:	<b>CARLISLE SUBDIVISION OFF EPPING ROAD, EXETER, NH</b>
Owner of Record:	<b>W. SCOTT CARLISLE, III 14 CASS STREET, EXETER, NH 03833</b>

DRAWING No.	<b>C1</b>
SHEET 2 OF 2	
JBE PROJECT NO. 15098	





## 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)

August 25, 2017

W. Scott Carlisle, III  
14 Cass Street  
Exeter, New Hampshire 03833

Re: PB Case #17-26 W. Scott Carlisle, III  
Minor Subdivision - Property off of Epping Road, Exeter, N.H.  
Tax Map Parcel #40-12

Dear Mr. Carlisle:

Please be advised that at the meeting of August 24<sup>th</sup>, 2017, the Exeter Planning Board voted to **APPROVE** the above-captioned application for a minor subdivision, as presented, subject to the following conditions:

1. A dwg file of the subdivision plan shall be provided to the Town Planner showing all property lines and monumentation prior to signing the final plans;
2. This approval shall not be final until the applicant presents to the Board, and the Board and its engineers approve, a design for both the un-built portion of the so-called TIF road to the applicant's property, and the roadway and cul-de-sac within the property;
3. The potential discrepancy regarding the location of the common boundary line between the subject parcel and the abutting parcel (Tax Map 47 Lot 8) shall be resolved between the property owners; and,
4. These conditions shall be met prior to recording the subdivision plan.

The Board also approved the following waivers from the Site Plan Review and Subdivision Regulations in conjunction with the minor subdivision plan:

- Section 7.4.7 – Natural Features for significant trees - 16" diameter (caliper) or greater
- Section 7.5.4 – High Intensity Soil Survey (HISS) information

Both of the above waivers shall be specific to this subdivision application and shall not apply to any subsequent application submitted for the property.

Please feel free to contact the Planning Department at 773-6114 with any questions.

Sincerely,

Langdon J. Plumer  
Chairman  
Exeter Planning Board

cc: ✓ Jonathan S. Ring, P.E., President, Jones & Beach Engineers, Inc.  
Douglas Eastman, Building Inspector/Code Enforcement Officer

LJP:bsm



The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner



November 8, 2017

Mr. Jonathan S. Shaftmaster  
 CKT & Associates  
 158 Shattuck Way  
 Newington, NH 03801

**Permit: AoT-1335**

Re: Ray Farm Active Adult Community, Epping Road  
 Tax Map 47, Lot 8 – Exeter, NH

Dear Mr. Shaftmaster:

Based upon the plans and application, approved on November 8, 2017, we are hereby issuing RSA 485-A:17 Alteration of Terrain Permit AoT-1335. This is an administratively revised copy of the permit, which corrects a typographical error in Condition 1 under Project Specific Conditions. The permit is subject to the following conditions:

**PROJECT SPECIFIC CONDITIONS:**

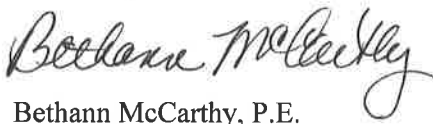
1. The plans in the file, last revision date October 26, 2017 with exception of one sheet last revised November 9, 2017, are a part of this approval.
2. The area of disturbance shall not exceed 5 acres at any time.
3. **This permit expires on November 8, 2022.** No earth moving activities shall occur on the project after this expiration date unless the permit has been extended by the Department. If an extension is required, the request must be received by the department before the permit expires. The Amendment Request form is available at: <http://des.nh.gov/organization/divisions/water/aot/categories/forms.htm>

**GENERAL CONDITIONS:**

1. Activities shall not cause or contribute to any violations of the surface water quality standards established in Administrative Rule Env-Wq 1700.
2. You must submit revised plans for permit amendment prior to any changes in construction details or sequences. You must notify the Department in writing within ten days of a change in ownership.
3. You must notify the Department in writing prior to the start of construction and upon completion of construction. Forms can be submitted electronically at: <https://forms.nh.gov/onlineforms/>. Paper forms are available at that same web page or at: <http://des.nh.gov/organization/divisions/water/aot/categories/forms.htm>.
4. All stormwater practices shall be inspected and maintained in accordance with Env-Wq 1507.07 and the project Inspection and Maintenance (I&M) Manual. All record keeping required by the I&M Manual shall be maintained by the identified responsible party, and be made available to the department upon request.
5. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits that may be required (e.g., from US EPA, US Army Corps of Engineers, etc.). Projects disturbing over 1 acre may require a federal stormwater permit from EPA. Information regarding this permitting process can be obtained at: <http://des.nh.gov/organization/divisions/water/stormwater/construction.htm>.

6. No activity shall occur in wetland areas until a Wetlands Permit is obtained from the Department. Issuance of this permit does not obligate the Department to approve a Wetlands Permit for this project.
7. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or have not been surveyed in detail, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species.

Sincerely,



Bethann McCarthy, P.E.  
Alteration of Terrain Bureau

cc: Exeter Planning Board  
Denis Hamel, W.C. Cammett Engineering, Inc. (via email)



The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner

April 19, 2019

Mr. Jonathan S. Shaftmaster  
 Ray Farm LLC  
 158 Shattuck Way  
 Newington, NH 03801

**Permit: AoT-1335B**

Original permit issuance: November 8, 2017

Re: Ray Farm Active Adult Community, Epping Road  
 Tax Map 47, Lot 8 – Exeter, NH

Dear Mr. Shaftmaster:

Based upon a recent request, we are hereby amending RSA 485-A:17 Alteration of Terrain Permit AoT-1335. **The amendment consists of a plan change, adding the TIF road and an infiltration basin, as shown on plans by Cammett Engineering, last revision date November 26, 2018.** As part of the processing of this application, DES waived specific requirements of Env-Wq 1507.05 relative to Channel Protection Requirements. Granting this waiver will not have an adverse impact on the environment, public health, public safety, or abutting properties, and granting the request is consistent with the intent and purpose of the rules waived. Additional documentation relative to the waiver is contained within the file. The amended permit number is AoT-1335A and is subject to the following conditions:

**PROJECT SPECIFIC CONDITIONS:**

1. The plans in the file, last revision date November 26, 2018 are a part of this approval.
2. The area of disturbance shall not exceed 5 acres at any time.
3. Infiltration testing shall be performed on Basin G, as described on Sheet C 1.22 of the approved plans. Infiltration test results shall be submitted to DES within 7 days of testing.
4. **This permit expires on November 8, 2022.** No earth moving activities shall occur on the project after this expiration date unless the permit has been extended by the Department. If an extension is required, the request must be received by the department before the permit expires. The Amendment Request form is available at: <http://des.nh.gov/organization/divisions/water/aot/categories/forms.htm>

**GENERAL CONDITIONS:**

1. Activities shall not cause or contribute to any violations of the surface water quality standards established in Administrative Rule Env-Wq 1700.
2. You must submit revised plans for permit amendment prior to any changes in construction details or sequences. You must notify the Department in writing within ten days of a change in ownership.
3. You must notify the Department in writing prior to the start of construction and upon completion of construction. Forms can be submitted electronically at: <https://forms.nh.gov/onlineforms/>. Paper forms are available at that same web page or at: <http://des.nh.gov/organization/divisions/water/aot/categories/forms.htm>.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
 (603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

4. All stormwater practices shall be inspected and maintained in accordance with Env-Wq 1507.07 and the project Inspection and Maintenance (I&M) Manual. All record keeping required by the I&M Manual shall be maintained by the identified responsible party, and be made available to the department upon request.
5. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits that may be required (e.g., from US EPA, US Army Corps of Engineers, etc.). Projects disturbing over 1 acre may require a federal stormwater permit from EPA. Information regarding this permitting process can be obtained at: <http://des.nh.gov/organization/divisions/water/stormwater/construction.htm>.
6. No activity shall occur in wetland areas until a Wetlands Permit is obtained from the Department. Issuance of this permit does not obligate the Department to approve a Wetlands Permit for this project.
7. In accordance with Env-Wq 1503.21 (c)(1), a written notice signed by the permit holder and a qualified engineer shall be submitted to DES stating that the project was completed in accordance with the approved plans and specifications. If deviations were made, the permit holder shall review the requirements in Env-Wq 1503.21(c)(2).
8. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or have not been surveyed in detail, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species.

Sincerely,



Bethann McCarthy, P.E.  
Alteration of Terrain Bureau

cc: Exeter Planning Board  
Denis Hamel, W.C. Cammett Engineering, Inc. (via email)





February 1, 2018

Eben Lewis  
NH DES Wetlands Bureau  
Pease Field Office  
222 International Dr., Ste. 175  
Portsmouth, NH 03801

**Re: Request for Amendment  
NHDES File # 2017-01530  
Willey Creek Company, LLC  
Exeter, NH**

Dear Mr. Lewis:

As authorized agent for the applicant I would like to request an amendment to the above referenced permit issued on 8/16/2017. No work has been done at the site. The requested amendment consists of an additional 368 square feet of wetland impact directly adjacent to the approved impact in the vicinity of the site entrance drive as depicted on the attached plan. The work for which this impact is needed is in fact shown on the original permit plans but lies outside the project site within a right-of-way on the applicant property. A public road is planned by the Town of Exeter in this location as part of their their Tax Increment Finance district (TIF road).

The need to amend the permit is related to timing. The full design and permitting of the TIF road was supposed to have been undertaken by the Town of Exeter such that this project, the first in the area to be served by the road, could proceed in a timely manner. The design and permitting of the public road has, however, lagged behind and is now preventing the start of work on the project since the road provides access to the site entrance drive. The applicant intends to enter into an agreement with the Town of Exeter to design and construct the section of roadway up to entrance drive so work on the approved residential development project can begin as soon as possible.

Due to extensive effort to avoid and minimize impacts on this project, the requested 368 square feet of additional impact represents approximately 26% of the originally permitted impact. However, the additional impact is not related to expansion of the project or changes to the approved site design but rather to the separate public road project that is largely outside the applicant's control. The additional impact area is the remaining portion of a narrow wetland finger that is already being impacted. The relevant responses to Env-Wt 302.04 (a) therefore apply to this additional impact area.

If you have any questions please don't hesitate to contact me.

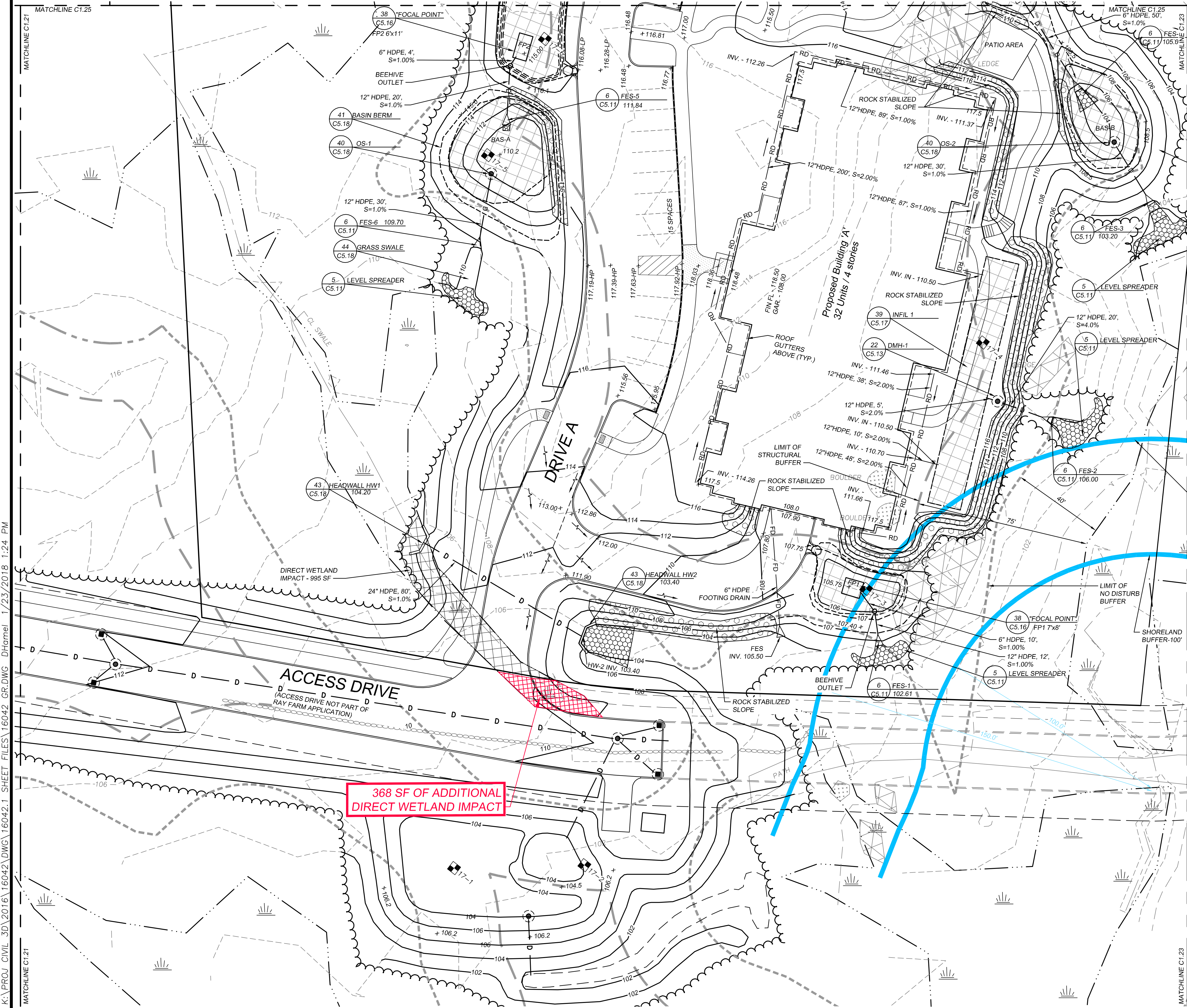
Sincerely,

Brendan Quigley, NHCWS, CESSWI  
Gove Environmental Services, Inc

Attachment: Revised Plan Sheet C1.22  
Additional Filing Fee Check

CC: Exeter Conservation Commission





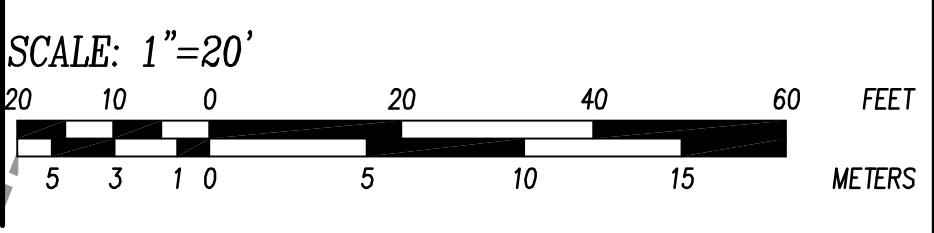
- NOTES:**
- REFER TO G1.20 FOR LEGEND, ABBREVIATIONS, AND GENERAL NOTES.
  - ALL TEMPORARY BENCHMARKS (TBM) BEYOND LIMIT OF WORK SHALL BE PROTECTED DURING CONSTRUCTION. IF ADDITIONAL TBMS ARE NEEDED, A LICENSED LAND SURVEYOR WILL SET NEW TBMS USING THE EXISTING TBM DATUM.
  - ACCESS ROAD AS SHOWN DEPICTS DESIGN INTENT ONLY. FINAL DESIGN TO BE COORDINATED WITH RESULTS OF TIF PROGRAM DESIGN.

**INVERT DATA**

DMH-1  
RIM - 116.50  
12" HDPE IN - 110.15  
12" HDPE OUT - 106.80

- TESTS PITS LOGGED BY D. HAMEL  
LICENSED DESIGNER # 670 ON  
APRIL 14, 2017
- TEST PIT 17-1  
0-6" FINE SANDY LOAM  
6"-12" SANDY LOAM  
12"-60" LOAMY SAND 7.5YR 6/6  
ESHWT - 26"  
NO LEDGE
- TEST PIT 17-2  
0-6" FINE SANDY LOAM  
6"-12" SANDY LOAM  
12"-42" LOAMY SAND 7.5YR 5/4  
ESHWT - 18"  
LARGE ROCKS, POSSIBLE LEDGE @ 42"
- TEST PIT 17-3  
0-5" FINE SANDY LOAM  
5"-22" SANDY LOAM  
22"-60" LOAMY SAND 7.5YR 5/8  
ESHWT - 24"  
POSSIBLE LEDGE @ 60"
- TEST PIT 17-4  
0-5" FINE SANDY LOAM  
5"-17" LOAMY AND  
17"-36" SAND 7.5YR 6/4  
36"-56" SILT LOAM 7.5YR 5/4  
ESHWT - 24"  
POSSIBLE LEDGE @ 56"
- TEST PIT 17-5  
0-5" FINE SANDY LOAM  
5"-14" SANDY LOAM  
14"-38" SAND  
38"-60" SILT LOAM 7.5YR 5/6  
ESHWT - 20"  
NO LEDGE
- TEST PIT 17-6  
0-4" FINE SANDY LOAM  
4"-16" LOAMY SAND  
16"-28" SAND  
28"-33" LOAMY SAND  
33"-52" SAND 10YR 5/6  
ESHWT - 36"  
NO LEDGE

**368 SF OF ADDITIONAL  
DIRECT WETLAND IMPACT**



FOR REGISTRY USE ONLY

**CAMMETT  
ENGINEERING**

297 ELM STREET, AMESBURY, MA.  
Phone: (978) 388-2157 Fax: (978) 388-0428  
CONSULTING ENGINEERS &  
LAND SURVEYORS SINCE 1975  
Visit us on the WEB at www.cammett.com

Sheet Title:  
**Grading and  
Drainage Plan**

Project Title:  
**"Ray Farm"  
Active Adult  
Community**

Epping Road  
Exeter, NH 03833  
Rockingham County

Applicant:  
**Willey Creek Company**  
158 Shattuck Way  
Newington, NH 03801

Owner:  
**CKT & Associates**  
158 Shattuck Way  
Newington, NH 03801

REVISION			
NO.	DATE	DESCRIPTION	BY
A	5.8.2017	TO PLANNING BOARD	DH
B	6.27.2017	PEER REVIEW	DH
C	11.27.17	2nd PEER REVIEW	DH
D	1.15.18	3rd PEER REVIEW	DH

PROJ. MGR.: D. HAMEL  
FIELD: M. MICHAUD / A. BICK  
DESIGN: D. HAMEL  
DRAWN: D. HAMEL  
CHECKED: W. CAMMETT/R. BLANCHETTE  
DATE: 05/08/2017  
FILE: 16042 GR.DWG  
FBK:  
JOB #: 16042

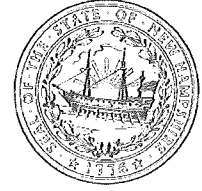
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The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner



February 14, 2018

Jonathan Shaftmaster  
 Willey Creek Co. LLC  
 158 Shattuck Way  
 Newington, NH 03801

RE: NHDES Wetlands Bureau File 2017-01530, Epping Road, Exeter Tax Map 47 Lot 8

Dear Mr. Shaftmaster:

Attached please find Amended Wetlands Permit 2017-01530 to impact a total of 1,763 square feet (sq. ft.) to include 1,363 sq. ft. of forested wetland and 400 sq. ft. along 36 linear feet within the bed and banks of an intermittent stream (Tier 1) contiguous with Watson Brook for the construction of a roadway as part of Exeter's Tax Increment Finance district and an accessway to a residential active adult community on 11.59 acres.

The decision to approve this application was based on the following findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(l) Projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks and do not meet the criteria for minimum impact under Env-Wt 303.04(n).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The crossing impacting the intermittent stream, a tier 1 stream pursuant to Env-Wt 904.02(a), has been designed to meet Env-Wt 904.02(b).
6. The application included NH Natural Heritage Bureau (NHB) Datacheck Results Letter NHB16-3679 identifying two (2) plant species in the vicinity of the proposed project: sharp-flowered manna grass (*Glyceria acutiflora*) (E) and slender blue iris (*Iris prismatica*) (E).
7. Based on the results of the survey performed by the agent and in response to these species, NHB stated via email, "NHB has no further concerns about this project."
8. The NH Division of Historical Resources has reviewed the project and found "No Historic Properties Affected."
9. In a letter dated 6/13/17, the Exeter Conservation Commission stated, "We have investigated this application and have no objection to the issuance of this permit."

Any person aggrieved by this decision may appeal to the New Hampshire Wetlands Council (the Council) by filing an appeal that meets the requirements specified in RSA 482-A:10, RSA 21-O:14, and the rules adopted by the Council, Env-WtC 100-200. The appeal must be filed **directly with the Council within 30 days** of the date of this decision and must set forth fully **every ground** upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Council. Information about the Council, including a link to the Council's rules, is available at <http://nhwc.nh.gov/> (or more directly at <http://nhwc.nh.gov/wetlands/index.htm>.) Copies of the rules also are available from the New Hampshire Department of Environmental Services (NHDES) Public Information Center at (603) 271-2975.

Your permit must be signed, and a copy must be posted in a prominent location on site during construction. If you have any questions, please contact our office at (603) 271-2147.

Sincerely,

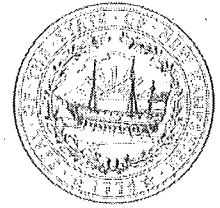
Eben M. Lewis  
 Wetlands Inspector, Southeast Region Supervisor  
 NHDES Wetlands Bureau

cc: Brendan Quigley, GES, Inc.  
 Exeter Conservation Commission



The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner



**NOTICE TO RECIPIENTS OF  
MINOR IMPACT NH WETLANDS PERMITS**

Your permit was approved by the New Hampshire Wetlands Bureau as a minor impact project. Your project will be reviewed by the US Army Corps of Engineers for possible approval under the Army Corps New Hampshire State Programmatic General Permit – SPGP. The Army Corps will notify you within thirty (30) days if they will require additional information, or an individual federal permit application.

If you do not hear from the Army Corps within thirty (30) days, and your project meets the conditions of the SPGP (attached), your project will automatically be approved under the SPGP. You should contact the Army Corps, at 1-978-318-8335 (ME, NH, VT, CT, RI), 1-800-362-4367 (MA), if your project does not meet the conditions of the SPGP.

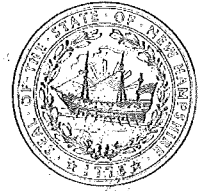
NO WORK SHOULD BE DONE WITHOUT AUTHORIZATION FROM THE ARMY CORPS UNLESS THIRTY (30) DAYS HAVE PASSED AFTER NH WETLANDS BUREAU APPROVAL AND ALL CONDITIONS OF THE SPGP ARE MET.

THESE APPROVALS DO NOT RELIEVE YOU FROM OBTAINING ANY NECESSARY LOCAL PERMITS THAT MAY BE REQUIRED BY YOUR TOWN.

IF YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO GIVE US A CALL AT 603-271-2147.

\*\*\*\*\*

cc: US Army Corps of Engineers



Robert R. Scott, Commissioner

**WETLANDS AND NON-SITE SPECIFIC PERMIT 2017-01530 PAGE 1 OF 2**

**Permittee:** WILLEY CREEK CO LLC      **NOTE CONDITIONS**  
 158 SHATTUCK WAY  
 NEWINGTON NH 03801

**Project Location:** EPPING ROAD, EXETER  
 TAX MAP 47 LOT 8

**Waterbody:** WATSON BROOK

**APPROVAL DATE:** FEBRUARY 14, 2018      **EXPIRATION DATE:** AUGUST 16, 2022

Based upon review of the above referenced application, in accordance with RSA 482-A and RSA 485-A:17, a Wetlands Permit and Non-Site Specific Permit was issued. This permit shall not be considered valid unless signed as specified below.

**\*\*AMENDEDED\*\***

**PERMIT DESCRIPTION:** Impact a total of 1,763 square feet (sq. ft.) to include 1,363 sq. ft. of forested wetland and 400 sq. ft. along 36 linear feet within the bed and banks of an intermittent stream (Tier 1) contiguous with Watson Brook for the construction of a roadway as part of Exeter's Tax Increment Finance district and an accessway to a residential active adult community on 11.59 acres.

**THIS APPROVAL IS SUBJECT TO THE FOLLOWING PROJECT SPECIFIC CONDITIONS:**

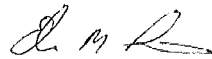
1. All work shall be in accordance with the following plans by Cammett Engineering dated 5/8/17:
  - a. Plans received by the NH Department of Environmental Services (NHDES) on June 1, 2017; and,
  - b. The 'Grading and Drainage Plan' revised through 1.15.18 as received by NHDES on February 5, 2018.
2. This permit is not valid unless an Alteration of Terrain permit or other method of compliance with RSA 485-A:17 and Env-Wq 1500 is achieved.
3. Any further alteration of areas on this property that are subject to RSA 482-A jurisdiction will require further permitting.
4. No person undertaking any activity shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards in RSA 485-A and Env-Wq 1700.
5. Work shall be done during low flow and in the dry only.
6. Appropriate siltation and erosion controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized. Temporary controls shall be removed once the area has been stabilized.
7. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area and shall remain until suspended particles have settled and water at the work site has returned to normal clarity.
8. The contractor responsible for completion of the work shall use techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
9. Extreme precautions shall be taken within riparian areas to prevent unnecessary removal of vegetation during construction.
10. Prior to commencing work on a substructure located within the intermittent stream, the permittee or permittee's contractors shall construct a cofferdam to isolate the substructure work area from the intermittent stream.

11. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, with a preferred undisturbed vegetated buffer of at least 50 feet and a minimum undisturbed vegetative buffer of 20 feet.
12. Dredged materials, whether to be stockpiled or disposed of, shall be dewatered in sedimentation basins lined with siltation and erosion controls, and located outside of areas subject to RSA 482-A jurisdiction.
13. The channel at the recreated stream channel bed and box culvert must maintain the natural and a consistent streambed elevation and not impede stream flow.
14. Proper headwalls shall be constructed within seven days of culvert installation.
15. Construction equipment shall be inspected daily for leaking fuel, oil, and hydraulic fluid prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
16. The permittee's contractor shall maintain appropriate oil/diesel fuel spill kits on site that are readily accessible at all times during construction, and shall train each operator in the use of the kits.
17. All refueling of equipment shall occur outside of surface waters or wetlands during construction. Machinery shall be staged and refueled in upland areas only.
18. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1.

**GENERAL CONDITIONS THAT APPLY TO ALL NHDES WETLANDS PERMITS:**

1. A copy of this permit shall be posted on site during construction in a prominent location visible to inspecting personnel;
2. This permit does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others;
3. The Wetlands Bureau shall be notified upon completion of work;
4. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits, and/or consult with other agencies as may be required (including US EPA, US Army Corps of Engineers, NH Department of Transportation, NH Division of Historical Resources (NH Department of Cultural Resources), NHDES-Alteration of Terrain, etc.);
5. Transfer of this permit to a new owner shall require notification to and approval by NHDES;
6. This project has been screened for potential impacts to **known** occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or have only received cursory inventories, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species.
7. Review enclosed sheet for status of the US Army Corps of Engineers' federal wetlands permit.

APPROVED:



Eben M. Lewis  
NHDES Wetlands Bureau

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**BY SIGNING BELOW I HEREBY CERTIFY THAT I HAVE FULLY READ THIS PERMIT AND AGREE TO ABIDE BY ALL PERMIT CONDITIONS.**

\_\_\_\_\_  
OWNER'S SIGNATURE (required)

\_\_\_\_\_  
CONTRACTOR'S SIGNATURE (required)

**AGREEMENT**

**BETWEEN**

**THE TOWN OF EXETER, NEW HAMPSHIRE  
AND  
WILLEY CREEK CO., LLC**

**THIS AGREEMENT**, made and entered into this 13<sup>th</sup> day of April, 2018, by and between the **Town of Exeter**, a New Hampshire municipal corporation (hereinafter referred to as the "Town"), with a place of business and mailing address, at 10 Front Street, Exeter, New Hampshire, 03833 and **Willey Creek Co., LLC**, a New Hampshire limited liability company, (hereinafter referred to as "WCC") with a place of business and mailing address, at 158 Shattuck Way, Newington, NH 03801 (the entities referred to in this paragraph are sometimes hereinafter collectively referred to as the "Parties"), as follows:

**RECITALS:**

**WHEREAS**, the Town of Exeter voters adopted a Tax Increment Financing District known as the Epping Road TIF District (hereinafter referred to as "TIF" or the "District") by vote at town meeting in March of 2015, all in accordance with New Hampshire RSA 162-K, including the adoption of a development plan for the District which reflected certain public improvements which are in part the subject of this Agreement;

**WHEREAS**, WCC received conditional site plan approval from the Town's Planning Board in July of 2017 for a 116-unit Active Adult Community (hereinafter referred to as "AAC") that would be accessed by and receive utility service through the construction of a portion of the public improvements proposed in the TIF, which as of this date have not been constructed by the Town or WCC;



**WHEREAS**, it is a condition of the approval of WCC’s AAC that the entity constructing the so called TIF road providing access to the project premises be identified and that adequate provisions be in place to assure that the infrastructure of improvements proposed for the AAC project would be compatible with the public improvements in the TIF Road;

**WHEREAS**, the Town and WCC are both desirous of entering into a mutual beneficial agreement whereby a portion of the TIF District public improvements (the “TIF Road Work”) can be completed on an expedited basis by WCC subject to reimbursement by the Town upon the issuance of a TIF Bond, all as provided herein;

**WHEREAS**, WCC, conditioned on being able to commence its site work for the AAC is prepared to undertake and initially front the cost of the Town’s TIF Road work, at an all-in fixed price of \$1,945,022.00, subject to the allowances and qualifications and exceptions stated herein, so that the public improvements will be available to its AAC project and projects proposed by others in the TIF District; and

**WHEREAS**, WCC can undertake the TIF Road Work now on the property of CKT Associates, an affiliated entity, with a qualified site contractor at an advantageous price which can be obtained because of a combination of the economy of scale and the timing of the work beginning as an off season (“ early spring”) project.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Public Infrastructure Improvements**

1.1 The term “Public Infrastructure Improvements” as used in this agreement includes the construction of the TIF Road Work, in the location shown on **Exhibit A** in green with a

design but no construction of Public Improvements for a future extension of the TIF road to reach the Carlisle Property at Map 40, Lot 12 as shown in yellow on **Exhibit A**. The design is attached as **Exhibit B**.

1.2 The Town alone will be responsible for the design and construction of the portion of the Public Infrastructure Improvements on Epping Road, inclusive of the extension of public water and sewer, as shown in orange (Phase I) and red (Phase II) on Exhibit A and shall use its best efforts to prioritize and complete the extension of public water and sewer in the green area from the Continental Drive intersection to the TIF Road being constructed by WCC, (the “Phase I Water and Sewer extension”) on or before September 30, 2018, so as to enable the timely connection of WCC’s AAC project for unit sales and occupancy.

1.3 All of the TIF Road Work will be constructed upon the land of CKT Associates, Inc., (hereinafter referred to as “CKT”), an affiliated entity of WCC. CKT shall join in and execute a copy of this agreement solely for the purpose of confirming that CKT agrees to convey fee title to the 50 foot right-of-way roadway area to the Town upon the Town’s acceptance of the TIF Road Work and will convey an easement to the Town associated with the roadway fee for the area of the pump station and any associated drainage improvements required for the road (the “Deeds”). CKT’s obligation to do so is without compensation, provided the Town cooperates with CKT in CKT’s valuing of its gift to the Town of its rights in this property and the location of any drainage easements as per Section 8.2.2.

1.4 The Deeds shall be prepared by counsel for CKT and reviewed by counsel for the Town for form and substance. They shall be executed by CKT and held in escrow by counsel for CKT to be released to the Town at the time the Town acts to accept the TIF Road as a public road.

1.5 The Parties hereto understand and agree that the total amount of TIF Bonding for the Public Infrastructure Improvements contemplated under this Agreement to be carried out by WCC shall be no less than \$1,945,022.00.

2. **WCC's Obligations.**

2.1 In proceeding with the AAC Project, WCC will insure that the design of its site improvements will be fully compatible with the design WCC is completing (subject to the review of the Town and its consultants) of the TIF Road Work which WCC will be constructing under this Agreement.

2.2 To perform the TIF Road Work, WCC will engage a qualified site work contractor, S.U.R, with substantial experience in the construction of similar improvements which contractor has the approval of the Town.

2.3 WCC agrees to construct the TIF Road Work for an aggregate price of \$1,900,022.00 plus \$45,000.00 in approved reimbursable costs, all

as detailed on **Exhibit C**, subject to adjustment of allowances and adjustments as provided by Paragraph 3.4 of this Agreement which shall be documented by written change order(s) executed by the parties.

2.4 **Exhibit E** is an updated Development Schedule for the TIF Road Work and the Phase I Water and Sewer Extension in Epping Road which shall be completed by the Parties within 14 days of the execution of this Agreement. Notwithstanding the forgoing, the Parties recognize that the time for the Performance of the work shall be extended by a period equal to: (a) any delay caused by or resulting from a delay by the Town in implementing and approving the TIF Bond Financing herein contemplated; (b) an act of God, war, civil commotion, fire or other casualty, shortages of energy, materials or equipment, government regulations, or other

causes beyond WCC's control such that WCC's time for performance shall be extended for a reasonable time taking into account the effect and duration of the above; (c) delays which may be caused by Town mandated engineering, site or inspection requirements.

2.5 Except for the Town's TIF Financing contemplated herein, WCC shall be responsible for securing any financing, if any, required for its AAC project to go forward simultaneously with the completion of the TIF Road Work and the Phase I Water and Sewer Extension in Epping Road. The Town will reasonably cooperate with WCC to the extent documentation is requested from WCC's lender with respect to the obligations of each party under this agreement, but in no event shall the Town become a party or guarantor of the financing or WCC's performance thereunder.

2.6 The design of the TIF Improvements attached as Exhibit B which the Town received on or about February 26, 2018 has been reviewed by the Town. The Parties agree that the Hoyle Tanner six page estimate of January 5, 2015 with their letter of January 7, 2015 and the Underwood Engineering Water and Sewer Utility Build Out Evaluation dated February 26, 2018 attached hereto and incorporated herein as Exhibits F-1 and F-2 may be referenced in connection with the design.

2.7 All documents relating to the design, engineering and construction of the TIF Road Work shall be provided to the Town electronically in appropriate digital format.

2.8 WCC will cause its contractor to provide the Town with a one year warranty from the date of completion of the workmanship of its construction of the TIF Road Work.

### 3. Town of Exeter Obligations

3.1 As used in this Agreement the term “TIF Bond(s)” shall mean a bond(s) utilized by the Town, the proceeds of which shall be used for the purposes of paying Town costs and/or expenses associated with the Public Infrastructure Improvements and reimbursing WCC for the design and construction of the TIF Road Work. The Town shall issue Tax Increment Financing Bond(s) “TIF Bond(s)” on or before July 1, 2018 for the purposes of generating the funds to reimburse WCC for the TIF Road Work WCC shall construct under this Agreement. Nothing herein shall limit the Town’s discretion in determining the amount of the TIF Bond(s) or any other aspect of the Bond(s) so long as the Bond(s) generates proceeds equal to or greater than the obligations to reimburse WCC undertaken by The Town under this Agreement. The Town shall keep WCC reasonably informed of its actions in causing the TIF Bond(s) to issue. The payments on the “TIF Bond(s)” shall be made from the funds now held by the Town in the Epping Road Tax Increment Financing District account and as they accrue going forward, all in accordance with RSA Chapter 162-K. For the purposes of this Agreement, the term “TIF Bond(s)” shall include expenses paid at any time by the Town (or such expenses which the Town becomes obligated to pay), with respect to the Public Infrastructure Improvements.

3.2 WCC with the cooperation of the Town and at its expense included in the agreed price on Schedule C is responsible for any required State or Federal approvals for the TIF Road Work. The Town shall be responsible for paying any further permits and approvals fees, if any, required for the remainder of the Public Infrastructure Improvements at its sole expense

3.3 The Town will reimburse WCC for the Public Infrastructure Improvements as they are completed and after satisfactory inspection by the Town throughout the construction process pursuant to requisitions submitted by WCC in accordance with the Schedule of Values to be approved by the Parties and attached hereto as **Exhibit D** within fourteen (14) days of the execution of this Agreement. Further, the Parties agree that they will share equally any value engineering savings, initiated by WCC and approved by the Town, in the design of the TIF Improvements or otherwise.

3.4 The Town's obligation to reimburse WCC shall not exceed the aggregate price subject only to adjustment for allowance items inclusive of ledge and the pump station; any other adjustable items requested by the Town, that, the Parties agree in written change order(s) are allowance/adjustable items; and any hidden unsuitable conditions which cannot be reasonably determined until the work is commenced. The Schedule of Values shall be appropriately adjusted for any changes in allowances/adjustable items or hidden unsuitable conditions.

3.4.1 Potentially adjustable items include, but are not limited to, the:

- a. details of the pump station for which an allowance of \$350,000.00 is included in the aggregate price. If the Parties do not agree on the details of the pump station, the Town with the cooperation of WCC, shall be obligated to undertake its construction, at its expense, and the aggregate price shall be reduced by \$350,000.00; and
- b. ledge removal in excess of the allowance of \$44,000.00

The Parties agree in considering such adjustments to use best efforts to avoid any additional site costs for WCC's AAC project as currently approved and if such costs are unavoidable they shall be included in the adjustment. All adjustments shall be documented by written change order(s) executed by the Parties and the site contractor.

3.4.2 Reimbursement shall be made within twenty (20) days of the submission of a requisition with a late payment charge of 5%. Notwithstanding the forgoing until such date as the bond proceeds are available, or July 1, 2018, whichever date comes first, WCC agrees to a delay in reimbursement payments provided that any reimbursement payment submitted in proper form shall accrue interest at 0.33% monthly which shall be payable when the Bond(s) proceeds become available, but no later than July 1, 2018. The Town's obligation to make reimbursement payments shall be conditioned upon WCC not being in material default of its obligations under this Agreement.

3.5 Upon the completion of the TIF Road Work, after satisfactory inspection by the Town, the Town shall undertake the obligation to maintain and provide winter maintenance of the TIF Roadway, provided WCC has caused CKT to convey fee and easement ownership to the Town as hereinabove provided and provided the Town with an as built plan(s).

3.6 If for any reason, other than the Town's payment default hereunder, after commencement of construction, the TIF Roadway (a/k/a Ray Farm Road) is not able to be completed under this Agreement, WCC and CKT agree to convey the completed improvements and the road and drainage easements to the Town notwithstanding Section 1.2 of this Agreement.



#### 4. Development Schedule.

4.1 The Parties acknowledge that accomplishment of the updated Development Schedule (**Exhibit E**) and the issuance of the TIF Bond(s) require the coordinated efforts of multiple parties and is dependent in many instances on the actions or approvals of third parties. The Parties agree to use diligent efforts and to cooperate with each other in undertaking their respective responsibilities under this Agreement, including, but not limited to, those events listed on the Development Schedule and TIF Bond(s) issuance. It is further understood by the Parties that the Development Schedule (**Exhibit E**) may require adjustment based upon the discovery of previously unknown site constraints, hidden unsuitable conditions, actions of third parties, and circumstances beyond the control of WCC or the Town. Any such adjustment(s) shall be reviewed and agreed upon by the Parties hereto. Consent to such Development Schedule adjustment shall not be unreasonably withheld.

4.2 For the purposes of this Agreement, Parties shall not be considered in breach or default of its/their respective obligations hereunder in the event of unavoidable delay in the performance of such obligations due to causes beyond its control and without its fault or negligence, including but not restricted to, acts of God, or of the public enemy, acts of the other party, fires, floods or other casualties, epidemics, quarantine restrictions, litigation commenced by others, freight embargoes, and unusually severe weather or delays of contractors and subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of such party shall be extended for the period of the enforced delay, provided, that the party seeking the benefit of the provisions of this section shall, within fifteen (15) days after the beginning of any such enforced delay, have first notified the other party thereof in writing

stating the cause or causes thereof and requested an extension for the period of the enforced delay. In calculating the length of the delay, the Town and WCC shall consider not only actual work stoppages, but also any consequential delays resulting from such stoppage as well.

## **5. Representations and Warranties.**

5.1 Representations and Warranties of Town. The Town hereby represents and warrants that:

- 5.1.1 The execution and delivery of this Agreement and the performance of the Town's obligations hereunder have been duly authorized by such municipal action as necessary, and this Agreement constitutes the legal, valid and binding agreement of the Town, enforceable against the Town in accordance with its terms subject only to the conditions set out in this Agreement.
- 5.1.2 There is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or governmental authority, pending or to the best of the Town's knowledge threatened against the Town, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Town of the obligations hereunder or the performance by the Town of its obligations under the transactions contemplated hereby, or which, in any way, questions or may adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Town in connection with the transactions contemplated hereby.

- 5.1.3 The Town has complied, and will continue to comply where and to the extent necessary, with the provisions of RSA Chapter 162-K.
- 5.1.4 If required by WCC or its lender(s), the Town shall provide WCC with a reasonable legal counsel's opinion, in a customary form for transactions of this nature, with respect to the matters described in this section.

5.2 **Representations and Warranties of WCC.** WCC hereby represents and warrants to the best of its knowledge and belief that:

- 5.2.1 WCC is a limited liability company, duly organized, validly existing and in good standing under the laws of the New Hampshire, the state of its formation, with all requisite authority to own its property and assets and to conduct its business as presently conducted or proposed to be conducted, and is duly qualified or authorized to transact business and in good standing under the laws of the State of New Hampshire.
- 5.2.2 WCC has the power and authority to execute, deliver and carry out the terms and provisions of this Agreement and all necessary action has been taken to authorize the execution, delivery and performance of this Agreement. This Agreement will, upon execution and delivery thereof by WCC, constitute valid, legal and binding obligations of WCC enforceable in accordance with the respective terms thereof.
- 5.2.3 Neither the execution or delivery by WCC of this Agreement, the performance by WCC of its obligations in connection with the transactions contemplated hereby, nor the fulfillment by WCC of the terms or conditions hereof conflicts with, violates or results in a breach of any

constitution, law or governmental regulation applicable by WCC, or conflicts with, violates or result in a breach of any term or condition of any judgment or decree, to which WCC is a party or by which WCC or any of its properties or assets are bound, or constitutes a default thereunder.

- 5.2.4 There is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or governmental authority, pending or to the best of WCC's knowledge threatened against WCC, its principal(s), affiliate(s), or entities controlled by its principal(s), wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by WCC of its obligations hereunder on the performance by WCC of its obligations under the transactions contemplated hereby, or which, in any way, questions or may adversely materially affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by WCC in connection with the transactions contemplated hereby.
- 5.2.5 WCC will upon request provide a certificate from its corporate secretary or manager, as the case may be, indicating that the signatory to the within Agreement has obtained all necessary corporate authority to execute and perform the terms of the within Agreement.
- 5.2.6 If required by the Town, WCC shall provide the Town with a reasonable legal counsel's opinion, in customary form for transactions of this nature,

acceptable to the Town, with respect to the matters described in this section.

## 6. Defaults and Remedies.

6.1 **Events of Default by Town.** Any one or more of the following shall constitute an “Event of Default” of the Town.

- 6.1.1 Any representation or warranty in this Agreement made by the Town shall prove incorrect or untrue in any material respect when made and have a material adverse effect on WCC or its rights under this Agreement;
- 6.1.2 The Town shall fail or refuse to fulfill any of its material obligations under this Agreement, (unless such failure or refusal is caused by the acts or omissions of WCC, or its servants or agents) including, without limitation, the failure by the Town to undertake or complete the TIF Bond(s) issuance or to complete any of its obligations within the timeframes established by this Agreement, unless such timeframes have been extended and mutually agreed upon by the Town and WCC pursuant to this Agreement;  
Provided, however, that no such failure shall constitute an Event of Default unless and until:
- 6.1.3 WCC has given written notice to the Town stating that in its opinion a particular default exists that will, unless corrected, constitute a material breach of this Agreement or any related agreement on the part of the Town and that such default will, in the opinion of WCC, give WCC a right to

exercise its remedies pursuant to this Agreement, unless such default is corrected within a reasonable period of time not to exceed thirty (30) days;

6.2 Events of Default by WCC. Any one or more of the following shall constitute an “Event of Default” of WCC:

6.2.1 WCC shall fail to pay any amount required to complete the Public Infrastructure Improvements, a/k/a Ray Farm Road and associated utilities, to be constructed by it as contemplated in this Agreement and such failure is not otherwise excused or extended under this Agreement;

6.2.2 Any representation or warranty made herein by WCC shall prove to be incorrect or untrue in any material respect when made and has a material adverse effect on the Town or its rights under this Agreement; or

6.2.3 WCC fails or refuses to fulfill any of its material obligations under this Agreement (unless such failure or refusal is caused by the acts or omissions of the Town, or its servants or agents) including, without limitation, the failure by WCC to complete any of its obligations within the timeframes provided by this Agreement as such timeframes may be extended pursuant to this Agreement; or

6.2.4 WCC (through the date of the completion of the Public Infrastructure Improvements and compliance with the terms of this Agreement, shall suffer the following:

6.2.4.1 commencement by WCC (or any of such term’s component entities) of a voluntary case under Title 11 of the United States Code as from time to time in effect, or by its authorizing, by

appropriate proceedings of its members, or other governing body,  
the commencement of such a voluntary case;

6.2.4.2 by its seeking relief as debtor under any applicable law, other than  
said Title 11 of any jurisdiction relating to the liquidation or  
reorganization of debtors or to the modification or alteration of the  
rights of creditors, or by its consenting to or acquiescing in such  
relief;

6.2.4.3 by the entry of an order by a court of competent jurisdiction (a)  
finding it to be bankrupt or insolvent, (b) ordering or approving its  
liquidation, reorganization or any modification or alteration of the  
rights of its creditors, or (c) assuming custody of, or appointing a  
receiver or other custodian for all or a substantial part of its  
property;

6.2.4.4 by an assignment for the benefit of its creditors, or admission in  
writing of its inability to pay its debts generally as they become  
due, or consent to the appointment of a receiver or liquidator or  
trustee or assignee is bankruptcy or insolvency of it or of a major  
part of its property.

Provided however, that the foregoing shall not be deemed to constitute an  
Event of Default with respect to WCC if the debtor in possession, trustee,  
receiver, custodian, liquidator, agent or other party exercising control over  
the assets of the Party, affirms this Agreement without modification and  
within a reasonable period of time and provides evidence satisfactory to



the Town, in the Town's sole discretion, of the capacity to continue the performance of WCC's obligations under this Agreement and to cure, in a timely manner, all breaches thereunder.

6.2.5 Once the site work has commenced, WCC has ceased active and substantial construction of the TIF Road Work for a period of sixty (60) days except as provided by the Development Schedule attached hereto as Exhibit E, unless such timeframes have been extended and mutually agreed upon by the Town and WCC pursuant to this Agreement.

6.2.6 None of 6.2.1 through 6.2.5 shall constitute an Event of Default unless and until:

6.2.6.1 The Town has given written notice to WCC states that, in its opinion, a particular default or defaults exist that it will, unless corrected, constitute a material breach of this Agreement on the part of WCC and that such default or defaults will, in the opinion of the Town, give the Town a right to exercise its remedies pursuant to this Agreement unless such default is corrected within a reasonable period of one not to exceed thirty (30) days from the receipt of such notice.

## 7. Consequences of Defaults.

7.1 **Consequences of Events of Default by the Town.** Upon the occurrence of an Event of Default by the Town, WCC may proceed by appropriate proceedings, judicial, or administrative, or otherwise, in law or in equity or otherwise to protect and enforce its rights to recover damages to which it may be entitled, and to enforce performance by the Town. Said proceeding is to be brought in the Rockingham County Superior Court, and WCC may take any action and incur any expense necessary to cure or avoid any default and WCC may recover from

the Town, and the Town shall pay to reimburse WCC, for all expenses so incurred or that must be paid by WCC as ordered by that Court.

7.1.2 In the event the cure by the Town delays work by WCC, WCC's obligations under this Agreement may be extended for the period of delay taking into account weather conditions (if applicable).

7.2 **Consequences of Events of Default by WCC.** In the event of an event of default by WCC, the Town may proceed by appropriate proceedings, judicial, administrative or otherwise in law or in equity to protect and enforce its rights to recover any damages to which it may be entitled, and to enforce performance by WCC. Said proceedings to be brought in the Rockingham County Superior Court and the Town may take any action and incur any expense necessary to cure or avoid any default and the Town may recover from WCC, and WCC shall pay to reimburse the Town for all expenses so incurred or that must be paid by the Town as ordered by that Court.

7.2.2 In the event the cure by the WCC delays work by the Town, the Town's obligations under this Agreement may be extended for the period of delay.

## 8. **Further Assurances/Cooperation.**

8.1 The Parties recognize that this Agreement should be interpreted in light of the Parties overall intent which is to: (a) take advantage of an opportunity to fulfill the potential of the TIF District by constructing Public Infrastructure Improvements at a favorable price and expeditiously so as to effectuate the purpose of the TIF to encourage development which will generate additional tax revenue.

8.2 The Parties recognize that there are other related matters involving the AAC where WCC has or will request further reasonable cooperation and future consideration from the Town or its Boards and staff, including but not limited to:

1. Support by the Board of Selectmen for:
  - a. Reasonable extensions to the AAC project approvals as filed;
  - b. Waivers or other relief from the school and recreational impact fees given the nature of the AAC project consistent with the Towns' treatment of the comparable 55+ Sterling Hill project;
  - c. Interpretation of conditions of approval and surety requirements so AAC site work can now commence at WCC's risk.
2. Consultation and consideration regarding the location of the further extension of the TIF Road on the property of CKT Associates so as to preserve the development potential of CKT's remaining land. Similarly, the Town and WCC agree to cooperate and consult should the Town wish to undertake the construction of the remainder of the TIF Road subsequent to the execution of this Agreement.
3. Consultation and cooperation in the assessment and timing of any applicable LUCT penalty associated with the AAC and TIF work, and abatement thereof for the TIF Road land area, including easements for drainage and pump station areas, to be deeded to the Town.

**9. General Provisions.**

9.1 This Agreement shall be governed and construed in accordance with the laws of the State of New Hampshire.

9.2 If any term or provision of this Agreement is held for invalid or unenforceable, to any extent, the remainder of this Agreement shall continue to be fully valid and enforceable.

9.3 Notices, demands, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent, attorney of the party, and shall be deemed to have been effective as to the date of actual delivery, if delivered personally, or as of the third day from and including the date on which it is mailed by registered or certified mail, return receipt requested with postage prepaid as follows:

To: Willey Creek Co., LLC  
158 Shattuck Way  
Newington, NH 03801

With a copy to: Michael J. Donahue, Esquire  
DTC Lawyers  
111 Maplewood Ave, Suite D  
Portsmouth, NH 03801-3749

To Town of Exeter: Russell Dean, Town Manager  
10 Front Street  
Exeter, NH 03833

With a copy to: Walter Mitchell, Esquire  
Mitchell Municipal Group, PA  
25 Beacon Street East  
Laconia, NH 03246

9.4 Time is of the essence with regard to this Agreement.

9.5 This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns. This Agreement may be assigned by WCC

to an entity that is a subsidiary or affiliate of WCC in which Jonathan Shafmaster maintains a controlling interest. Except as permitted above, neither this Agreement nor any of the rights, interests or obligations of this Agreement may be assigned or delegated by any party without the prior written consent of the other parties.


9.6 WCC shall not pledge or assign this Agreement or any documents relating thereto as security for any financing without the prior written consent of the Town, except that WCC may finance and secure the construction of the building(s) or other improvements of the AAC Project Premises and may if required by its Lender pledge or assign this Agreement and any documents relating thereto in connection with such financing, but may not otherwise pledge or assign this Agreement or any documents relating thereto as security for any financing without the prior written consent of the Town, which consent may not be unreasonably withheld or delayed; provided, however, in the event of any financing pledge and/or assignment, the obligations of WCC shall not be relieved or diminished.


9.7 The Parties anticipate that the obligations set forth herein will be further described in other agreements and/or deeds as agreed to by the Parties. The Parties agree to cooperate in good faith with regard to each and every aspect required for the completion of construction, operation and TIF financing contemplated by this Agreement. The Parties recognize, however, that the regulatory authorities of the State may perform their responsibilities in accordance with the law governing that performance and consequently are not obligated in any way by this Agreement. The Parties agree to further negotiate in good faith and to enter into such other and further agreements as may be necessary to implement any aspect of design, engineering, or construction contemplated under this Agreement.


9.8 Unless expressly stated otherwise in this Agreement, whenever a party's consent or approval is required under this Agreement, or whenever a party shall have the right to give an instruction or request another party to act or to refrain from acting under this Agreement, or whenever a party must act or perform before another party may act or perform under this Agreement, such consent, approval, or instruction, request, act or performance shall be reasonably made or done, or shall not be unreasonably withheld, delayed, or conditioned, as the case may be.


9.9 In the event that any of the terms or provisions of this Agreement are declared invalid or unenforceable by any Court of competent jurisdiction or any Federal or State Government Agency having jurisdiction over the subject matter of this Agreement, the remaining terms and provisions that are not effected thereby shall remain in full force and effect.


IN WITNESS WHEREOF, the Parties hereto have set their hands this 13<sup>th</sup> day of April, 2018.

  
\_\_\_\_\_  
Witness

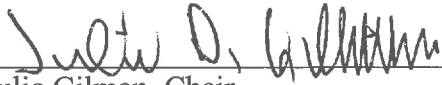
  
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Witness

  
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Witness


  
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Witness

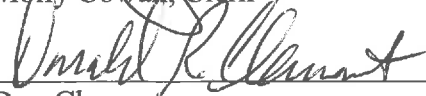
**TOWN OF EXETER  
BOARD OF SELECTMEN**


  
\_\_\_\_\_  
Julie Gilman, Chair

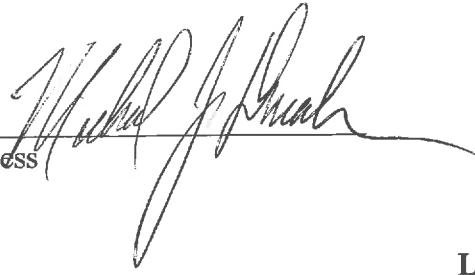
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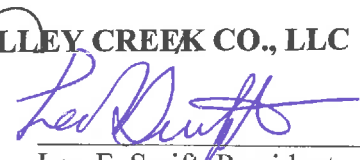
\_\_\_\_\_  
Kathy Corson, Vice Chair

  
\_\_\_\_\_  
Molly Cowan, Clerk

  
\_\_\_\_\_  
Don Clement

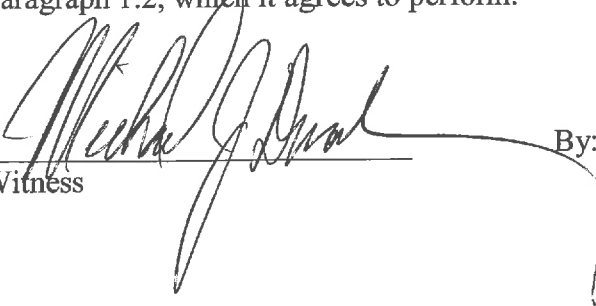
  
\_\_\_\_\_  
Anne Surman

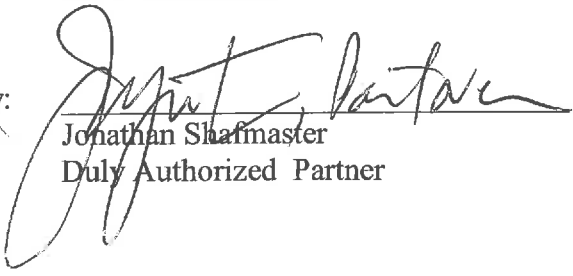
  
Witness

By:   
WILLEY CREEK CO., LLC  
Leo F. Swift, President  
Duly authorized

**LIMITED JOINDER**

NOW COMES CKT Associates, a New Hampshire General Partnership with a principal place of business at 158 Shattuck Way, Newington, NH 03801 and by Jonathan Shafmaster, its Partner, duly authorized, and joins in this Agreement regarding only its obligations detailed at Paragraph 1.2, which it agrees to perform.

  
Witness

By:   
CKT Associates  
Jonathan Shafmaster  
Duly Authorized Partner



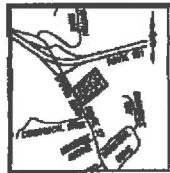
## LIST OF EXHIBITS

- Exhibit A Plan Colored Up
- Exhibit B TIF RD Plans
- Exhibit C Detail of Aggregate Price
- Exhibit D Schedule of Values (to be completed by Parties within 14 days of execution)
- Exhibit E Updated Development Schedule (to be completed by Parties within 14 days of Execution)
- Exhibit F-1 Hoyle Tanner Estimate of January 5, 2015 With Letter Dated January 7, 2018
- Exhibit F-2 Underwood Engineers Water and Sewer District Build Out Evaluation Dated February 26, 2018

**EXHIBIT A**

**PLAN COLORED UP**

Exhibit A



# Ray Farm

## Active Adult Community

### Site Development Plans off Epping Road, Exeter, NH

**SHEET INDEX**

01.00	TITLE SHEET
01.01	GENERAL NOTES, LEGEND, & BOUNDARIES
01.10	PROPOSED LAYOUT PLAN
01.20	EXISTING CONDITIONS
01.30	UTILITIES
01.40	LANDSCAPE
01.50-01.55	GRASS PLAN
01.60-01.65	PAVING PLAN
01.70	WATER MANAGEMENT
01.80-01.85	WALKWAY PLAN
01.90-01.95	TRAIL PLAN
02.00-02.05	TRAIL PLAN
02.10-02.15	TRAIL PLAN
02.20-02.25	TRAIL PLAN
02.30-02.35	TRAIL PLAN
02.40-02.45	TRAIL PLAN
02.50-02.55	TRAIL PLAN
02.60-02.65	TRAIL PLAN
02.70-02.75	TRAIL PLAN
02.80-02.85	TRAIL PLAN
02.90-02.95	TRAIL PLAN
03.00	TRAIL PLAN

**DIMENSIONAL REQUIREMENTS (C-3 DISTRICT)**

REQUIREMENT	REQUIRED	PROPOSED
MINIMUM LOT AREA	10,000 SQ. FT.	10,000 SQ. FT.
MINIMUM LOT DEPTH	100 FEET	100 FEET
MINIMUM FRONT SETBACK	10 FEET	10 FEET
MINIMUM SIDE SETBACK	5 FEET	5 FEET
MINIMUM REAR SETBACK	5 FEET	5 FEET
MINIMUM FRONT YARD SPACE	10 FEET	10 FEET
MINIMUM REAR YARD SPACE	10 FEET	10 FEET

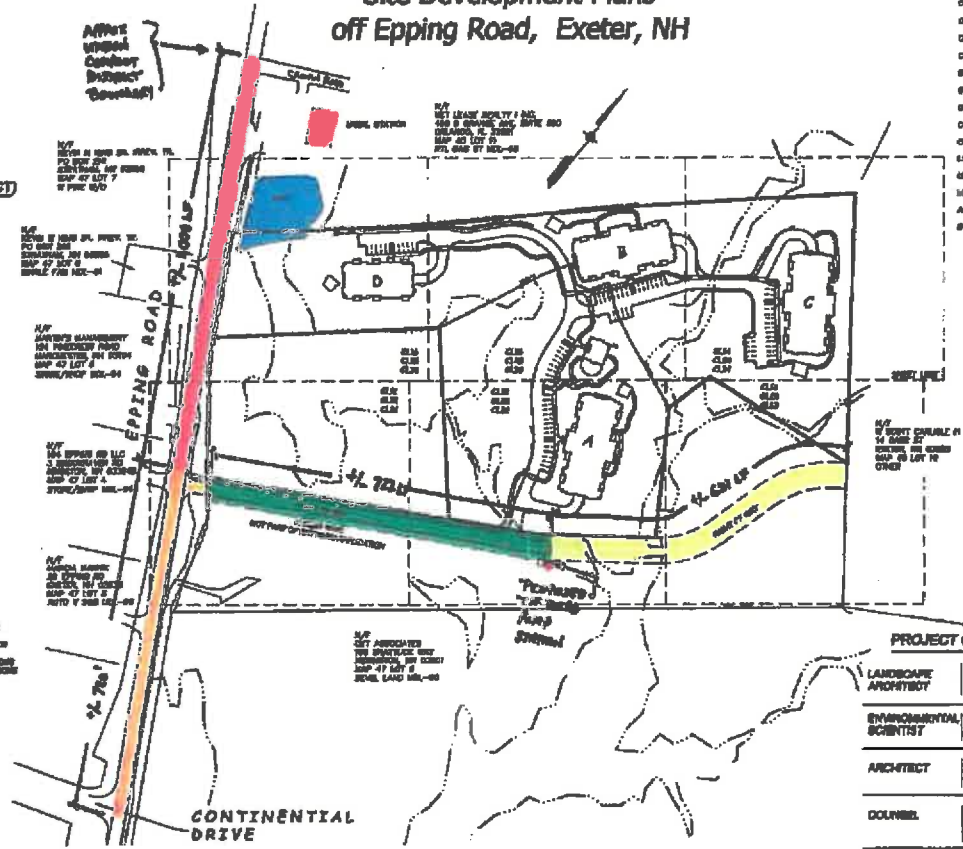
**LOCUS PARCEL**  
 100' WIDE  
 100' DEEP  
 SEE NEIGHBORING PLANS 01.10

**DENSITY**  
 10 UNITS PER ACRE  
 TOTAL NUMBER OF UNITS - 10  
 DENSITY - 0.25/A OF 40 AC

**SITE DATA**  
 PROPOSED USE - ACTIVE ADULT COMMUNITY (RESIDENTIAL)  
 4 BUILDING UNITS - 100 SQ. FT. EACH (TOTAL 4,000 SQ. FT.)  
 PARKING REQUIRED - 10 SPACES (2 SPACES PER UNIT + 1 SPACE PER 400 SQ. FT. OF GROUND COVER)  
 PERMITS REQUIRED - SEE TITLE, CITY ENGINEER, TRAILER PERMITTED ON 20' WIDE DRIVEWAY, SEWER PERMITTED, 30' WIDE DRIVEWAY

**WAIVERS**  
 1. WAIVER FOR RELATED SERVICES - SEE SITE PLAN FOR DETAILS  
 2. WAIVER FOR PARKING - SEE PARKING PLAN  
 3. WAIVER FOR FRONT YARD SETBACK - SEE SITE PLAN FOR DETAILS  
 4. WAIVER FOR SIDE YARD SETBACK - SEE SITE PLAN FOR DETAILS  
 5. WAIVER FOR REAR YARD SETBACK - SEE SITE PLAN FOR DETAILS

**PERMITS**  
 ALL PERMITS TO BE OBTAINED - SEE TITLE  
 DRIVE AND PAV - SEE TITLE FOR DETAILS



**PROJECT CONSULTANTS**

LANDSCAPE ARCHITECT	WYLLIS TOFFI ARCHITECTS, INC. 100 EPPING ROAD, EXETER, NH 03824
ENVIRONMENTAL SCIENTISTS	ECO ENVIRONMENTAL SERVICES, INC. 100 CENTENNIAL DR., SUITE 200, EXETER, NH 03824
ARCHITECT	CLARENCE ARCHITECTS 100 CENTENNIAL DR., SUITE 200, EXETER, NH 03824
COUNSEL	DRY LAWYERS DONALD, WOODS & CHAPPELL, PLLC 171 IMPERIAL AVENUE, SUITE D, PORTSMOUTH, NH 03801
ELECTRICAL ENGINEER	BRANDER BUILDING SYSTEMS, INC. 100 WINDY HILL ROAD, SUITE 100, EXETER, NH 03824
TRAFFIC ENGINEER	STEPHEN E. PERRY & COMPANY, INC. PO BOX 1721 CONCORD, NH 03301

FOR REVIEW ONLY

100 EPPING ROAD, EXETER, NH  
 PHONE (603) 852-4107 FAX (603) 852-4108  
 CONSULTING ENGINEER  
 AND SURVEYOR STATE OF NH  
 10/10/2010 10:00 AM

**Title Sheet**

Project:  
**"Ray Farm" Active Adult Community**  
 Epping Road  
 Exeter, NH 03824  
 Rockingham County

Author:  
**Wiley Creek Company**  
 188 Shelburne Way  
 Newington, NH 03801

Drawn:  
**CKT & Associates**  
 188 Shelburne Way  
 Newington, NH 03801

NO.	DATE	DESCRIPTION	BY
1	10/10/2010	FOR PERMITS REVIEW	WYLLIS
2	11/10/2010	FOR PERMITS REVIEW	WYLLIS

100 EPPING ROAD, EXETER, NH  
 PHONE (603) 852-4107 FAX (603) 852-4108  
 CONSULTING ENGINEER  
 AND SURVEYOR STATE OF NH  
 10/10/2010 10:00 AM

**SHEET G1.10**

**EXHIBIT B**

CONCEPTUAL TIF RD PLANS ON FILE WITH TOWN PLANNING BOARD FOR AAC  
PROJECT AUGMENTED BY TIF DESIGN PLANS PROVIDED TO TOWN ON OR  
ABOUT FEBRUARY 26, 2018 WITH THE FOLLOWING ADJUSTMENTS:

TWENTY EIGHT FOOT ROAD WIDTH

ONE HUNDRED TWENTY FOOT TURN LANE WITH ONE HUNDRED TWENTY  
FOOT TRANSITION

EIGHT INCHES CRUSHED GRAVEL ON ROADWAY

TWELVE INCH WATER MAIN

EXHIBIT C

DETAIL OF AGGREGATE PRICE FOR TIF ROAD

1. TIF Road @ 28 ft. width with right turn lane

\$1,900,022	4/11/18 Agreed Price	
	\$893,797.00	SUR
	\$350,000.00	Pump Station
	\$202,000.00	Design
	\$ 86,000.00	CA and RPR
	\$222,715.00	Project Contingency
	\$ 73,500.00	Private utilities (elec)
	\$ 72,010.00	Non-SUR road widening
\$ 20,000	Cammett Design Work	
\$ 25,000	WCC Project/Construction Management	
\$1,945,022	TOTAL AMOUNT SUBJECT TO REIMBURSEMENT	

2. Allowances Included In Above:

\$350,000	Pump Station
\$ 44,000	TIF Road Ledge

**EXHIBIT D**  
**SCHEDULE OF VALUES**  
**(TO BE COMPLETED BY PARTIES WITHIN 14 DAYS OF EXECUTION)**

Schedule of Values  
TIF Road Work  
Epping Road TIF  
Exeter, NH

April 26, 2018

Schedule of Values	\$ Amt:
Design	\$202,000.00
Construction Admin	86,000.00
Cammett Design Work	20,000.00
WCC Project/Construction Management	25,000.00
Pump Station Allowance	350,000.00
TIF Road Ledge Allowance	44,000.00
Private Utilities (elec)	73,500.00
Non-SUR Road Widening	72,010.00
Fuel & Asphalt Surcharge	15,000.00
Project Contingency	222,715.00
SUR Items:	
Erosion Ctrl, Clearing, Loam & Earthwork	137,430.00
Water, Swr & Drainage	247,332.00
Gravels, Grading, Curb & Paving	145,430.00
Loam & Seed	35,255.00
Pavement Markings	550.00
Mobilization/Supervision/Layout	99,390.00
SUR Road Widening	81,000.00
Turn Lane	10,410.00
8 inches of Gravel in Lieu of 6	37,000.00
12 inch Water Main in Lieu of 8 inch	28,000.00
Construction Bond	13,000.00
<b>Total w/o Change Orders:</b>	<b>\$1,945,022.00</b>

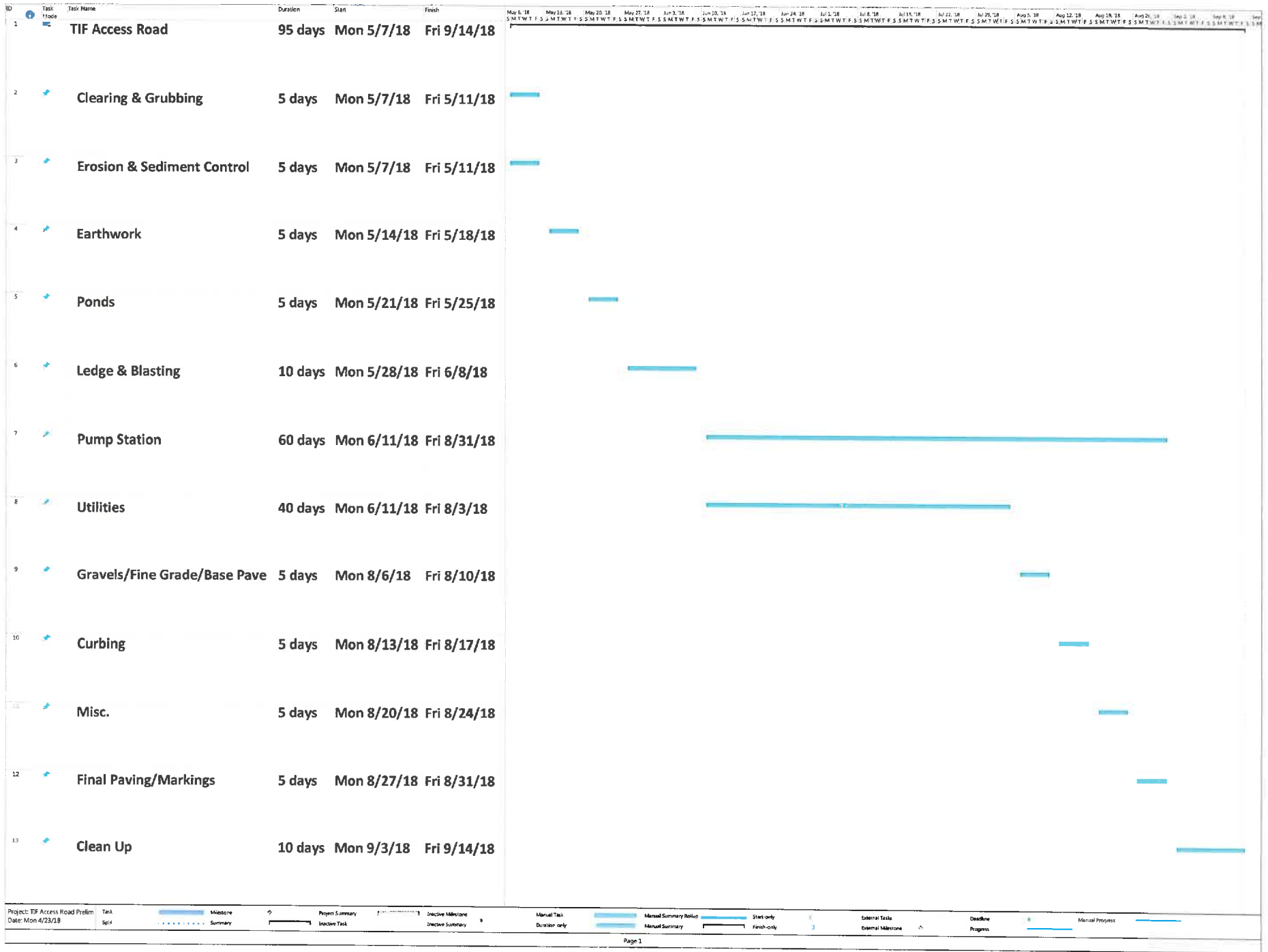


UPDATED

EXHIBIT E

DEVELOPMENT SCHEDULE

(TO BE COMPLETED BY PARTIES WITHIN 14 DAYS OF EXECUTION)



**EXHIBIT F**

**EXHIBIT F -1 HOYLE TANNER ESTIMATE OF JANUARY 5, 2015  
WITH LETTER DATED JANUARY 7, 2018**

**EXHIBIT F-2 UNDERWOOD ENGINEERS WATER AND SEWER DISTRICT  
BUILD OUT EVALUATION DATED FEBRUARY 26, 2018**

EXHIBIT  
-7



Project: Exeter 27 - Industrial Road  
HTA Project #: TBD NHDOT Project #: N/A  
Location: Exeter, NH  
Task: Conceptual Estimate  
Calculated By: SBH, ML, MT Date: 1/5/2015  
Checked By: dtg

SHEET 1 OF 6

**CONCEPTUAL ESTIMATE**

**Epping Road Utility Corridor Infrastructure Expansion**

**New Industrial Roadway**

	COST
New Roadway Construction	\$ 553,000
Stream Crossing	\$ 300,000
Stormwater BMP	\$ 75,000
New Water Line	\$ 311,643
New Sewer Line - Incl pump station	\$ 703,428
Land Acquisition - pump station and stormwater BMP's	\$ 75,000
Contingencies (25%)	\$ 504,018
Subtotal	\$ 2,520,088
Design Engineering & Permitting (15%)	\$ 378,013
Construction Engineering (10%)	\$ 252,009
	\$ 3,150,109

**Epping Road Utility Extensions**

Water Main Extension (incl crossing Route 101)	\$ 913,428
Sewer Main Extension (incl crossing Route 101)	\$ 1,451,245
Contingencies (25%)	\$ 591,168
Subtotal	\$ 2,955,841
Design Engineering & Permitting (15%)	\$ 443,376
Construction Engineering (10%)	\$ 295,584
	\$ 3,694,801

**Salem/Summer Street Sewer Repair/Replacement**

Sewer Repair/Replace (incl fee for RR inspection)	\$ 312,173
Contingencies (25%)	\$ 78,043
Subtotal	\$ 390,216
Design Engineering & Permitting (15%)	\$ 58,532
Construction Engineering (10%)	\$ 39,022
	\$ 487,770

**ROUNDED PROJECT TOTAL \$ 7,332,680**



Project: Exeter 27 - Industrial Road  
 HTA Project #: TBD  
 Location: Exeter, NH  
 Task: Conceptual Estimate  
 Calculated By: SBH  
 Checked By:

SHEET 2 OF 6

NHDOT Project #: N/A

Date: 1/5/2015  
 Drawn:

**CONCEPTUAL ESTIMATE**

**Exeter Road Utility Corridor Infrastructure Extension**

**SECTION A - MAJOR ITEMS**

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
203.1	CLEARING AND GRUBBING (F)	A	2.5	\$ 18,000.00	\$ 25,000.00
203.1	COMMON EXCAVATION	CY	9300	\$ 18.00	\$ 43,020.00
203.2	ROCK EXCAVATION	CY	430	\$ 50.00	\$ 21,500.00
203.6	EMBANKMENT-IN-PLACE (F)	CY	350	\$ 30.00	\$ 3,500.00
304.2	GRAVEL (F)	CY	3250	\$ 20.00	\$ 65,000.00
304.3	CRUSHED GRAVEL (F)	CY	1300	\$ 25.00	\$ 32,500.00
402.11	HOT BITUMINOUS PAVEMENT, MACHINE METHOD	TON	1350	\$ 85.00	\$ 114,750.00
585.3	STONE FILL, CLASS C	CY	155	\$ 40.00	\$ 6,200.00
606.10001	31" W-BEAM GR. W/B" BLOCKOUTS (STEEL POSTS)	LF	200	\$ 20.00	\$ 4,000.00
606.1455	BEAM GUARDRAIL (TERM. UNIT EAGRT 25 FT.)	EA	4.00	\$ 2,000.00	\$ 8,000.00
	MISCELLANEOUS ROADWAY				
				10% OF ABOVE TOTAL	\$ 32,345.00
				<b>SUBTOTAL A</b>	<b>\$ 358,795.00</b>

**SECTION B - MISCELLANEOUS ITEMS**

SIGNS, MARKINGS, LOAMPANES, ETC.	10%	\$ 35,579.50
	<b>SUBTOTAL B</b>	<b>\$ 35,579.50</b>

**SECTION C - DRAINAGE ITEMS**

PIPES, UNDERDRAIN, CB's, M's, ETC.	20%	\$ 78,279.90
	<b>SUBTOTAL C</b>	<b>\$ 78,279.90</b>

**SECTION D - TRAFFIC CONTROL**

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
606.417	PORTABLE CONCRETE BARRIER FOR TRAFFIC CONTROL	LF			\$
618.61	UNIFORMED OFFICERS WITH VEHICLE	\$	1	\$1,000.00	\$ 1,000.00
618.7	FLAGGERS	HR	40	\$25.00	\$ 1,000.00
619.1	MAINTENANCE OF TRAFFIC	UNIT	1	\$5,000.00	\$ 5,000.00
	MISCELLANEOUS TRAFFIC CONTROL				
				10% OF ABOVE TOTAL	\$ 700.00
				<b>SUBTOTAL D</b>	<b>\$ 477,319.40</b>

**SECTION E - EROSION AND SEDIMENT CONTROL**

EROSION, SEDIMENT, AND POLLUTION CONTROL (HAY BALES, SILT FENCE, SWMP, TEMP. WATER POLL. CONTROL, ETC.)	30%	\$ 23,482.47
	<b>SUBTOTAL E</b>	<b>\$ 23,482.47</b>

**SECTION F - MOBILIZATION AND CONTINGENCIES**

ROADWAY MOBILIZATION	10%	\$ 50,083.10
ROADWAY CONTINGENCIES (Carried in Master Estimate)	0%	\$
	<b>SUBTOTAL F</b>	<b>\$ 50,083.10</b>

**SECTION G - ADDITIONAL ITEMS**

SMP's		\$ 75,000.00
	<b>SUBTOTAL G</b>	<b>\$ 75,000.00</b>

**ROUNDED ROADWAY TOTAL \$ 626,000.00**

SEE NEXT SHEET FOR ASSUMPTIONS MADE WHILE COMPILING THIS ESTIMATE.



100 Danielson, Manchester, NH 03102  
Phone: (603) 271-2222 Fax: (603) 271-2222  
Web: www.htaassoc.com

Project: Essex 27 - Industrial Road  
HTA Project #: TBD  
Location: Essex, NH  
Task: Conceptual Estimate  
Calculated By: SDH  
Checked By: 0

SHEET 3 OF 6  
NHDOT Project #: N/A  
Date: 42009  
Date: 0

### CONCEPTUAL ESTIMATE - ASSUMPTIONS

This Conceptual Engineer's Estimate of Probable Construction Costs is based on the anticipated scope of work, as well as Hoyle, Tanner's experience with similar projects and understanding of current industry trends. The estimate has not been based on a final design for this project, and as such, it is intended to be preliminary in nature. It should be noted that changes in material or labor costs in the construction industry could impact the project cost in either direction. Assumptions used for this estimate are listed below.

- 1.
- 2.
- 3.
- 4.
- 6.
- 7.
- 8.
- 9.
- 10.

**Hoyle, Tanner**  
**Associates, Inc.**

180 Dryden Street, Exeter, New Hampshire 03833  
 Phone: (603) 281-1800 Fax: (603) 281-1801  
 Email: [info@hoyletanner.com](mailto:info@hoyletanner.com)

Project: Exeter 27 - Industrial Road  
 HTA Project #: TBD  
 Location: Exeter, NH  
 Task: Conceptual Estimate  
 Calculated By: SBH  
 Checked By:

SHEET 4 OF 6  
 NHDOT Project #: N/A  
 Date: 1/5/2015  
 Date:

**COLDPLANE & OVERLAY ESTIMATE**  
**PROJECT TITLE**

**SECTION A - MAJOR ITEMS**

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
403.11	HOT BITUMINOUS PAVEMENT, MACHINE METHOD	TON	550	\$ 85.00	\$ 46,750.00
417	COLD PLANING BITUMINOUS SURFACES	SY	-4000	\$ 5.00	\$ 20,000.00
<b>TOTAL</b>					<b>\$ 66,750.00</b>

Assumes 1.5" Coldplane and 1.5" Hot Bit. Overlay from northside of continental drive to Urban Compact Lane



Project: Exeter 27 - Industrial Road  
 HTA Project #: TBD  
 Location: Exeter, NH  
 Task: Conceptual Estimate  
 Calculated By:  
 Checked By:

SHEET 5 OF 6  
 NHDOT Project #: N/A  
 Date: 1/6/2015  
 Date:

**CONCEPTUAL ESTIMATE**

**Epping Road Utility Corridor Infrastructure Expansion**

**SECTION A - Epping Road Sewer Extension**

DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
Mobilization/Demobilization	LS	1	\$ 45,395	\$ 45,395
Site Preparation and Restoration	LS	1	\$ 64,850	\$ 64,850
Pump Station (needed??)	LS	1	\$ 350,000	\$ 350,000
6" Force Main	LF	200	\$ 80	\$ 16,000
Air Release Manhole	EACH	1	\$ 3,500	\$ 3,500
6-inch Air Release Valve	EACH	1	\$ 1,500	\$ 1,500
15-inch Dia. PVC Sewer Pipe	LF	2500	\$ 220	\$ 550,000
15-inch Sewer - Route 101 Sleeve	LF	150	\$ 400	\$ 60,000
4' Dia. Sewer Manholes w/Inverts	EACH	10	\$ 3,500	\$ 35,000
6-inch Sewer Service Laterals	LF	500	\$ 50	\$ 25,000
Pavement Repair	LF	2600	\$ 90	\$ 234,000
Trench Rock Excavation	CY	200	\$ 110	\$ 22,000
Traffic Control	LS	1	\$ 30,000	\$ 30,000
Entry/Access Pits for Route 101 Sleeve	EACH	2	\$ 2,000	\$ 4,000
		<b>SUBTOTAL CONSTRUCTION</b>		<b>\$ 1,411,248</b>
Contingencies	LS	0	\$ 960,311	\$
Engineering	LS	0	\$ 288,249	\$
NHDOT Inspection/Coordination	LS		\$ 10,000	\$ 10,000
		<b>SUBTOTAL A</b>		<b>\$ 1,451,248</b>

**SECTION B - New Industrial Park Road Sewer**

Mobilization/Demobilization	LS	1	\$ 2,853	\$ 2,853
Site Preparation and Restoration	LS	1	\$ 4,075	\$ 4,075
Pump Station	LS	1	\$ 350,000	\$ 350,000
Force Main	LF	1000	\$ 80	\$ 80,000
Air Release Manhole	EACH	1	\$ 3,500	\$ 3,500
Air Release Valve	EACH	1	\$ 1,500	\$ 1,500
10-inch Dia. PVC Sewer Pipe	LF	900	\$ 200	\$ 180,000
4' Dia. Sewer Manholes w/Inverts	EACH	5	\$ 3,500	\$ 17,500
6-inch Dia. Sewer Service Laterals	LF	300	\$ 50	\$ 15,000
Pavement Repair (NOT APPLICABLE)	LF	0	\$	\$
Trench Rock Excavation	CY	400	\$ 110	\$ 44,000
Traffic Control	LS	1	\$ 5,000	\$ 5,000
		<b>SUBTOTAL CONSTRUCTION</b>		<b>\$ 703,428</b>
Contingencies	LS	0	\$ 175,857	\$
Engineering	LS	0	\$ 140,686	\$
		<b>SUBTOTAL B</b>		<b>\$ 703,428</b>

**SECTION C - Salem/Summer Street Sewer Repair Replacement**

Mobilization/Demobilization	LS	1	\$ 9,748	\$ 9,748
Site Preparation and Restoration	LS	1	\$ 13,925	\$ 13,925
15-inch Dia. Sewer Replacement	LF	600	\$ 200	\$ 120,000
15-inch R.L. Xing Sewer Replacement	LF	100	\$ 500	\$ 50,000
Sewer Manholes w/Inverts	EACH	6	\$ 4,000	\$ 24,000
6-inch Dia. Sewer Service Laterals	LF	300	\$ 50	\$ 15,000
Pavement Repair	LF	600	\$ 90	\$ 54,000
Trench Rock Excavation	CY	50	\$ 110	\$ 5,500
Traffic Control	LS	1	\$ 10,000	\$ 10,000
		<b>SUBTOTAL CONSTRUCTION</b>		<b>\$ 302,172</b>
Contingencies	LS	0	\$ 75,543	\$
Engineering	LS	0	\$ 80,435	\$
Railroad Inspection Fees	LS	1	\$ 10,000	\$ 10,000
		<b>SUBTOTAL A</b>		<b>\$ 312,172</b>

**SECTION D - ROUNDED TOTALS**

Total Construction (Excl. Eng. & Conting.)

**ROUNDED SEWER TOTAL: 2,467,000.00**





Project: Exeter 27 - Industrial Road  
 HTA Project #: TBD  
 Location: Exeter, NH  
 Task: Conceptual Estimate  
 Calculated By:  
 Checked By:

SHEET 6 OF 6  
 NHDOT Project #: N/A  
 Date: 1/6/2015  
 Date:

**CONCEPTUAL ESTIMATE**

**Epping Road Utility Corridor Infrastructure Expansion**

**SECTION A - Epping Road Water Main Extension**

DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
Mobilization/Demobilization	LS	1	\$ 29,740	\$ 29,739.50
Site Preparation and Restoration	LS	1	\$ 33,988	\$ 33,988.00
12-inch D.I. Water Pipe	LF	2500	\$ 150	\$ 375,000.00
12-inch Water Line Across Route 101 Bridge	LF	250	\$ 320	\$ 80,000.00
Hyd/ w 6" Gate Valve	LS	5	\$ 7,500	\$ 45,000.00
12" Gate Valves	LS	4	\$ 4,000	\$ 16,000.00
6" Gate Valves	LS	6	\$ 2,000	\$ 12,000.00
12"x8" Tee	LS	8	\$ 2,000	\$ 16,000.00
6" DI Pipe	LF	600	\$ 52	\$ 31,200.00
Testing and Chlorination	LS	1	\$ 2,500	\$ 2,500.00
Trench Rock Excavation	CY	200	\$ 110	\$ 22,000.00
Pavement Repair	LF	2500	\$ 90	\$ 225,000.00
Traffic Control	LS	1	\$ 25,000	\$ 25,000.00

<b>SUBTOTAL CONSTRUCTION</b>	<b>\$</b>	<b>913,428</b>
Contingencies	\$	0
Engineering	\$	182,666
<b>SUBTOTAL A</b>	<b>\$</b>	<b>913,428</b>

**SECTION B - New Industrial Park Road Water Main Extension**

Mobilization/Demobilization	LS	1	\$ 10,147	\$ 10,147
Site Preparation and Restoration	LS	1	\$ 11,596	\$ 11,596
12-inch D.I. Water Pipe	LF	1500	\$ 150	\$ 225,000
Hyd/ w 6" Gate Valve	LS	2	\$ 7,500	\$ 15,000
12" Gate Valves	LS	2	\$ 4,000	\$ 8,000
6" Gate Valve	LS	3	\$ 2,000	\$ 6,000
12"x8" Tee	LS	4	\$ 2,000	\$ 8,000
6" DI Pipe	LF	200	\$ 52	\$ 10,400
Testing and Chlorination	LS	1	\$ 1,500	\$ 1,500
Trench Rock Excavation	CY	100	\$ 110	\$ 11,000
Pavement Repair (NOT APPLICABLE)	LF	0	\$	\$
Traffic Control	LS	1	\$ 5,000	\$ 5,000

<b>SUBTOTAL CONSTRUCTION</b>	<b>\$</b>	<b>311,643</b>
Contingencies	\$	0
Engineering	\$	77,911
<b>SUBTOTAL B</b>	<b>\$</b>	<b>62,329</b>
<b>SUBTOTAL E</b>	<b>\$</b>	<b>311,643</b>

**SECTION D - ROUNDED TOTALS**

Total Construction (Excl. Eng. & Conting.)	<b>ROUNDED SEWER TOTAL:</b>	<b>\$ 1,225,000</b>
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January 7, 2015

Mr. Darren Winham  
Economic Development Director  
Town of Exeter  
10 Front Street  
Exeter, NH 03833

**Hoyle, Tanner**  
Associates, Inc.

150 Dow Street  
Manchester, New Hampshire 03101  
603-669-5535  
603-669-4168 fax  
www.hoyletanner.com

Re: Expedited Estimate for Epping Road  
Development Corridor Infrastructure Improvements

Dear Darren:

Pursuant to our proposal dated January 2, 2015, Hoyle, Tanner & Associates, Inc. (Hoyle, Tanner) is pleased to submit this preliminary estimate of costs associated with planned improvements to the Epping Road Development Corridor. As you are aware, the timeframe for the development of this initial estimate was limited, therefore, we have incorporated a 25% contingency on our estimate to cover aspects of the project which cannot be identified or anticipated in detail at this time. We have separated the estimate into three basic tasks and presented rough costs for each. As previously discussed, we anticipate providing additional detail prior to the upcoming Public Hearing. We provide the following information on assumptions that have been made by Hoyle, Tanner in the preparation of this estimate:

#### New Industrial Road and Utilities

It is assumed that sewer will only be required on the new industrial roadway from the east end of the roadway extending to a new pump station, a distance of approximately 800 feet. An estimated 5 new manholes were assumed. It is assumed that sewer will not be required on the industrial park access road between the pump station and Epping Road. One wastewater pump station will be required along the new industrial park access roadway due to the topography and is included in the opinion of cost. The cost also includes approximately 1,000 linear feet of new force main to convey the flow from the pump station to the sewer on Epping Road.

We estimated approximately 1,500 linear feet of new 12-inch diameter water main on the new industrial park access roadway. The cost includes allowances for valves, hydrants, laterals, testing, chlorination, ledge excavation and traffic control.

The new roadway is assumed to be approximately 1,350 ft in length and a 30' paved surface with 2-12' travel lanes and 3' shoulders in accordance with the 2/7/03 plans prepared by RG Moynihan & RSL Layout & Design. The estimate assumes the structural box will consist of 5" of Hot Bituminous Pavement, 8" of crushed gravel, and 18" of gravel. Earthwork quantities are based on the proposed profile in the 2/7/03 plans and assume 10% rock excavation. Drainage is expected to be open channel flow in ditch lines with limited closed drainage as required to convey stormwater to a potential BMP. Costs have been included for a typical BMP which is likely to be required to meet Alteration of Terrain (AoT) requirements. Granite curbing and sidewalk are not anticipated to be part of this roadway. Although they may be required to meet the traffic and operational needs of the future development, intersection improvements at NH Route 27 including turn lanes (on NH Route 27 and the new roadway); shoulder widening; and traffic signals are not

included. Water and sewer line infrastructure costs for the new roadway are calculated separately. Due to the limited ROW width, private utilities will either need to be located in the roadway clear zone or underground. Private utility infrastructure costs for electrical, telephone, gas, etc. including manholes and conduit are not part of this estimate.

#### Epping Road Utility Extensions

The extension of sewer lines includes approximately 2,700 linear feet of new 15-inch diameter sewer on Epping Road and approximately 500 linear feet of new 10-inch diameter sewer on the new industrial park access roadway. The new sewer on Epping Road includes approximately 150 linear feet of sewer installation through an existing sleeve beneath the NH Route 101 and approximately 2500 feet of new sewer installed via open-cut trench excavation. It is assumed that a new pump station will also be required on Epping Road though this needs to be confirmed. The estimate includes 10 new manholes on Epping Road at an average depth of 10 feet. The cost of pavement repair is included for the sewer extension along Epping Road. Costs are included for service wyes, service laterals within the right-of-way, ledge removal and traffic control.

The extension of water lines includes approximately 2,700 linear feet of new 12-inch diameter water main on Epping Road. A 12 inch diameter waterline is proposed to be installed on and carried across the bridge that carries Epping Road over NH Route 101. This is a steel girder bridge supported on cantilever concrete abutments. A 24 inch diameter sleeve, according to available documentation, was installed under the bridge approach slabs and blockouts were installed in the abutment backwalls. It is assumed that the necessary utility supports between girders were also installed during the original construction, as would be NHDOT standard practice when installing a sleeve and blockouts for a future utility. The estimate assumes that a pre-insulated waterline, rollers, spacers, air release valves etc. are installed as part of this project. Trenching would be required at the end of each approach slab, however, the waterline would then be thread through the sleeves and pushed out over the bridge towards the other abutment. Traffic control coordination would be required with NHDOT to install the waterline over NH Route 101 traffic. The costs for rolling roadblocks, temporary lane closures, night work or some combination of the above are included in the estimate. The cost of pavement repair is included for the water main extension along Epping Road. The cost includes allowances for valves, hydrants, laterals, testing, chlorination, ledge excavation and traffic control.

The new roadway crosses an apparent delineated wetland area near Station 9+50 on the new roadway. The estimate assumes that the crossing will consist of twin-cell precast concrete box culvert with dimensions of 12 foot span and 6 foot rise. The bottom 2 feet of the box culvert will be buried to create a natural stream bottom which is preferred by the New Hampshire Department of Environmental Services (NHDES). Precast concrete wingwalls will be required at all four quadrants of the bridge to retain the earth fill required for the roadway construction while minimizing wetland impacts. The precast concrete box culverts will have a length equal to the width of the roadway (30 feet) plus raised brush curbs on each side for mounted bridge rails. The overall length of the box culverts is assumed to be 33 feet.

Sewer Line Replacement on Salem/Summer Street

We have included an opinion of cost for replacement of approximately 700 linear feet of existing 15-inch diameter old vitrified clay pipe (VCP) sewer along Summer Street that is known to have structural deficiencies. This includes approximately 100 feet of crossing beneath the commuter railroad to be installed using trenchless technology and 600 feet of open-cut pipe replacement along Summer Street. The opinion of cost assumes replacement of 6 existing sewer manholes. The cost opinion includes allowances for replacement/reconnection of service laterals within the right-of-way, pavement repair and traffic control. An allowance for coordination with and inspection by the railroad is also included in the opinion of cost.

We have attempted to be conservative, yet reasonable, with this estimate. We anticipate that over the next couple of weeks we could refine this estimate. A refined estimate would be expected to carry a lower contingency percentage, and possibly a lower overall cost. As mentioned above, we have not done any detailed sizing evaluations of the utilities. We have not included anything for the cost of private utility extensions into the new industrial road.

Also, as I have mentioned previously, Hoyle, Tanner does not feel that a fall 2015 construction schedule can be accomplished if the Town waits until April to begin the design and permitting effort. We anticipate a significant permitting and approval process with the regulatory agencies. We would be happy to work with you to develop a scope and fee to complete the design work that has been identified in this estimate so that an earlier start date could be achieved. We would begin with conceptual meetings with NHDES, NHDOT and applicable resource agencies which would assist in guiding our design efforts and help define a more refined understanding of the overall project.

Should you have any questions or additional input with regard to the initial estimate, please do not hesitate to contact me. We appreciate the opportunity to assist you with this very exciting initiative for the Town of Exeter.

Very Truly Yours  
*Hoyle, Tanner & Associates, Inc.*



Michael A. Trainque, P.E.  
Vice President



Carl L. Quiram, P.E.  
Municipal Business Development Manager

Enclosure

# Hoyle, Tanner Associates, Inc.

200 Bay Street, Manchester, New Hampshire 03101  
 Phone: 603-281-2122 Fax: 603-281-2123  
 www.hoyletanner.com

Project: Exeter 27 - Industrial Road  
 HTA Project #: TBD NHDOT Project #: N/A  
 Location: Exeter, NH  
 Task: Conceptual Estimate  
 Calculated By: SBH, ML, MT Date: 1/5/2011  
 Checked By: clj

SHEET 1 OF 6

## CONCEPTUAL ESTIMATE

### Epping Road Utility Corridor Infrastructure Expansion

#### New Industrial Roadway

	COST
New Roadway Construction	\$ 551,000
Stream Crossing	\$ 300,000
Stormwater BMP	\$ 75,000
New Water Line	\$ 312,000
New Sewer Line - Incl pump station	\$ 704,000
Land Acquisition - pump station and stormwater BMP's	\$ 75,000
Contingencies (25%)	\$ 504,250
Subtotal	\$ 2,521,250
Design Engineering & Permitting (15%)	\$ 378,188
Construction Engineering (10%)	\$ 252,125
	\$ 3,151,563

#### Epping Road Utility Extensions

Water Main Extension (incl crossing Route 101)	\$ 914,000
Sewer Main Extension (incl crossing Route 101)	\$ 1,450,000
Contingencies (25%)	\$ 591,000
Subtotal	\$ 2,955,000
Design Engineering & Permitting (15%)	\$ 443,250
Construction Engineering (10%)	\$ 296,500
	\$ 3,694,750

#### Salem/Summer Street Sewer Repair/Replacement

Sewer Repair/Replace (Incl fee for RR inspection)	\$ 313,000
Contingencies (25%)	\$ 78,250
Subtotal	\$ 391,250
Design Engineering & Permitting (15%)	\$ 58,688
Construction Engineering (10%)	\$ 39,125
	\$ 489,063

**ROUNDED PROJECT TOTAL: \$ 7,334,375**

civil &  
environmental  
engineering



2266.00

February 26, 2018

Paul Vlasich, P.E., Town Engineer  
Public Works Department, Town of Exeter, NH  
13 Newfields Road  
Exeter, NH 03833

Re: *Water and Sewer Utility Buildout Evaluation*  
*Exeter TIF District*  
*Exeter, New Hampshire*

Dear Mr. Vlasich:

In accordance with Engineering Services Request ESR EX-126 (dated January 9, 2018) we are pleased to provide our findings from the Water and Sewer Buildout Evaluation within the Town's TIF District. The purpose of this evaluation is to provide the Town with suggested water and sewer main sizes based on expected future developments/connections identified by the Town along Epping Road and other buildout areas.

**TIF District/Buildout Area with Estimated Water Demands and Sewer Flows**  
The Town's TIF District was established to promote economic expansion along the Epping Road Corridor. A portion of the tax increment is used for capital investment in infrastructure improvements including water and sewer main extensions, roadway improvements and a new commercial road off of Epping Road (aka TIF Road). With anticipated developments planned within the TIF District, the Town has requested assistance from Underwood Engineers to determine the size requirements for both a water main and sewer main extension. The extensions will serve Epping Road, the TIF Road and possible buildout areas identified in Figure 1 (attached).

The Town's Hydraulic Water Model was used to simulate the effects of future buildout on the existing water system and what the available fire flows would be for different size water mains. The model inputs are based on planning information provided by the Town, zoning regulations, and proposed site plans. The estimated future water demands and sewage flows within the TIF District/Buildout Area as calculated by UE are summarized in Table 1 below:

Table 1. Assumed TIF/Infill Use

Potential Future Construction	Anticipated Potential Uses	Average Day Water Demands (gpd)	Max Day Water Demands (gpd)	Peak Hour Sewer Flows (gpd)
High School	School	18,000	45,000	108,000
Residential Development	100 3-Bdr units	18,000	45,000	108,000
Mixed Use Commercial Development	11 lots - 1 Hotel, 3 Offices, 1 Med Office, 5 Retail Stores, 1 Kennel	32,820	82,050	196,920
Lots 32-2, 3, 4	1 Assisted Living, 1 Child Daycare, 1 Office	2,500	6,250	15,600
Lots 40-9 to Gas Station	2 Retail Spaces Gas Station	720 120	1,800 320	4,320 760
Ray Farm Residential Development	116 2-Bdr Units	14,000	35,000	84,000
Catliste	1 Conference Center, 1 Micro Brewery, 1 Hotel	18,000	45,000	108,000
King Lot 47-9	116 2-Bdr Units 1 Fitness, 2 Retail buildings, 1 Restaurant, 1 S... Rec Area	14,000 33,200	35,000 70,500	84,000 169,200
Lot 47-3, 5, 6	1 Residential Unit, 2 Office Buildings	330	825	1,980
	<b>TOTAL</b>	<b>146,850</b>	<b>366,745</b>	<b>900,390</b>
	<b>Rounded</b>	<b>148,000</b>	<b>370,000</b>	<b>900,000</b>

NEDES ENV-1038-1 values were used to determine the day water demands for each user type. Average day sewer flows were estimated to be approximately 2.5 times less than Max Day water demands. A peaking factor of 6 was then applied to the average day sewer flows based on TR-16.

**Assumed Fire Flow Requirements**

Exeter DPW references Insurance Services Office (ISO) guidelines for fire flow requirements. For the purpose of this evaluation, Underwood Engineers has provided Needed Fire Flow requirements which are based on typical ISO requirements for residential and commercial evaluations performed in the past.

Table 2. Estimate of Needed Fire Flows

Building Type	Needed Fire Flow
High School	3,000 gpm
100 Residential	750 gpm
Mixed Commercial	1,500 gpm
Lots 32-2 3 4	1,500 gpm
Lots 40-9 10	1,500 gpm
Gas Station	1,500 gpm
Ra Farm	1,500 gpm
Carlisle	1,500 gpm
K...	1,500 gpm
Lot 47-9	1,500 gpm
Lot 47-3 5 6	1,500 gpm

\* Needed Fire Flows (NFF) are assumed based on typical needed fire flows for commercial and residential uses. Actual NFFs are based on factors not available at this time (building materials, square footages, etc.) and developing each site's NFF is not included within this scope. It is the Developer's responsibility to provide NFF's to the Town during the site plan approval process. Typical NFFs range from 500 gpm Min to 3,000 gpm Max.

#### Water Model Simulation

The Exeter water system model was used to simulate the impact of the TIF Buildout on the existing water system. The hydraulic analysis was conducted using the H2OMap Water model originally set up by Underwood Engineers (2010) and later updated by Weston and Sampson (2017). For the purposes of this evaluation, the model was updated to reflect the buildout conditions in the TIF District and areas identified by the Town for this evaluation (Figure 1):

- A water main extension was added to the existing system on Epping Road from Continental Drive to Exeter High School (~12,000').
- A spur line was included on the water main extension to represent the TIF Road (~1,300').
- Nodes representing the expected water users identified in Table 1 were added.
- Pipe lengths, node locations and elevations were based on record drawings, proposed site plans, information provided by the Town, and Google Earth.

Other general conditions in the model include the following:

- Average day demands at 0.954 MGD.
- Maximum day demands at 1.8 MGD.
- Cross Road Tank level at 71' (15' drawdown).
- Epping Road Tank level at 30' (10' drawdown).
- Hampton Road Tank level at 70' (15' drawdown).
- Surface Water treatment plant pumps on at 409 gpm.
- Ground Water treatment plant pumps on at 265 gpm.





The following model runs were performed:

- Evaluate the available fire flows within the TIF District and Bulldozer Area under max day conditions (per AWWA standards) with three different water main diameter scenarios:
  - 8" DI Pipe
  - 12" DI Pipe
  - 12" and 16" DI Pipe Combination
- Monitor change in system pressure (if any) caused by addition of demand at proposed locations during maximum and average day demand conditions.
- Predict the fire flow conditions.

**Water Model Findings**

A summary of the modeling results for each scenario are summarized in the tables below:

**Table 3. Scenario 1: 8" DI Pipe Throughout the Entire TIF/Bulldozer Area**

Description	Location	Diameter Pipe (in)	Available Fire Flow (gpm)	Needed Fire Flow (gpm)
Ray Farm	TIF Road	8	1,100	1,500
Carlisle	End of TIF Road	8	825	1,500
King	Epping Road	8	825	1,500
Lot 40-09	Epping Road South of 101	8	770	1,500
100 Residential Lots	Watson Road	8	470	750
Mixed Commercial	Epping Road and Watson Road	8	580	1,500
Lot 32-02	Epping Road and Beech Hill Road	8	585	1,500
Brester HS School	Blue Hawk Drive	8	285	3,000

The results in Table 3 show that the available flows predicted by the Town's water model would not meet the assumed needed fire flows. The next scenario increases the proposed water main size from 8" to 12" on both Epping Road and the new TIF Road. Scenario 2 results are provided in Table 4 below:



**Table 4. Scenario 2: 12" DI Pipe Throughout the Entire TIF/Buildout Area**

Description	Location	Required Fire Flow (gpm)	Available Fire Flow (gpm)	Needed Fire Flow (gpm)
Ray Farm	TIF Road	12	1,900	1,500
Carlisle	End of TIF Road	12	1,600	1,500
King	Epping Road	12	1,700	1,500
Lot 40-09	Epping Road (South of 101)	12	1,600	1,500
100 Residential Lots	Watson Road	12	1,150	750
Mixed Commercial	Epping Road and Watson Road	12	1,150	1,500
Lot 32-02	Epping Road and Beech Hill Road	12	1,450	1,500
Exeter High School	Blue Hawk Drive	12	800	3,000

The available fire flows predicted for Scenario 2 nearly meet all of the needed fire flows assumed for the future buildout with the exception of the high school and Lot 32-02. It should be noted that Lot 32-02's Needed Fire Flows are nearly met, and would most likely be adequate depending on future development. A third scenario was performed to try and increase the available fire flows at these areas by enlarging the proposed water main on Epping Road from 12" to 16"

**Table 5. 16" Pipe on Epping Road and 12" Pipe on TIF Road**

Description	Location	Required Fire Flow (gpm)	Available Fire Flow (gpm)	Needed Fire Flow (gpm)
Ray Farm	TIF Road	12	1,900	1,500
Carlisle	End of TIF Road	12	1,700	1,500
King	Epping Road	12	1,900	1,500
Lot 40-09	Epping Road (South of 101)	16	1,900	1,500
100 Residential Lots	Watson Road	12	1,500	750
Mixed Commercial	Epping Road and Watson Road	16	1,500	1,500
Lot 32-02	Epping Road and Beech Hill Road	16	2,000	1,500
Exeter High School	Blue Hawk Drive	16	1,400	3,000

By increasing the proposed water main on Epping Road from 12" to 16", the increase in Lot 32-02's available fire flow was enough to meet the assumed needed fire flow. However, the available fire flow for the High School (which is at the far end of the proposed water main extension) was still significantly lower than needed. An onsite tank and/or fire pump may be needed in order to meet the school's needed fire flows. However, that would require further study beyond the scope of this evaluation.

**Sewer Extension Capacity**

Using Town record drawings of the existing sewer system, UE evaluated the sizing of a new gravity sewer on Epping Road from the existing sewer stub at Continental Drive to Route 101 (~2,000'). A second sewer main was also evaluated for the proposed TIF Road (~1,300'). In addition to minimum pipe slopes, the Town asked UE to determine the size of the Epping Road sewer extension using a pipe slope of 1% and 0.5%.

For the Epping Road sewer extension, the peak hour sewer flows (~900,000 gpd) identified in Table 1 were used to evaluate the following pipe sizes:

**Table 6. Epping Road Sewer Extension Capacity Estimates**

Slope	Peak Hour Flow (gpd)	12" Sewer Capacity (gpd)	Reserve Capacity (gpd)
0.22% (12" Min. Slope)	900,000	1,400,000	500,000
0.5%	900,000	2,117,000	1,217,000
1.0%	900,000	994,000	2,094,000

It is understood that a pumping station will be required in the future on the north side of Route 101 to pump sewage flows from the North to the gravity sewer extension on Epping Road. The pumping station would be sized based on the Peak Hour Flow (+/-). Even if the pumping station pump rates were 20% higher than the peak hour flow, a 12" gravity sewer pipe would still be able to accommodate the estimated future flows (gravity and pumped).

The gravity sewer main for the proposed TIF Road was also evaluated. The peak hour flows for the Ray Farm and Carlisle properties (~192,000 gpd) were used for the pipe capacity calculations used in Table 7 below:

**Table 7. TIF Road Sewer Capacity Estimates**

Slope	Peak Hour Flow (gpd)	12" Sewer Capacity (gpd)	Reserve Capacity (gpd)
0.4% (8" Min. Slope)	192,000	642,000	450,000
1.2%	192,000	1,088,000	896,000

It should be noted that the sewer main used for the TIF Road evaluation was based on a continuous gravity pipe from the Carlisle Property to Epping Road. However, due to the topography and elevations between Epping Road and the Carlisle property, a combination of gravity sewer and pressure sewer with a pumping station will be needed to connect into the Epping Road sewer. As noted with the Route 101 pumping station above, the TIF Road pumping station would be sized based on the estimated Peak Hour Flows. If the TIF Road pumping station

pumped at a 20% higher pumping rate than the Peak Hour Flows, the 8" gravity sewer pipe would still be able to accommodate the estimated gravity and pumped sewer flows.

This evaluation only considered the sizing needs of the TIF/Buildout area sewer extension. An evaluation on the impact of increasing sewer flows within the Town's existing system downstream of this area was not performed.

### Conclusions

The following conclusions are made based on the results described above:

#### Water Main Extension

- The TIF/Buildout water extensions will increase demand on the Town's water system by approximately 370,000 gpd on Max Day.
- An 8" DI water main extension would not provide the assumed needed fire flows.
- A 12" DI water main extension would provide nearly all of the assumed needed fire flows throughout the TIF/Buildout Areas with the exceptions of Lot 32-02 (which is nearly met) and the High School.
- The installation of a 16" water main on Epping Road would provide the assumed needed fire flows at all locations except for the Exeter High School.
- An onsite water storage tank and/or fire pump is needed to meet fire flows at the High School. Further study will be needed for the High School.

#### Sewer Main Extension

- The sewer main extension would increase potential connections and flows to the Town's WWTF.
- The impact to the Town's existing sewer system was not evaluated.
- A 12" sewer main on Epping would accommodate the projected TIF/Buildout Flows.
- A combination of gravity sewer and pressure sewer is expected for the TIF Road extension.
- An 8" sewer main would accommodate the TIF Road Flows.
- Further review is necessary once the TIF Road Sewer system is designed, including the following:
  - Gravity Sewer Design Review
  - Pumping Station Capacity Review
  - Force Main Design Review

### Recommendations

Underwood Engineers recommends the following:

- Design the TIF/Buildout Water main extension with a 12" DI Pipe on Epping Road and the new TIF Road.

Page 8 of 8  
Paul Plasick, P.E.  
2/26/2018

- Design a 12" sewer main on Epping Road.
- Design the gravity portion of the TIF Road sewer extension with an 8" pipe.
- Develop a sewer model of the Town's Sewage Collection System to evaluate the impacts of sewer buildout flows to the existing system.
- Provide gravity and pressure sewer designs of the Epping Road and TIF Road sewers for review.
- Provide water main designs for the Epping Road and TIF Road extensions for review.

Please call if you have any questions.

Very truly yours,

BRUNNEN ENGINEERS, INC

  
Benjamin T. Dreyer, P.E.  
Project Manager

  
Erik B. Nichols, E.I.T.  
Project Engineer

BTD/EBN

Encl

CC: Jen Mates, Town of Exeter w/ Encl.  
Dave Shaples, Town of Exeter w/ Encl.

Book:6040 Page:1027

# 19039355 09/27/2019 10:35:13 AM  
 Book 6040 Page 1027 Page 1 of 5  
 Register of Deeds, Rockingham County



RECORDING 26.00  
 SURCHARGE 2.00



(M)  
 Mitchell Municipal  
 Group PA  
 25 Beacon Street East  
 Laconia, NH 03246

**THIS CONVEYANCE IS EXEMPT FROM TRANSFER TAX AND L-CHIP FEES  
 PURSUANT TO RSA 78-B:2,I AND RSA 478:17-g, II(a)**

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, **CKT & ASSOCIATES**, a New Hampshire partnership, with a mailing address of 158 Shattuck Way, Newington, New Hampshire 03801, for consideration paid, grants to the **TOWN OF EXETER**, a New Hampshire municipal corporation, with a mailing address of 10 Front Street, Exeter, New Hampshire 03833 with **WARRANTY COVENANTS**, the following described premises:

A certain tract or parcel of land off of Epping Road in the Town of Exeter, County of Rockingham and State of New Hampshire depicted as the "TIF Road" on a plan of land entitled "TIF Road Right-of-Way Plan Over a Portion of Tax Map 47 - Lot 8, Owner: CKT & Associates off Epping Road, Town of Exeter, County of Rockingham, State of New Hampshire" prepared by Ambit Engineering, Inc. dated June 2019 with revision "0" dated June 12, 2019 and recorded at the Rockingham County Registry of Deeds as Plan No. D-\_\_\_\_\_ (hereinafter "Plan"); said parcel being more particularly bounded and described as follows:

Being a part of a right-of-way located on the easterly side of Epping Road, so called, said road also being known as New Hampshire Route 27 and beginning at a granite bound on the easterly side of said Epping Road, said granite bound being at the northwesterly corner of the area herein described; thence

running N 62°07'23" E a distance of 629.38 feet to a granite bound; thence running on a curve to the left to a granite bound, said curve having a length of 54.51 feet, a radius of 375.00 feet, with a chord bearing of N 57°57'31" E, and a chord length of 54.46 feet; thence running N 53°47'39" E a distance of 69.26 feet to an iron rod; thence turning and running over and across said right-of-way S 36°12'21" E a distance of 50.00 feet to a granite bound; thence turning and running S 53°47'39" W a distance of 69.26 feet to a granite bound; thence running on a curve to the right to an iron rod, said curve having a length of 61.78 feet, a radius of 425.00 feet, a chord bearing of S 57°57'31" W, and a chord length of 61.73 feet; thence running S 62°07'23" W a distance of 619.49 feet to a granite bound on the easterly side of said Epping Road; thence turning and running along the easterly side of said Epping Road N 39°04'02" W a distance of 50.97 feet to a granite bound and the point of beginning. The above described right-of-way containing 37,592 square feet, more or less.

**TOGETHER WITH** a Drainage Easement as shown and noted on said Plan and more particularly bounded and described as follows:

Beginning at a point on the southerly side of TIF Road, so called, said point being S 53°47'39" W a distance of 9.90 feet from a granite bound located on the southerly side of said TIF Road and 25 feet from and perpendicular to Station 7+50; thence running over and across land of the Grantor S 21°58'19" E a distance of 98.04 feet to a point at other land of the Grantor; thence continuing over and across other land of the Grantor S 21°58'19" E a distance of 15.63 feet; thence turning and continuing over and across other land of the Grantor S 51°44'49" W a distance of 139.28 feet; thence turning and continuing over and across other land of the Grantor N 60°16'04" W a distance of 16.18 feet to a point at land of the Grantor; thence continuing over and across land of the Grantor N 60°16'04" W a distance of 131.93 feet to the southerly side of said TIF Road; thence turning and running along the southerly side of said road N 62°07'23" E a distance of 107.74 feet to an iron rod; thence still along said road and a curve to the left to a granite bound, said curve having a length of 61.78 feet, a radius of 425.00 feet, a chord bearing of N 57°57'31" E, and a chord length of 61.73 feet; thence continuing along said road N 53°47'39" E a distance of 59.36 feet to the point of beginning. The above described easement containing 21,492 square feet, more or less.

The Drainage Easement conveyed by this deed and shown on the Plan is conveyed for the purpose of providing proper drainage of the roadway.

The Town of Exeter and its agents shall be allowed to enter upon all of the easement area described above with such personnel and equipment as reasonably necessary to maintain, repair and replace any and all improvements located within the easement area related to the road and drainage.

The Grantor, its successors and assigns, shall not construct, install, place, plant or store anything whatsoever in the above described easement area, other than the planting of grass.

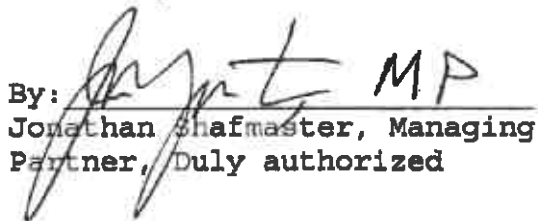
Said easement is perpetual and shall run with the land.

Meaning and intending to describe and convey a portion of the premises conveyed to CKT & Associates by Warranty Deed of EWH & Associates dated January 1, 1997 and recorded in the Rockingham County Registry of Deeds at Book 3231 Page 2722.

EXECUTED this 18<sup>th</sup> day of July, 2019.

  
Witness

**CKT & ASSOCIATES**

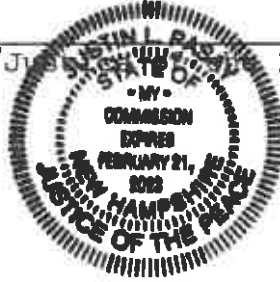
By:  MP  
Jonathan Shafmaster, Managing  
Partner, Duly authorized



STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM, ss

On this 18 day of July, 2019, before me,  
personally appeared Jonathan Shafmaster, Managing Partner of CKT  
& Associates, known to me or satisfactorily proven to be the  
person whose name is subscribed to the within instrument and  
acknowledged that he executed the same for the purposes therein  
contained on behalf of the partnership.

Notary Public/Justice of the Peace



Accepted by the Town of Exeter by vote of the Board of Selectmen on September 9, 2019.

TOWN OF EXETER  
BY ITS BOARD OF SELECTMEN

Kathy Corson  
Kathy Corson, Chairman

Niko Papakonstantis  
Niko Papakonstantis, Selectman

Molly Cowan  
Molly Cowan, Selectman

Julie D. Gilman  
Julie D. Gilman, Selectman

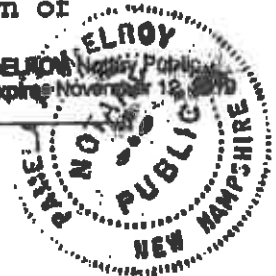
Anne L. Surman, Selectman

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM, ss

On this 16<sup>th</sup> day of September, 2019, before me, personally appeared Kathy Corson, Niko Papakonstantis, Molly Cowan, Julie D. Gilman ~~and Anne L. Surman~~, duly authorized Selectmen of the Town of Exeter, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained on behalf of the Town of Exeter.

Pamela A. McElroy  
Notary Public/Justice of the Peace

PAMELA A. McELROY, Notary Public  
My Commission Expires November 12, 2020



# JONES & BEACH ENGINEERS INC.

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

June 28, 2019

Exeter Planning Board  
Attn: Mr. Dave Sharples, Planner  
10 Front Street  
Exeter, NH 03822

**RE:** Planning Board Case No. 17-26  
Carlisle Subdivision T.I.F. Road Extension  
Off Epping Road, Exeter  
Tax Map 40, Lot 12  
JBE Project No. 15098

Dear Dave,

This Minor Subdivision was approved with Conditions on August 24, 2017. In accordance with approval Condition 2, we herewith submit a set of plans for the cul-de-sac terminus of the T.I.F. Road, which passes from Epping Road along a R.O.W. through land of CKT & Associates.

We ask that you send these plans for review and approval to Exeter Public Works, and perhaps Underwood Engineers. It is our understanding that Cammett Engineering (designers of the first 1,300 feet of the T.I.F. Road) has performed utility and drainage design for that road as part of their permitting and approval process for the Ray Farm Project.

Our cul-de-sac terminus of the T.I.F. Road design includes about 400 feet of roadway to be constructed as an extension of the Cammett design, and using reference to their plans and construction details. We assume that one contractor will build this road, and one set of details (Cammett) should control, as those have already been reviewed and approved by the Town. See "Plan Reference No. 1" on JBE plan Sheet P1 "Plan and Profile", as well as Note 17 on Sheet P1.

Our cul-de-sac is super-elevated to the outside, so that drainage can flow out to a granite curb line, then down slope from the high point at Station 15+00 to Cammett catch basins located at Station 11+62. We assume that this small amount of stormwater flow has been included in their calculations.

Because the impervious road surface of this cul-de-sac on Carlisle property is included in the T.I.F. Road design system, there will be less flow toward the existing intermittent stream that

crosses Carlisle Lot 1. We collect the small surface drainage flow from the cut slope of the cul-de-sac into a shallow grassed swale, and route that around the outside of the cul-de-sac R.O.W.


As you are aware, this Minor Subdivision Case No. 17-26, creates three (3) lots for future development. At such time as users of these lots are determined, the driveways and utility connections to the cul-de-sac will be designed for subsequent review and approval during the Site Plan Review process.

Enclosed with this letter are five (5) sets of the following items:

1. Exeter Planning Board approval letter dated August 25, 2017 -- see Condition 2.
2. Cammett Engineering design "Plan / Profile" Sheets C1.41 and C1.42 showing the first 1,300 feet of the T.I.F. Road, last revised 7-16-18.
3. JBE Plan Sheets A1, C1, P1, and E1, for review and approval.

Please forward these plans to the appropriate parties, and let me know if you have any questions. Thank you very much for your time.

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



Jonathan S. Ring, PE  
President

cc: W. Scott Carlisle, III  
Russ Hilliard, Upton & Hatfield

**JONES & BEACH**  
ENGINEERS INC.



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

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JOHN J. RATIGAN  
DENISE A. POULOS  
ROBERT M. DEROSIER  
CHRISTOPHER L. BOLDT  
SHARON CUDDY SOMERS  
DOUGLAS M. MANSFIELD  
KATHERINE B. MILLER  
CHRISTOPHER T. HILSON  
HEIDI J. BARRETT-KITCHEN  
JUSTIN L. PASAY  
ERIC A. MAHER  
CHRISTOPHER D. HAWKINS  
BRENDAN A. O'DONNELL  
ELAINA L. HOEPPNER  
WILLIAM K. WARREN

22 February 2022

Via Electronic Mail to: [walter@mitchellmunigroup.com](mailto:walter@mitchellmunigroup.com)

Walter Mitchell, Esq.  
Mitchell Municipal Group, P.A.  
25 Beacon St. E #2  
Laconia, NH 03246

Re: Exeter TIF Road

Dear Walter:

This follows our recent email and phone conversation regarding property owned by our client, Jonathan Shafmaster, located off Epping Road in Exeter, which property is identified as Town Tax Map 47, Lot 8 (“Shafmaster’s Property”). We write to memorialize Mr. Shafmaster’s position as it pertains to the potential extension of the public portion of Ray Farmstead Road (the so-called “TIF Road”) over Shafmaster’s Property to serve potential private development on abutting property owned by Scott Carlisle which is identified as Town Tax Map 40, Lot 12 (“Carlisle’s Property”), and to propose an alternative which we feel may accommodate the interests of all parties. We ask that you provide this letter to the Board of Selectmen and Planning Departments and that we convene a meeting in the near future to discuss.

**Executive Summary**

Mr. Shafmaster is not inclined to convey a fee title or public easement interest in the Remaining Private Right of Way area to the Town of Exeter to accommodate a public road to Carlisle’s Property over Shafmaster’s Property, and the Town of Exeter is without authority to expend TIF funds to build said public road because the underlying easement interest is private and appurtenant, and because to do so would violate the defined nature and scope of the easement interest as established by the Rockingham County Superior Court. Further, the Town is without authority under New Hampshire law to exercise its eminent domain power to condemn the Remaining Private Right of Way area to accommodate a public road.

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



However, Mr. Shafmaster would like to discuss and pursue an alternative to the development of the Remaining Private Right of Way as a public road in a manner that would accommodate the interests of all parties and Mr. Shafmaster requests an audience with you and the Town as soon as possible to discuss same.

### **Factual Context**

By way of brief background, and as you will recall, in April of 2018 the Town signed an Agreement with Mr. Shafmaster for the construction of the public TIF Road over a portion of a private right-of-way on Shafmaster's Property that benefits Carlisle's Property (the "Private Right of Way") (the "TIF Road Agreement"). The TIF Road Agreement required Mr. Shafmaster to build the TIF Road to the Town's satisfaction and then convey the fee title interest of the same to the Town. For your convenience, please see Enclosure 1 attached, which is Exhibit A to the TIF Road Agreement and which depicts: 1) the limit of the TIF Road (Ray Farmstead Road) in green and 2) the remaining portion of the Private Right of Way after Mr. Shafmaster's conveyance of the TIF Road to the Town, in yellow (the "Remaining Private Right of Way"). We note that before executing the TIF Road Agreement, the Town asked Mr. Shafmaster to convey the fee interest in the Remaining Private Right of Way to the Town and Mr. Shafmaster declined to do so. The TIF Road Agreement was nevertheless executed by the parties.

After the TIF Road Agreement was executed, Mr. Shafmaster built the TIF Road and conveyed the fee interest in same to the Town.<sup>1</sup> To this day, Mr. Shafmaster owns the fee title interest in the Remaining Private Right of Way which is depicted in yellow on Enclosure 1.

The scope of the Remaining Private Right of Way was defined by the Rockingham County Superior Court in December of 2001 in the case of W. Scott Carlisle, III v. CKT & Associates, Docket No: 00-E-0072, which is discussed below.<sup>2</sup> To summarize, the Court determined that the Remaining Private Right of Way was a private appurtenant easement that runs with the Carlisle Property.

Notwithstanding the nature and scope of the Remaining Private Way as determined by the Court, in August of 2017, Mr. Carlisle obtained a conditional subdivision approval which purports to divide the Carlisle Property into three distinct lots. As depicted on the conditionally approved plan, which is provided herewith as Enclosure 4, Mr. Carlisle's subdivision is contingent upon: 1) the extension of the public TIF Road (Ray Farmstead Road) over the Remaining Private Right of Way on Shafmaster's Property, and 2) the conveyance of the Remaining Private Right of Way to the Town.<sup>3</sup>

Recently, Mr. Shafmaster has heard rumors that the Town has concluded that TIF funds may be expended to extend the public TIF Road over Shafmaster's Property to reach Carlisle's Property. Further, my discussion with you and Russ Hilliard suggest that you may hold the opinion that Mr. Carlisle's subdivision approval constitutes a dedication of a public right of way

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<sup>1</sup> See Recorded Deed, Rockingham County Registry of Deeds, Book 6040, Page 1027 ("Enclosure 2").

<sup>2</sup> See Court Order (the "Court Order" or "Enclosure 3").

<sup>3</sup> See Enclosure 4, Note 7.

over Shafmaster's Property that the Town could accept, and that the Town of Exeter may use TIF funds to improve the Remaining Private Right of Way into a public road. This letter registers our disagreement with these conclusions, for the reasons outlined below.

### Analysis

First, by the clear terms of the Court Order, the Remaining Private Right of Way is private, not public. As evidenced in the Court Order, at the time of the litigation, Mr. Carlisle urged the Court to define the scope of the easement area in a manner aligned with "the minimum scope allowed by law for **private** rights of way ..." (emphasis added).<sup>4</sup> Further, Mr. Carlisle's position was that the underlying easement is appurtenant and runs with the Carlisle Property.<sup>5</sup> In other words, Mr. Carlisle's view was that the Remaining Private Right of Way exists for the benefit of the owner of Carlisle's Property, not the general public.

After a trial, the Superior Court agreed with Mr. Carlisle's interpretation regarding the nature of the underlying easement.<sup>6</sup> Specifically, the Court determined that "[Mr. Carlisle] is entitled to develop [his] easement as a **private** right of way which is 50 feet wide ..." (emphasis added).<sup>7</sup> Further, the Court held that "[Mr. Carlisle] is solely responsible for all costs involved in mitigating any wetlands impact resulting from the development and use of the easement, and for all costs in constructing, developing and maintaining the easement in conformity with all local land use regulations."<sup>8</sup>

On this analysis and the Court's holding, the nature of the Remaining Private Right of Way is private, not public. As such, neither the Town nor the owner of Carlisle's Property may impermissibly expand the nature and scope of the Remaining Private Right of Way to make it public, which expansion would contravene the clear holding in *Carlisle v. CKT & Associates*.

Second, notwithstanding Mr. Carlisle's conditional subdivision approval from the Planning Board, we are aware of no New Hampshire law or precedence that would permit Mr. Carlisle to dedicate a public right of way on land he does not own or for the Town of Exeter to accept such a dedication. Similarly, we are not aware of any New Hampshire law or precedence that would permit Mr. Carlisle to convey or assign the Remaining Private Right of Way, an appurtenant easement, to the Town of Exeter. Rather, and as recognized by the Planning Board in its conditional approval, development of the Remaining Private Right of Way as a public road would require either Mr. Shafmaster's conveyance to the Town of the fee title interest in the road area, which Mr. Shafmaster already declined to do at the time the TIF Road Agreement was executed, or, Mr. Shafmaster's conveyance to the Town of a public right-of-way/easement

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<sup>4</sup> Enclosure 3, pg. 8.

<sup>5</sup> *Id.*

<sup>6</sup> The actual easement language conveyed by Mr. Shafmaster's predecessor in title to Mr. Carlisle's predecessor in title granted an a right of way to access Epping Road by stating: "To have the privilege of passing and repassing from said road to said lot with teams loose cattle or otherwise in the path commonly used as often as occasion may require they closing all gates and bars which they open." Court Order, pg. 13. The easement language does not reference utilization of the Private Right of Way area by the general public.

<sup>7</sup> Enclosure 3, pg. 18.

<sup>8</sup> *Id.*



interest. As we have discussed, Mr. Shafmaster is not inclined to pursue either of these courses of action at this time.

Third, without a fee title or public easement conveyance from Mr. Shafmaster to the Town of Exeter as described above, the Town is without authority to expend TIF funds for the improvement of the Remaining Private Right of Way because TIF funds may only be expended for public facilities, and the development of a private appurtenant easement is not a “public use” as that term is defined in RSA 162-K:2.

Finally, under the circumstances of this case, the Town of Exeter is not permitted to take the Remaining Private Right of Way via exercise of its eminent domain authority because to do so would only serve to facilitate private economic development on the Carlisle Property in contravention of State statute and the New Hampshire Constitution. More specifically, eminent domain can only be exercised to condemn private property for “public uses” and while a public use may include the “possession, occupation, and enjoyment of real property by the general public or governmental entities[,]” it expressly does not include the taking of real property “solely for the purpose of facilitating” an incidental private use.<sup>9</sup> Further, “public use” does not include “public benefits resulting from private economic development and private commercial enterprise, including increased tax revenues and increased employment opportunities.”<sup>10</sup> These conclusions align with the history and context behind the 2006 amendment to the State Constitution in the wake of Kelo v. City of New London, 545 US 469 (2005), which added Article 12-a.<sup>11</sup>

Here, the Town’s potential use of eminent domain would conflict with the statutory definition of “public use” and the State Constitution’s prohibition on condemning private property to benefit private economic and private commercial enterprise because the Town’s condemnation of the Remaining Private Right of Way would only facilitate the creation of a public road to Carlisle’s Property to serve a private commercial development.

### **Recommendation**

While Mr. Shafmaster is not interested in conveying a fee title or public easement interest in the Remaining Private Right of Way to the Town at this time, he is interested in discussing the viability of certain alternatives to that course of action which could serve the collective interests of all parties involved. For example, Mr. Shafmaster is willing to entertain the conveyance of a public easement interest to accommodate a public road from the existing Commerce Way terminus to the Carlisle Property.<sup>12</sup> While longer than the Remaining Private Right of Way on Shafmaster’s Property, this concept would avoid a costly wetland crossing that would be necessary to extend Ray Farmstead Road, and would otherwise facilitate access to Carlisle’s

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<sup>9</sup> See RSA 498-A:1; RSA 498-A:2, VII.

<sup>10</sup> RSA 498-A:2, VII(b).

<sup>11</sup> Article 12-a to the New Hampshire Constitution states “No part of a person’s property shall be taken by eminent domain and transferred, directly or indirectly, to another person if the taking is for the purpose of private development or other private use of the property.”

<sup>12</sup> See Concept Plan provided as Enclosure 5.



Property, which is zoned industrial, through other industrially zoned properties, instead of accessing the same through a residential neighborhood.

**Conclusion**

I look forward to hearing back from you at your convenience to discuss the above.  
Thank you for your time.

Very truly yours,  
**DONAHUE, TUCKER & CIANDELLA, PLLC**

A handwritten signature in black ink, appearing to read 'Justin L. Pasay', with a stylized, cursive flourish.

Justin L. Pasay, Esq.  
[jpasay@dtclawyers.com](mailto:jpasay@dtclawyers.com)

JLP/jlh

Enclosures

cc: Jonathan Shafmaster

# Enclosure 14(a)

## Ray Farm Active Adult Community Site Development Plans off Epping Road, Exeter, NH

**SHEET INDEX**

G1.10	TITLE SHEET
G1.20	GENERAL NOTES, LEGEND, & ABBREVIATIONS
V1.10	MINOR SUBDIVISION PLAN
V1.20	EXISTING CONDITIONS
V1.30	NATURAL RESOURCES
C1.10	OVERALL SITE PLAN
C1.11-C1.16	SITE PLANS
C1.21-C1.28	GRADING PLANS
C1.201	OVERALL PHASING PLAN
C1.222, C1.332	PHASE I END PLANS
C1.225, C1.335	PHASE II END PLANS
C1.31-1.36	UTILITY PLANS
C1.41-1.46	PLAN & PROFILES
C1.51-1.54	EROSION AND SEDIMENT CONTROL PLANS
C5.11-5.18	DETAILS
L1.00	OVERALL LANDSCAPE PLAN
L2.00-2.30	PLANTING PLAN PER BUILDING
L3.00-3.10	PLANTING DETAILS
A1.00-1.10	ARCHITECTURAL PLANS
E-1.00	LIGHTING PLAN

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Sheet Title:  
**Title Sheet**


Project Title:  
**"Ray Farm" Active Adult Community**  
Epping Road  
Exeter, NH 03833  
Rockingham County

Applicant:  
**Wiley Creek Company**  
158 Shattuck Way  
Newington, NH 03801

Designer:  
**CKT & Associates**  
158 Shattuck Way  
Newington, NH 03801

**REVISION**

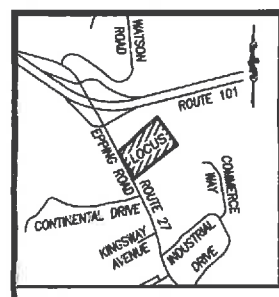
NO.	DATE	DESCRIPTION	BY
A	5.8.2017	TO PLANNING BOARD	DH
B	6.27.2017	PEER REVIEW	DH
C	11.27.17	2nd PEER REVIEW	DH



*Robert Blanchette*  
11 DEC 2017

PROJ. MGR.: D. HAMEL  
FIELD: M. MICHAUD / A. BICK  
DESIGN: D. HAMEL  
DRAWN: D. HAMEL  
CHECKED: W. CAMMETT / R. BLANCHETTE  
DATE: 5/8/2017  
FILE: 16042 TL.DWG  
JOB #: 16042

SHEET G1.10



LOCUS MAP  
SCALE: 1" = 3000'

**DIMENSIONAL REQUIREMENTS (C-3 DISTRICT)**

	REQUIRED	PROPOSED
MINIMUM LOT AREA	40,000 SF	504,755 SQUARE FEET
MINIMUM LOT WIDTH	175 FEET	197 FEET
MINIMUM LOT DEPTH	225 FEET	1216 FEET
MINIMUM YARD SETBACKS		
FRONT	50 FEET	210 FEET
SIDE	30 FEET	30 FEET
REAR	25 FEET	27 FEET
MAXIMUM BUILDING COVERAGE	40 %	10.40 %
MINIMUM OPEN SPACE	20 %	77.4%
MAXIMUM HEIGHT	50 FEET	<50 FEET

**LOCUS PARCEL**

CKT ASSOCIATES  
MAP 47, PARCEL 8  
(SEE MINOR SUBDIVISION PLAN V1.10)

**DENSITY**

TOTAL PARCEL AREA  
11.62 Acres (504755 SF)  
TOTAL NUMBER OF UNITS - 116  
DENSITY = 4,351.4 SF PER UNIT

**SITE DATA**

PROPOSED USE - ACTIVE ADULT COMMUNITY (VARIANCE GRANTED)  
4 BUILDINGS WITH 1-20 UNIT, 3-32 UNIT BUILDINGS, = 116 UNITS

PARKING REQUIRED - 116 UNITS x 2 SPACES PER UNIT +  
1 SPACE PER 4 UNITS = 261 SPACES REQUIRED

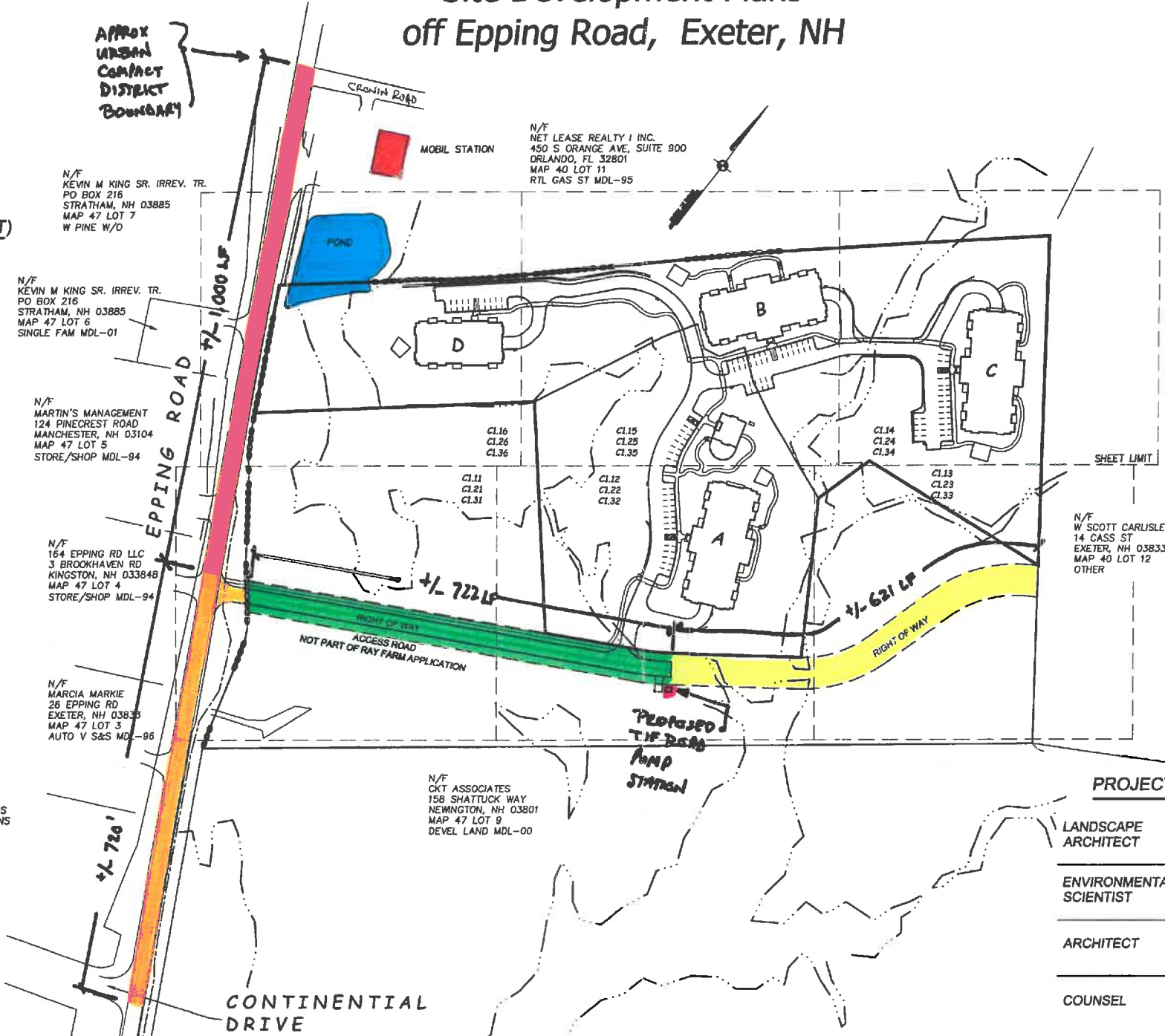
PARKING PROVIDED - 198 TOTAL (1.7 SPACES/UNIT) (WAIVER REQUESTED)  
124 IN PARKING GARAGE BELOW BUILDINGS  
74 SURFACE PARKING

**WAIVERS**

1. WAIVER FOR WETLAND IMPACTS - 9.9.2 SITE PLAN REVIEW REGULATIONS
2. WAIVER FOR PARKING - 5.6.5 ZONING ORDINANCE
3. WAIVER FOR ROADWAY DESIGN PLANS - 7.5.7 AND 7.7 SITE PLAN REVIEW REGULATIONS
4. WAIVER FOR PARKING SETBACKS - 11.3.1.2 SITE PLAN REVIEW REGULATIONS
5. WAIVER FOR RECREATIONAL AREAS - 11.3.4 SITE PLAN REVIEW REGULATIONS

**PERMITS**

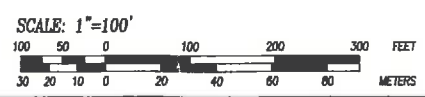
ALTERATION OF TERRAIN - AOT 1335  
DREDGE AND FILL - FILE NO. 2017-01530



**PROJECT CONSULTANTS**

LANDSCAPE ARCHITECT	G2+1 LLC 70 NEW ROAD SALISBURY, NH 03268
ENVIRONMENTAL SCIENTIST	GOVE ENVIRONMENTAL SERVICES, INC. 8 CONTINENTAL DR., BLDG 2, UNIT H EXETER, NH 03833-7507
ARCHITECT	CJ ARCHITECTS 233 VAUGHAN STREET, SUITE 101 PORTSMOUTH, NH 03801
COUNSEL	DTC LAWYERS DONAHUE, TUCKER & CIANELLA, PLLC 111 MAPLEWOOD AVENUE, SUITE D PORTSMOUTH, NH 03801
ELECTRICAL ENGINEER	ENGINEERED BUILDING SYSTEMS, INC. 22 MANCHESTER ROAD, SUITE 8A DERRY, NH 03038
TRAFFIC ENGINEER	STEPHEN G. PERNAW & COMPANY, INC. PO BOX 1721 CONCORD, NH 03302

**Vicinity/Key Map**





K:\PROJ\CIVIL\_3D\2016\16042\DWG\16042.2 MODEL FILES\16042.CSP CONNECT TO INDUSTRIAL WAY 10-1-2021.DWG Dhamel 10/1/2021 12:40 PM



**NEIGHBORHOOD PLAN**  
SCALE" 1"=150'



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Sheet Title:  
**Neighborhood Plan**  
Project Title:  
**"Ray Farm" Active Adult Community**  
Epping Road  
Exeter, NH 03833  
Rockingham County

Applicant:  
**Willey Creek Company**  
158 Shattuck Way  
Newington, NH 03801  
Owner:  
**CKT & Associates**  
158 Shattuck Way  
Newington, NH 03801

REVISION			
NO.	DATE	DESCRIPTION	BY

PROJ. MGR.: D. HAMEL  
FIELD: J. SALVAGGIO / R. SMITH  
DESIGN: D. HAMEL  
DRAWN: D. HAMEL  
CHECKED:  
DATE: 10-1-2021  
FILE: 16042 CSP CONNECT TO INDUSTRIAL WAY 10-1-2021.DWG  
JOB #: 16042



**TOWN OF EXETER  
CONSERVATION COMMISSION MEMORANDUM**

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Date: June 15, 2022  
To: Planning Board  
From: Andrew Koff, Chair, Exeter Conservation Commission  
Subject: Ray Farm Building D Relocation - Wetland and Shoreland CUP

**Project Information:**

Project Location: Ray Farm  
Map/Lot: Map 47, Lot 8.1  
CC Review Date: June 14, 2022  
PB CASE: #22-03

Following a site walk, an evaluation of the application materials, a presentation by the applicant's representatives and review of the conditional use permit criteria for both Wetland and Shoreland, the Exeter Conservation Commission voted unanimously as follows:

To recommend denial of the Shoreland Conditional Use Permit over concerns that the location of the proposed development and extent of shoreland buffer impacts will detrimentally affect the surface water quality of Watson Brook, and therefore fails to meet criteria 9.3.4 (G)(2)(a). Additional design modifications could be made to limit the site impacts to the upland outside of the shoreland zone.

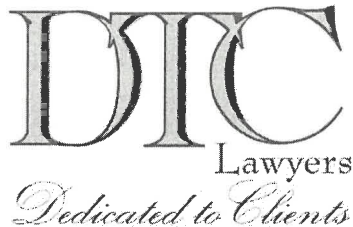
To recommend approval of the Wetland Conditional Use Permit with the condition that the wetland crossing structure between Building C and Building D be redesigned to include an open bottom box culvert.

Should design changes occur in a way that alters impacts to the buffers, we would request an opportunity for additional review.



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Andrew Koff  
Chair, Exeter Conservation Commission



CELEBRATING OVER 30 YEARS OF SERVICE TO OUR CLIENTS

**PLEASE RESPOND TO PORTSMOUTH OFFICE**

1 July 2022

Kristen Murphy  
Exeter Natural Resource Planner  
10 Front Street  
Exeter, NH 03833

Re: Shoreland Protection District Conditional Use Permit Supplement and Request  
Ray Farm – Building D Relocation (the “Project”)

Dear Kristen and Conservation Commission Members:

As you know, we represent Jonathan Shafmaster and his various business entities with regard to the Ray Farm Condominium which is a 55+ senior living development in Exeter located on property off of Ray Farmstead Road (the “Project”). This letter follows our recent appearance on 14 June 2022 before the Exeter Conservation Commission (the “Commission”) regarding two Conditional Use Permit applications which will facilitate the relocation of Building D of the Project. That evening, the Commission recommended that the Planning Board approve the Applicant’s Wetlands Conservation Overlay District Conditional Use Permit but recommended, by a 4 – 0 vote, that the Planning Board deny the Applicant’s Shoreland Protection District Conditional Use Permit Application (the “Shoreland Permit”).

For the reasons outlined below, the Commission’s decision to recommend denial of the Applicant’s Shoreland Permit constituted legal error and was based on the misapplication of the applicable law and the relevant criteria within the Town’s Zoning Ordinance. The Applicant therefore provides the clarifying information below and enclosed herewith, and requests to appear before the Commission at its 12 July 2022 meeting so that the Commission has an opportunity to review and correct its error, which process is consistent with New Hampshire land use law that favors the resolution of such disputes at the earliest possible time so to avoid unnecessary appeals.<sup>1</sup>

**Executive Summary**

The Commission’s recommendation to deny the Applicant’s Shoreland Permit for failure to comply with Article 9.3.4(G)(2)(a) of the Zoning Ordinance constitutes legal error because the

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<sup>1</sup> See generally, 15 Loughlin, New Hampshire Practice, Land Use Planning and Zoning, §21.19 (4<sup>th</sup> Ed.).

DONAHUE, TUCKER & CIANDELLA, PLLC  
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833  
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801  
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83 Clinton Street, Concord, NH 03301

Commission ignored uncontradicted expert testimony, made a recommendation unsupported by the evidence before it, and misinterpreted and/or misconstrued the legal standard contained within Article 9.3.4(G)(2)(a). Indeed, pursuant to the Commission's interpretation, no improvements within the Shoreland District should be permitted, which is not the correct standard of review and not an accurate reflection of the Legislative Body's intent when it adopted the Shoreland Protection District Ordinance. In the spirit of resolving disputes at the lowest level possible, the Applicant respectfully requests that the Commission revisit and reverse its recommendation to the Planning Board regarding the Applicant's Shoreland Permit application.

### **Factual Context**<sup>2</sup>

The Exeter Shoreland Protection District (the "Shoreland District") is associated with the three major rivers in Town to include the Exeter River, the Fresh River, and the Squamscott River, as well as those three rivers' major tributaries and other specifically defined waters within the watersheds of these three rivers. The lateral extent of the Shoreland District and the associated use restrictions imposed by the Zoning Ordinance differ depending on the nature and value of the waterbody involved.

In this case, the proposed work falls within the watershed of the Squamscott River but *is not adjacent* to the Squamscott River, its tidal marshes, or any of its major tributaries which include Norris Brook, Wheelwright Creek, Parkman Brook, Rocky Hill Brook, Dearborn Brook and Water Works Pond. Rather, the applicable Shoreland District in this case is associated with the perennial portion of Watson Brook to specifically include the area of land within 150 feet horizontal distance of the mean high-water level.<sup>3</sup> Of the surface water resources the Zoning Ordinance endeavors to protect through the Shoreland Protection District regulations, this area is of the lowest value.

On 14 June 2022, the Applicant's team of consultants appeared before the Commission. For approximately one hour and 20 minutes, the Applicant's consultants summarized the basis for the two requested Conditional Use Permits.<sup>4</sup> Thereafter, the Applicant's consultants engaged a lengthy presentation analyzing the Shoreland Permit criteria found in Article 9.3.4.G(2)(a) – (e) within the context of the unique facts and circumstances of the underlying property and the

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<sup>2</sup> The below factual context and analysis sections draw considerably from the work product of Brendan Quigley, NHCWS of Gove Environmental Services, Inc., the Wetland Scientist on the Project, and Denis M. Hamel, PE of GM2 Associates, Inc., the civil engineer on the Project.

<sup>3</sup> See Zoning Ordinance, Article 9.3.3(C)(2). We note that pursuant to Article 9.3.2(E) of the Zoning Ordinance, the term "mean high water" applies to saltwater resources, as determined according to the published tables and standards of the National Ocean Survey, adjusted to the locality from such tables, which begs the question whether a Shoreland Permit is even required for impacts within 150 ft of Watson Brook, which does not contain salt water, and is not tidal. For this reason alone, no Shoreland Permit is required in this case.

<sup>4</sup> See Conservation Commission Hearing Video, 14 June 2022 (the "Hearing Video") (<https://www.youtube.com/watch?v=BTZ59BPVAho>) at 0:07:00 – 1:28:30.

proposed Project. To summarize, the Applicant’s expert consultants offered the following testimony which corroborated the voluminous written materials and analyses provided to the Commission to include the Wetland Report filed by Brendan Quigley:

- First, undersigned counsel provided a legal analysis of the Shoreland Permit Criteria which incorporated to a large extent the express findings of Brendan Quigley’s Wetland Report.<sup>5</sup>
- Thereafter, Brendan Quigley characterized the specific nature of the “lower end” value of the Shoreland area implicated by the Project and took pains to emphasize that the Shoreland area in question was not a wetland buffer, that the Project’s proposed impacts should not be viewed as impacts to a wetland buffer, and that the Zoning Ordinance permits by conditional use permit more intensive uses within the District than the grading, paving and stormwater management infrastructure proposed by the Project, like industrial, commercial and multi-family residential development.<sup>6</sup>
- Deny Hamel then testified at length regarding the state-of-the-art stormwater management infrastructure that will serve Building D and be partially located within the Shoreland District, as well as the best management practices (“BMPs”) which will be employed by the Project.<sup>7</sup> Mr. Hamel’s testimony included details regarding how the Project’s stormwater infrastructure far exceeds all applicable State and local regulations, and is designed to handle flows that far exceed the 100-year stormwater event.<sup>8</sup>
- Finally, Brendan Quigley provided additional information focusing on the specific issue of Project-impact to the surface water quality of Watson Brook and testified unequivocally that based on all the factors presented, the Project will not have any negative impact on the surface water of Watson Brook, which is the core consideration of Article 9.3.4(G)(2)(a).<sup>9</sup>

Thereafter, the Commission’s deliberation on the Shoreland Permit began.<sup>10</sup> Without any review, discussion, or analysis of the expert testimony regarding the application of the Town’s Shoreland Protection District Ordinance to the Project, which had just been presented to the Commission for approximately 20 minutes, the Commission Chairman made a motion two (2) minutes later which stated in relevant part:

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<sup>5</sup> See Hearing Video at 1:28:30 – 1:33:30.

<sup>6</sup> See Hearing Video at 1:33:30 – 1:36:20. See also Zoning Ordinance, Article 9.3.4(G)(1) and additional analysis below.

<sup>7</sup> See Hearing Video at 1:36:20 – 1:44:00. See also additional analysis below.

<sup>8</sup> Id.

<sup>9</sup> See Hearing Video at 1:45:00.

<sup>10</sup> See Hearing Video at 1:47:00.

I'll make a motion to deny the Shoreland Conditional Use Permit because the alternative design ... would be less impactful.<sup>11</sup>

Thereafter, undersigned counsel advised the Chair of the Commission that an alternatives analysis, which was the sole basis of the Chair's motion to recommend denial of the Shoreland Permit, was not an appropriate consideration pursuant to Article 9.3.4(G)(2) of the Zoning Ordinance. In response, the Chairman of the Commission stated:

In terms of ... maybe it needs to be in terms of ... yeah, I understand what your saying Justin but at the same time ... that it does seem that this will have impacts to surface water quality to the adjacent river or tributary. I mean, you're putting a large ... your taking a natural forested hillside and turning it into a large building ... and that's directly above this Watson Brook area that is considered part of the Shoreland criteria. So, I understand the concern that, I guess the way I phrased it in terms of the other design did not have that, but, I am concerned about the impact of all of the grading and the building on this Watson Brook because it parallels ... that whole thing parallels ... the whole structure parallels the brook.<sup>12</sup>

The Chairman continued his analysis through his motion to deny the Shoreland Permit:

Either way, [Building D is] close to this priority resource that, that we've protected for a reason. So I would recommend that we deny it based on this. There is potentially other alternatives that could shore up the building ... and move it, potentially move the building, or move it out ... I don't know the exact configurations and why this configuration was chosen, I know it's convenient that it's the same exact configuration as three other buildings, but that doesn't necessarily, that's not what, I'm not approving here tonight ... I think there could be other engineered designs for an apartment structure with 32 buildings [sic] that has a smaller footprint and doesn't impact the shoreland in the same way. So just because your other three look this way doesn't mean we here need to approve that same design. So, I would motion, again, that because of these impacts, and the first criteria of the shoreland conditional use permit that we just recommend ... we're not denying this, we're recommending to the Planning Board ... that they deny this ... shoreland conditional use permit due to the extent of impact to the buffer and potential water quality issues .. and wildlife issues that could come from that.<sup>13</sup>

There was virtually no relevant participation by other members of the Commission in the deliberation and on this analysis alone, which was singularly focused on the criteria listed in

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<sup>11</sup> See Hearing Video at 1:49:35.

<sup>12</sup> See Hearing Video at 1:50:50.

<sup>13</sup> See Hearing Video at 1:55:27.



Article 9.3.4(G)(2)(a), pertaining to impact to surface water quality, the Chairman's motion carried by a vote of 4 – 0.

### Analysis<sup>14</sup>

The Commission's recommendation to deny the Shoreland Permit was in error because 1) the Commission ignored uncontradicted expert testimony and made a recommendation unsupported by the evidence before it; and 2) the Commission misconstrued and/or misinterpreted the legal standard contained in Article 9.3.4(G)(2)(a) of the Zoning Ordinance. We address each error below.

#### **1. The Commission erred by ignoring uncontradicted expert testimony and making a recommendation unsupported by the evidence before it.**

In arriving at a quasi-judicial decision, land use board members in New Hampshire are permitted to consider their own knowledge and may base their conclusions upon their own experience and observations in addition to expert testimony. Board members may not simply choose to ignore expert advice, however, especially if that expert evidence is uncontradicted.<sup>15</sup>

In this case, the only evidence in the record regarding the impact the Project will have on the surface water quality of Watson Brook is expert evidence offered by Brendan Quigley and Deny Hamel. That expert analysis unequivocally maintains that there will be no detrimental impact to the surface water quality of Watson Brook. There is no evidence to the contrary within the record upon which the Conservation Commission could have reasonably based its recommendation.

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<sup>14</sup> The 14 June 2022 Hearing before the Commission included a considerable discussion, initiated by the Commission, about the so-called "TIF Road extension" issue and corresponding lawsuit which the Town has inserted into the record of the Planning Board's proceedings in this matter over the objection of the Applicant. The Applicant has responded in kind, and will continue to respond to comments made by Town Staff, members of land use boards, or third parties regarding this issue in the interest of preserving an accurate and full record, but the issue of the TIF Road is primarily one of a private real estate and title dispute which is not the appropriate consideration of the Planning Board or Conservation Commission. To that end, the Applicant reminds all involved that the TIF Road was never a proper topic of consideration for the Planning Board nor the Conservation Commission, and the Conservation Commission needs to ignore this issue lest it run afoul the juror standard. The Applicant reserves all rights with regard to same: the Commission's consideration of this issue, which evidently continued into the Commission's deliberation, constitute legal error on its own.

<sup>15</sup> 15 Loughlin §28.10 (citations and quotations omitted). See also Condos East Corp. v. Town of Conway, 132 N.H. 431, 438 (1989) (planning board decisions "must be based on more than the mere personal opinion of its members"); Continental Paving, Inc. v. Town of Litchfield, 158 N.H. 570, 574 (2009) (upholding the determinations of the trial court which found the lay opinions of certain ZBA members, based upon general information not specifically addressed to the subject site, to be *insufficient* to counter the uncontroverted expert opinions presented by the applicant).

To summarize the evidence that has been provided to the Commission through the Applicant's filings, and through Brendan Quigley and Deny Hamel's testimony, based on the unobtrusive nature of the proposed impacts which include, state-of-the-art stormwater management infrastructure, grading, and limited paving, the water quality in Watson Brook will not be detrimentally affected. On the contrary, both the surface water quality of Watson Brook and the surrounding and related wildlife habitat will be protected.<sup>16</sup>

For example, in addition to adhering to BMPs for erosion control during construction, the Project will adhere to the applicable 100 ft building setback, will maintain an undisturbed 50 ft. buffer along the waterway, and will include revegetation of graded slopes within the Shoreland Protection District using a native seed mix.

Further, the Project will employ structural stormwater management infrastructure which utilizes state-of-the-art the BMPs to treat all stormwater runoff from the project. More specifically, all runoff from pavement around Building D will be collected in Deep Sump Catch Basins for pretreatment, removing up to 15% of Total Suspended Solids ("TSS"), 5% of Total Nitrogen ("TN") and 5% of Total Phosphorous ("TP").<sup>17</sup> After this pretreatment, all stormwater runoff from the pavement will be directed through a closed pipe system to two bio-retention areas which utilize the Focal Point System for primary treatment.<sup>18</sup> This BMP resembles a small open basin but employs several layers of closely specified media over an underdrain, which together act as a filter.<sup>19</sup> The Focal Point system has a demonstrated performance of 90% TSS removal and 65% removal of TN and TP.<sup>20</sup> Following this phase of treatment, treated stormwater is infiltrated in either an open basin or underground infiltration system which provide additional treatment. These infiltration basins also have demonstrated performance of 90% TSS removal, 10% TN removal, and 60% TP removal.

Clean runoff from the roof of the building is captured separately and infiltrated in an under-pavement infiltration system with the same redundancy and efficiency.

To ensure the absolute resilience and redundancy of the system, and as elaborated upon by Brendan Quigley and Deny Hamel at the 14 June 2022 hearing before the Commission, the Project's stormwater management has been designed using volumes from the Northeast Regional Climate Center's Extreme Precipitation Tables which have also been increased by 15%. Overall, the stormwater management system will far exceed State of NH Alteration of Terrain and Town of Exeter standards for treatment and detention of stormwater.

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<sup>16</sup> See Wetland Report.

<sup>17</sup> See Enclosure 1 which includes select sections of the New Hampshire Stormwater Manual.

<sup>18</sup> See Enclosure 2 which includes photographs from other Focal Point systems utilized in the Project.

<sup>19</sup> Id. See also Enclosure 3 which includes the specifications for the Focal Point Biofiltration Systems.

<sup>20</sup> See Enclosure 1.

Based on this evidence, the uncontroverted expert testimony before the Commission is that the Project will not detriment the surface water quality of Watson Brook.<sup>21</sup>

Despite this evidence, and without reviewing, discussing, or analyzing same, the stated bases for the Commission's recommendation to deny the Shoreland Permit included the following assertions and conclusions:

- The Commission stated that it “*seem[s]*” like the Project will have impacts to surface water quality because the Applicant is converting a “natural forested hillside and turning it into a large building” that is “directly above [Watson Brook] that is considered part of the Shoreland criteria”;<sup>22</sup>
- The Commission had “concern[] about the impact of all of the grading and building on this Watson Brook because ... the whole structure parallels the brook”<sup>23</sup>;
- The Commission stated that Building D is “close to this priority resource ... that we’ve protected for a reason”<sup>24</sup>; and
- The Commission stated that the Shoreland Permit should be denied “due to the extent of impact to the buffer and *potential* water quality issues ... and wildlife issues that could come from that.”<sup>25</sup>

These assertions constitute unsubstantiated speculation about unidentified “potential” impacts to surface water quality and wildlife which have no basis in facts or evidence before the Commission and did not, therefore, form a reasonable basis for the Commission's recommendation to deny the Shoreland Permit.<sup>26</sup> The threat to resources protected by the Shoreland Protection District Ordinance is stormwater runoff. The runoff from this Project is being treated by state-of-the-art stormwater management infrastructure and BMPs which far exceed all applicable local and State regulations. If these types of improvements within the Shoreland District are not the type the Legislative Body envisioned would be permitted by conditional use permit, it is difficult to imagine under what circumstances any improvements would be permitted within the District, let alone industrial development, commercial development, or multi-family residential development, all of which are permitted by conditional use permit in the District pursuant to the express terms of the Zoning Ordinance.<sup>27</sup> This cannot be the status of the law in Exeter with regard to proposed impacts within the Shoreland District.

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<sup>21</sup> See also Wetland Report.

<sup>22</sup> See Hearing Video at 1:50:50 (emphasis added).

<sup>23</sup> Id.

<sup>24</sup> See Hearing Video at 1:55:27.

<sup>25</sup> Id. (emphasis added).

<sup>26</sup> See Wetland Report and below argument regarding the Commissions' misapplication of the legal standard contained within Article 9.3.4(G)(2)(a).

<sup>27</sup> See Zoning Ordinance, Article 9.3.4(G)(1).

More importantly, the Commission's assertions and conclusions conflict with the weight of the uncontradicted expert evidence presented to the Commission which maintains unequivocally that the Project will not have a detrimental impact to the surface water quality of Watson Brook. In fact, there simply is no evidence before the Commission that the permitted conditional uses proposed to be sited within the Shoreland District will have any detrimental impact on the surface water quality of Watson Brook.

Under the circumstances, the Commission's recommendation constitutes mere personal opinion which ignored the uncontroverted expert evidence within the record in contravention of New Hampshire law. Further, the Commission's findings are unsupported by the evidence and record before it. Accordingly, the Applicant respectfully requests that the Commission review the Shoreland Permit Application and supporting materials again and find, consistent with the body of evidence before it, that the Project will not cause a detrimental impact to the surface water quality of Watson Brook.

**2. The Commission erred by misconstruing and/or misinterpreting the legal standard contained in Article 9.3.4(G)(2)(a) of the Zoning Ordinance.**

Article 9.3.4(G)(2)(a) of the Zoning Ordinance, upon which the Commission's recommendation exclusively hinged, requires the Commission to determine whether the proposed use will "detrimentally affect the surface water quality of the adjacent river or tributary, or otherwise result in unhealthful conditions." The Commission erred by misconstruing and/or misinterpreting the legal standard contained within this regulation.

More specifically, the first motion entertained by the Commission was to deny the Shoreland Permit because there was an alternative design that would, in the Commission's opinion, be less impactful than what the Applicant is proposing.<sup>28</sup> Despite being informed that such an alternatives analysis was not appropriate within the context of a Shoreland Permit, the Commission nevertheless voted on a motion which expressly incorporated and relied on an alternatives analysis. Specifically, the motion to recommend denial of the Shoreland Permit that carried unanimously was as follows:

Either way, [Building D is] close to this priority resource that, that we've protected for a reason. So I would recommend that we deny it based on this. *There is potentially other alternatives that could shore up the building ... and move it, potentially move the building, or move it out ... I don't know the exact configurations and why this configuration was chosen, I know it's convenient that it's the same exact configuration as three other buildings, but that doesn't necessarily, that's not what, I'm not approving here tonight ... I think there*

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<sup>28</sup> See Hearing Video at 1:49:35.



*could be other engineered designs for an apartment structure with 32 buildings [sic] that has a smaller footprint and doesn't impact the shoreland in the same way. So just because your other three look this way doesn't mean we here need to approve that same design.* So, I would motion, again, that because of these impacts, and the first criteria of the shoreland conditional use permit that we just recommend ... we're not denying this, we're recommending to the Planning Board ... that they deny this ... shoreland conditional use permit due to the extent of impact to the buffer and potential water quality issues .. and wildlife issues that could come from that.<sup>29</sup>

The analysis regarding whether Building D could be designed in way with a smaller footprint or sited further away from the Shoreland District is an alternatives analysis. An alternatives analysis is not a relevant consideration within the context of the Shoreland Permit criteria outlined within Article 9.3.4(G)(2) of the Zoning Ordinance. The Commission's incorporation of an alternatives analysis in its recommendation was therefore error.

Beyond this, the Commission's limited deliberation suggests that their recommendation to deny the Shoreland Permit was rooted in part by the mere fact that there would be *any* impacts within the District. This perspective constitutes a misinterpretation of the regulation. In New Hampshire, the fact that an applicant requires relief from the provisions of a Zoning Ordinance is not a valid reason for denying such relief.<sup>30</sup>

In this case, part of the stated basis for the Commission's recommendation to deny the Shoreland Permit was the following analyses:

In terms of ... maybe it needs to be in terms of ... yeah, I understand what your saying Justin but at the same time ... that it does seem that this will have impacts to surface water quality to the adjacent river or tributary. *I mean, you're putting a large ... your taking a natural forested hillside and turning it into a large building ... and that's directly above this Watson Brook area that is considered part of the Shoreland criteria.* So, I understand the concern that, I guess the way I phrased it in terms of the other design did not have that, *but, I am concerned about the impact of all of the grading and the building on this Watson Brook because it parallels ... that whole thing parallels ... the whole structure parallels the brook.*<sup>31</sup>

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<sup>29</sup> See Hearing Video at 1:55:27 (emphasis added).

<sup>30</sup> See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007); see also Harborside Associates L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011) ("mere conflict with the terms of the ordinance is insufficient").

<sup>31</sup> See Hearing Video at 1:50:50.

*Either way, [Building D is] close to this priority resource that, that we've protected for a reason. So I would recommend that we deny it based on this.*<sup>32</sup>

The mere presence of conditional uses like stormwater infrastructure, grading, and paving within the Shoreland District is not sufficient, as a matter of law, to substantiate a finding of detrimental impact to surface water quality pursuant to Article 9.3.4(G)(2)(a) and the Commission's finding to the contrary was error. There is a reason why the Town's Legislative Body permits industrial and commercial uses, multi-family residential development, transmission lines, driveways, parking lots, roadways, detention ponds, treatment swales and other drainage structures to be located within the Shoreland District under certain circumstances: because it is possible to appropriately site these types of development, many of which are far more intense than the Applicant's proposal in this case, within the Shoreland District *without* detrimentally effecting the surface water of the adjacent river or tributary.<sup>33</sup>

Similarly, Building D's proximity to the Shoreland District, its orientation vis-à-vis the Shoreland District, and the Applicant's proposal to convert a naturally vegetated hillside do not, by themselves, without some nexus to evidence tending to prove that such considerations actually contribute to a detrimental impact to the surface water quality of Watson Brook, reasonably substantiate the Commission's recommendation in this case. That evidentiary nexus simply does not exist here. To find otherwise would convert the Town's Shoreland Protection District Ordinance into a prohibition on *any* improvements within the District.

### **Conclusion**

Pursuant to the evidence in the record, and that additional information and evidence contained herewith<sup>34</sup>, the Applicant respectfully requests that the Commission revisit and reverse its recommendation to the Planning Board regarding the Shoreland Permit.

Very truly yours,  
DONAHUE, TUCKER & CIANDELLA, PLLC



Justin L. Pasay  
JLP/lh  
Enclosures  
cc: Exeter Planning Board

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<sup>32</sup> See Hearing Video at 1:55:27.

<sup>33</sup> See Zoning Ordinance, Article 9.3.4(G)(1).

<sup>34</sup> See Supplemental Shoreland Permit criteria analysis from Gove Environmental, Inc., enclosed herewith as Enclosure 3.

Kristen Murphy

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1 July 2022

Jonathan Shafmaster

Denis Hamel, PE GM2 Associates, Inc.

Brendan Quigley, NHCWS Gove Environmental



tabbies  
EXHIBIT  
1

# NEW HAMPSHIRE STORMWATER MANUAL



VOLUME 1  
STORMWATER AND ANTIDEGRADATION  
DECEMBER 2008



# Appendix E. BMP Pollutant Removal Efficiency

## Pollutant Removal Efficiencies for Best Management Practices for Use in Pollutant Loading Analysis

Best Management Practice (BMP) removal efficiencies for pollutant loading analysis for total suspended solids (TSS), total nitrogen (TN), and total phosphorus (TP) are presented in the table below. These removal efficiencies were developed by reviewing various literature sources and using best professional judgment based on literature values and general expectation of how values for different BMPs should relate to one another. The intent is to update this information and add BMPs and removal efficiencies for other parameters as more information/data becomes available in the future.

NHDES will consider other BMP removal efficiencies if sufficient documentation is provided.

Please note that all BMPs must be designed in accordance with the specifications in the Alteration of Terrain (AoT) Program Administrative Rules (Env-Wq 1500). If BMPs are not designed in accordance with the AoT Rules, NHDES may require lower removal efficiencies to be used in the analysis.

BMP in Series: When BMPs are placed in series, the BMP with the highest removal efficiency shall be the efficiency used in the model for computing annual loadings. Adding efficiencies together is generally not allowed because removals typically decrease rapidly with decreasing influent concentration and, in the case of primary BMPs (i.e., stormwater ponds, infiltration and filtering practices), pre-treatment is usually part of the design and is therefore, most likely already accounted for in the efficiencies cited for these BMPs.

Pollutant Removal Efficiencies for Best Management Practices for Use in Pollutant Loading Analysis				Values Accepted for Loading Analyses		
BMP Type	BMP	Notes	Lit. Ref.	TSS	TN	TP
Stormwater Ponds	Wet Pond		B, F	70%	35%	45%
	Wet Extended Detention Pond		A, B	80%	55%	68%
	Micropool Extended Detention Pond	TBA				
	Multiple Pond System	TBA				
	Pocket Pond	TBA				
Stormwater Wetlands	Shallow Wetland		A, B, F, I	80%	55%	45%
	Extended Detention Wetland		A, B, F, I	80%	55%	45%
	Pond/Wetland System	TBA				
	Gravel Wetland		H	95%	85%	64%
Infiltration Practices	Infiltration Trench ( $\geq 75$ ft from surface water)		B, D, I	90%	55%	60%
	Infiltration Trench ( $< 75$ ft from surface water)		B, D, I	90%	10%	60%
	Infiltration Basin ( $\geq 75$ ft from surface water)		A, F, B, D, I	90%	60%	65%
	Infiltration Basin ( $< 75$ ft from surface water)		A, F, B, D, I	90%	10%	65%
	Dry Wells			90%	55%	60%
	Drip Edges			90%	55%	60%
Filtering Practices	Aboveground or Underground Sand Filter that infiltrates WQV ( $\geq 75$ ft from surface water)		A, F, B, D, I	90%	60%	65%
	Aboveground or Underground Sand Filter that infiltrates WQV ( $< 75$ ft from surface water)		A, F, B, D, I	90%	10%	65%
	Aboveground or Underground Sand Filter with underdrain		A, I, F, G, H	85%	10%	45%
	Tree Box Filter	TBA				
	Bioretention System		I, G, H	90%	65%	65%
	Permeable Pavement that infiltrates WQV ( $\geq 75$ ft from surface water)		A, F, B, D, I	90%	60%	65%
	Permeable Pavement that infiltrates WQV ( $< 75$ ft from surface water)		A, F, B, D, I	90%	10%	65%
	Permeable Pavement with underdrain		Use TN and TP values for sand filter w/ underdrain and outlet pipe	90%	10%	45%

Focal Point





Pollutant Removal Efficiencies for Best Management Practices for Use in Pollutant Loading Analysis				Values Accepted for Loading Analyses		
BMP Type	BMP	Notes	Lit. Ref.	TSS	TN	TP
Treatment Swales	Flow Through Treatment Swale	TBA				
Vegetated Buffers	Vegetated Buffers		A, B, I	73%	40%	45%
Pre-Treatment Practices	Sediment Forebay	TBA				
	Vegetated Filter Strip		A, B, I	73%	40%	45%
	Vegetated Swale		A, B, C, F, H, I	65%	20%	25%
	Flow-Through Device - Hydrodynamic Separator		A, B, G, H	35%	10%	5%
	Flow-Through Device - ADS Underground Multichamber Water Quality Unit (WQU)		G, H	72%	10%	9%
	Other Flow-Through Devices	TBA				
	Off-line Deep Sump Catch Basin		J, K, L, M	15%	5%	5%











**SPECIFICATION**

**HIGH PERFORMANCE MODULAR BIOFILTRATION SYSTEM (HPMBS)**

**Material, Performance and Installation Specification**

**I. Summary**

The following general specifications describe the components and installation requirements for a volume based High Performance Modular Biofiltration System (HPMBS) that utilizes physical, chemical and biological mechanisms of a soil, plant and microbe complex to remove pollutants typically found in urban storm water runoff. The modular treatment system in which the biologically active biofiltration media is used shall be a complete, integrated system designed to be placed in Square Foot or Linear Foot increments per the approved drawings to treat contaminated runoff from impervious surfaces.

The High Performance Modular Biofiltration System (HPMBS) is comprised of the following components:

**A. Plant Component**

1. Supplier shall provide a regionalized list of acceptable plants.
2. Plants, as specified in the approved drawings/supplier's plant list, shall be installed at the time the HPMBS is commissioned for use.
3. Plants and planting are typically included in landscape contract.

**B. Biofilter Component**

1. This component employs a high performance cross-section in which each element is highly dependent on the others to meet the performance specification for the complete system. It is important that this entire cross-section be provided as a complete system, and installed as such.
2. As indicated in the approved drawings, the elements of the Biofilter include:
  - A. *A mulch protective layer (if specified).*
  - B. *An advanced high infiltration rate biofiltration planting media bed which utilizes physical, chemical and biological mechanisms of the soil, plant, and microbe complex, to remove pollutants found in storm water runoff.*
  - C. *A separation layer which utilizes the concept of 'bridging' to separate the biofiltration media from the underdrain without the use of geotextile fabrics.*

comparable size and quality.

**A. Plants**

1. Plants must be compatible with the HPMBS media and the associated highly variable hydrologic regime. Plants are typically facultative with fibrous roots systems such a native grasses and shrubs.
2. Supplier shall provide a regionalized list of acceptable plants.
3. All plant material shall comply with the type and size required by the approved drawings and shall be alive and free of obvious signs of disease.

**B. Mulch**

1. Mulch, typically double shredded hardwood (non-floatable), shall comply with the type and size required by the approved drawings, and shall be screened to minimize fines.

**C. Biofiltration Media**

1. Biologically active biofiltration media shall be visually inspected to ensure appropriate volume, texture and consistency with the approved drawings, and must bear a batch number marking from the supplier which certifies performance testing of the batch to meet or exceed the required infiltration rate (100 in/hr). A third party laboratory test must be provided to certify the 100 in/hr rate.
2. Within 90 days after project completion, the infiltration rate shall be confirmed at the supplier's expense, by a wetted condition hydraulic conductivity test.
  - a. *Failure to pass this test will result in removal and replacement of all media in the system at no cost to the project owner/operator.*
  - b. *Test must utilize the equipment and follow the standard operating procedures found in the Harris County Texas manual entitled, Low Impact Development & Green Infrastructure Design Criteria for Storm Water Management (2011).*
  - c. *Replacement media, if required, must be taken from a different batch than the original.*
3. Supplier shall provide, at no additional cost to the project owner/operator, maintenance of the biofiltration system for a period of one year.
4. Pollutant Removal performance, composition and characteristics of the Biofiltration Media must meet or exceed the following minimum standards as

**E. Separation Mesh**

1. Separation Mesh shall be composed of high-tenacity monofilament polypropylene yarns that are woven together to produce an open mesh geotextile which shall be inert to biological degradation and resistant to naturally encountered chemicals, alkalis and acids. The mesh shall meet or exceed the following characteristics:

Properties	Test Method	Unit	Min Ave Roll Value	
			MD	CD
Tensile Strength	ASTM D4595	kN/m (lbs/ft)	21 (1440)	25.3 (1733)
Creep Reduced Strength	ASTM D5262	kN/m (lbs/ft)	6.9 (471)	8.3 (566)
Long Term Allowable Design Load	GRI GG-4	kN/m (lbs/ft)	5.9 (407)	7.2 (490)
UV Resistance (at 500 hours)	-	% strength retained	90	
Aperture Size (machine direction)	-	mm (in)	2 (0.08)	
Aperture Size (cross machine direction)	-	mm (in)	2 (0.08)	
Mass/Unit Area	ASTM D5261	g/m <sup>2</sup> (oz/yd <sup>2</sup> )	197 (5.8)	

**F. Bridging Stone**

1. Bridging Stone shall be 3/8" pea gravel, or other diameter sized to prevent migration of filter media, as specified by supplier.
2. Stone must be washed and free from sediment, soil and contaminants.

**III. Delivery, Storage and Handling**

- A.** Protect all materials from damage during delivery and store UV sensitive materials under tarp to protect from sunlight including all plastics, when time from delivery to installation exceeds one week. Storage should occur on smooth surfaces, free from dirt, mud and debris.
- B.** Biofiltration media shall be segregated from any other aggregate materials and shall be protected against contamination, including contamination from any stormwater runoff from areas of the site which are not stabilized.

## **V. Project Conditions**

- A.** Review supplier's recommended installation procedures and coordinate installation with other work affected, such as grading, excavation, utilities, construction access and erosion control to prevent all non- installation related construction traffic over the completed HPMBS.
  
- B. Cold Weather**
  - 1. Do not use frozen materials or materials mixed or coated with ice or frost.
  - 2. Do not build on frozen ground or wet, saturated or muddy subgrade.
  - 3. Care must be taken when handling plastics when air temperature is at 40 degrees or below as plastic becomes brittle.
  
- C.** Protect partially completed installation against damage from other construction traffic when work is in progress and following completion of backfill by establishing a perimeter with highly visible construction tape, fencing, or other means until construction is complete.
  
- D.** Soil stabilization of the surrounding site must be complete before the Biofiltration System can be brought online. Soil stabilization occurs when 90% of the site has been paved or vegetated. Temporary erosion control and/or sedimentation prevention measures shall be implemented to reduce the possibility of sediments being transported into the Biofiltration System prior to full stabilization of the site. Significant sediment loads can damage the HPBMS and lead to failure if not prevented or remediated promptly.

## **VI. PRODUCTS**

- A. Acceptable HPBMS**

FocalPoint High Performance Biofiltration System
  
- B. Acceptable Beehive Overflow Grate Structure (Optional)**

Beehive Overflow Grate Structure with removable StormSack
  
- C. Acceptable System Supplier**

Convergent Water Technologies, Inc.  
(800) 711-5428  
[www.convergentwater.com](http://www.convergentwater.com)

**B. Inspection**

1. Examine prepared excavation for smoothness, compaction and level. Check for presence of high water table, which must be kept at levels below the bottom of the under drain structure at all times. If the base is pumping or appears excessively soft, a geotechnical engineer should be consulted for advice.
2. Installation commencement constitutes acceptance of existing conditions and responsibility for satisfactory performance. If existing conditions are found to be unsatisfactory, contact Project Manager or Engineer for resolution prior to installation.

**IX. Cleanup and Protection during Ongoing Construction Activity**

- A. Perform cleaning during the installation and upon completion of the work.
- B. Remove from site all excess materials, debris, and equipment. Repair any damage to adjacent materials and surfaces resulting from installation.
- C. If surrounding drainage area is not fully stabilized, a protective covering of geotextile fabric should be securely placed to protect the Biofiltration Media.
- D. Construction phase erosion and sedimentation controls shall be placed to protect the inlet(s) to the Biofiltration System. Excessive sedimentation, particularly prior to establishment of plants may damage the HPMBs.
- E. Strictly follow supplier's guidelines with respect to protection of the HPMBs between Installation and Commissioning phases.

**X. Commissioning**

- A. Commissioning should only be carried out once the contributing drainage area is fully stabilized. If Commissioning must be carried out sooner, it is imperative that appropriate erosion and sediment controls be placed to prevent the entry of excessive sediment/pollutant loads into the system.
- B. Commissioning entails removing the protective covering from the Biofiltration Media, planting the plant material in accordance with the approved drawings, and placing mulch if specified.
  1. Dig planting holes the depth of the root ball and two to three times as wide as the root ball. Wide holes encourage horizontal root growth that plants naturally produce.
  2. With trees, you must ensure you are not planting too deep. Don't dig holes deeper than root balls. The media should be placed at the root collar, not above the root collar. Otherwise the stem will be vulnerable to disease.

water into the Observation/Maintenance Port or adjacent overflow structure, allowing the turbulent flows through the underdrain to re-suspend the fine sediments. If multiple Observation/Maintenance Ports have been installed, water should be pumped into each port to maximize flushing efficiency.

Sediment-laden water can be pumped out and either captured for disposal or filtered through a Dirtbag filter bag, if permitted by the locality.

## **XII. Measurement and Payment**

Given the integrated nature of the HPMBS, measurement and payment will be based not on the individual component prices, but on the size of the Biofiltration Media bed. The external dimension as indicated in the approved plans and executed in the installation will be measured in Square Feet and payment will be made per HPMBS system.

Measurement and payment of beehive overflow grate structure with removable filter insert will be based on per unit price.





Shoreland Protection District Conditional Use Permit Supplemental Analysis under Article 9.3.4.G.2

a. The proposed use will not detrimentally affect the surface water quality of the adjacent river or tributary, or otherwise result in unhealthful conditions.

The water quality in Watson Brook will be protected in a number of ways. In addition to construction term best management practices for erosion control, the project will adhere to the 100 foot building setback, will maintain an undisturbed 50-foot buffer along the waterway, and will include revegetation of graded slopes within the SPD using a native seed mix. One of the most significant but less obvious measure being employed is the proposed structural stormwater management which utilizes state of the best management practices (BMPs) treat all stormwater runoff from the project.

All runoff from pavement will be collected in deep sump catch basins for pretreatment, removing up to 10% of Total Suspended Solids (TSS) and 5% nitrogen and phosphorus. Stormwater will then be directed through a closed pipe system to two bio-retention areas which utilize the Focal Point system for primary treatment. This BMP resembles a small open basin but employs several layers of closely specified media over an underdrain, which together act as a filter. The Focal Point system has a demonstrated performance of 90% TSS removal and 65% removal of phosphorus and nitrogen. Following this phase of treatment, treated stormwater is infiltrated in either an open basin or underground infiltration system which provide additional treatment. Clean runoff from the roof of the building is captured separately and infiltrated in an under-pavement infiltration system.

To ensure resilience of the system, it has been designed using volumes from the Northeast Regional Climate Center's Extreme Precipitation Tables which have also been increased by 15%. Overall, the stormwater management system will exceed State of NH Alteration of Terrain and Town of Exeter standards for treatment and detention of stormwater.

b. The proposed use will discharge no wastewater on site other than that normally discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of hazardous or toxic wastes as herein defined.

There will be no discharge of wastewater on site as the Project will utilize sewer. There are no other hazardous discharges.

c. The proposed use will not result in undue damage to spawning grounds and other wildlife habitat.

The wildlife habitat associated with Watson Brook is concentrated in the stream and the associated wetland areas. This habitat will be preserved intact by avoiding any impacts to the stream, associated wetlands, or 50-foot wetland buffer. The habitat along the stream corridor will not be segmented in any way. Watson Brook is unlikely to provide spawning habitat due to a number of downstream barriers to fish passage. Potential spawning habitat will, however, be protected by maintaining an undisturbed 50-foot buffer along the waterway and avoiding any impacts to the stream or associated wetland. The comprehensive treatment and infiltration of stormwater will also protect water quality, prevent temperature impacts, and maintain flows.



d. The proposed use complies with the use regulations identified in Article 9.3.4 Exeter Shoreland Protection District Ordinance – Use Regulations and all other applicable sections of this article.

9.3.4(A)—Minimum Lot Size: The lot exceeds the minimum lot requirements of the underlying zoning district. The regulation is met.

9.3.4(B)—Maximum Lot Coverage: A total of 9.76% of the total SPD on the lot is proposed (6,927 SF of 71,000 SF). The regulation is met.

9.3.4(C)—Building Setbacks: Watson Brook is subject to a 100-foot building setback. The proposed building is located outside the setback. The regulation is met.

9.3.4(D)—Surface Alterations: This regulation applies to the SPD associated with the Exeter River, Squamscott River and their major tributaries. The regulation does not apply to Watson Brook at this location.

9.3.4(E)—Vegetative Buffer: This regulation applies to the SPD associated with the Exeter River, Squamscott River and their major tributaries. The regulation does not apply to Watson Brook at this location. (It may be noted that the proposed project will in fact maintain a 50-foot undisturbed buffer, two thirds of the 75-feet cited in the regulation).

9.3.4(F)—Prohibited Uses: The proposed use will not involve any of the uses prohibited in the regulation (disposal of solid waste, handling of hazardous or toxic materials, disposal of liquid or leachable wastes, buried storage of petroleum fuel and other refined petroleum products, uncovered storage of road salt and other de-icing chemicals, commercial animal feedlots, automotive service and repair shops, junk and salvage yards, dry cleaning establishments Laundry and car wash establishments not served by a central municipal sewer system, sand gravel excavation). Snow storage is located outside the SPD as depicted on the Site Plan. Operation of the site will comply with the restrictions on use of fertilizer in the SPD

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

As described in our responses to CUP criteria a through d, the project has been designed consistent with the intent and purpose of the Exeter Shoreland Protection District. The project includes multiple elements intended to protect the water quality of the Squamscott River by protecting the water quality in Watson Brook which lies in its watershed. Aquatic and terrestrial habitat will be protected by minimizing impacts within the SPD to the maximum extent practicable and avoiding those impacts with the greatest potential harm such as segmentation of the stream corridor or buffer areas. Although Watson Brook is not associated with traditional waterway recreation, the aesthetic value of the stream will be preserved by maintaining a continuous vegetated buffer. Protection of water quality in the watershed will also serve to protect and advance the recreation and aesthetic values supported in waterways downstream of Watson Brook, including the Swampscott.

The design and operation commitments of the project address and satisfy the applicable use regulations and permit criteria, all of which support the stated intent and purpose of the Exeter SPD. Furthermore, the proposed multifamily residential development, a use which is allowed by grating of a CUP, is located largely outside the SPD. The majority of the proposed SPD impacts are incurred for the construction of stormwater management, which is a separate use allowed by CUP and, most

importantly, is directly related the protection of water quality. It is therefore clear that the proposed project is consistent with the purpose of the SPD ordinance and its construction in this area of the SPD is appropriate.



# 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 6, 2022  
**To:** Planning Board  
**From:** Dave Sharples, Town Planner  
**Re:** Unitil Granite State Gas Transmission PB Case #22-11

The Applicant is seeking approval of a Wetlands Conditional Use Permit for the removal of an above-ground meter station and decommissioning of a section of buried natural gas pipe between Kingston Road and Heritage Way. Construction vehicle access to the work area will require temporary impact to wetlands within the natural gas pipeline corridor along Kingston Road (and Heritage Way). The property is located in the R-1, Low Density Residential zoning district and is identified as Tax Map Parcels #74-81 and #81-56.

The Applicant submitted plans and supporting documents, dated July 5, 2022, which are enclosed for your review. The Applicant is scheduled to appear before the Conservation Commission at their July 12<sup>th</sup>, 2022 meeting to present their proposal. I will be prepared to update the Board at the meeting with their recommendations.

No TRC meeting was held but the materials were distributed to staff for review. If any comments are received I will update the board at the meeting. There are no waivers being requested for this application. I will be prepared with any suggested conditions of approval at the meeting in the event the board decides to act on the request.

### **Planning Board Motion:**

**Conditional Use Permit (Wetlands) Motion:** After reviewing the criteria for a Wetlands Conditional Use permit, I move that the request of Unitil Granite State Gas Transmission (PB Case #22-11) for a Conditional Use Permit be APPROVED / APPROVED WITH THE FOLLOWING CONDITIONS / TABLED / DENIED.

Thank You.

Enclosures



Wood Environment & Infrastructure Solutions, Inc.  
100 Apollo Drive, Suite 302  
Chelmsford, MA 01824  
USA

T: 978-692-9090

[www.woodplc.com](http://www.woodplc.com)

June 30, 2022

Town of Exeter  
Planning Board  
10 Front Street  
Exeter, NH 03833

**Re: Conditional Use Permit Application  
Proposed Gas Pipeline Lateral and Station Decommissioning  
Unitil GSGT Pipeline Corridor North of Kingston Road, Exeter, NH**

To the Exeter Planning Board:

On behalf of Unitil Granite State Gas Transmission (Unitil/applicant), Wood Environment & Infrastructure Solutions, Inc. (Wood) submits the attached Conditional Use Permit application for the above-referenced project.

The purpose of the project is to decommission a segment (lateral) of existing underground natural gas transmission pipe, above-ground metering & regulating (M&R) station, and main line valve/bridle, all within Unitil's existing pipeline easement. The work will require construction vehicle access across wetlands that will be protected through the temporary placement of timber mats. The total areas of temporary impact are tabulated on the application form, and consist of temporary impacts to wetlands underlain by poorly drained soils, and a wetland functioning as vernal pool habitat. There are no prime wetlands, exemplary wetlands, very poorly drained soils, or inland streams in the project area. The work is scheduled for August 2022, which is outside the time window in which vernal pool amphibians use the vernal pool habitat. All impacts will be restored in place after work completion by removal of timber mats and seeding/mulching where needed.

Unitil will also submit a Utility Maintenance Activity Statutory Permit-by-Notification (SPN) to the New Hampshire Department of Environmental Services for this project. The work is covered by the U.S. Army Corps of Engineers New Hampshire General Permits for minimal impact work.

We look forward to presenting this project to the Planning Board at your July 14 hearing.

Sincerely,  
Wood Environment & Infrastructure Solutions, Inc.

Stephen G. Herzog, PWS  
Senior Ecologist, Project Manager

Copy: Unitil Granite State Gas Transmission

Attachments



**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)

Unitil will abandon in-place a segment (lateral) of existing underground natural gas transmission pipe, above-ground metering & regulating (M&R) station, and main line valve/bridle. The work will require access along the existing pipeline easement corridor, which will result in temporary impact to wetlands through the placement of timber mats to allow construction vehicle access. All impacts will be restored in place after work completion by removal of timber mats and seeding/mulching where needed. Unitil will submit a Utility Maintenance Activity Statutory Permit-by-Notification (SPN) to the New Hampshire Department of Environmental Services for this work.

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

Temporary Impact	Wetland:	(SQ FT.)	Buffer:	(SQ FT.):0
	<input type="checkbox"/> Prime Wetlands	<u>0</u>	<input type="checkbox"/> Prime Wetlands	<u>0</u>
	<input type="checkbox"/> Exemplary Wetlands	<u>0</u>	<input type="checkbox"/> Exemplary Wetlands	<u>0</u>
	<input type="checkbox"/> Vernal Pools (>200SF)	<u>1,650</u>	<input type="checkbox"/> Vernal Pools (>200SF)	<u>1,800</u>
	<input type="checkbox"/> VPD	<u>0</u>	<input type="checkbox"/> VPD	<u>0</u>
	<input type="checkbox"/> PD	<u>6,750</u>	<input type="checkbox"/> PD	<u>960</u>
	<input type="checkbox"/> Inland Stream	<u>0</u>	<input type="checkbox"/> Inland Stream	<u>0</u>
<b>Permanent Impact</b>  The project will result in no permanent impacts to wetlands or their buffers.	<b>Wetland:</b>		<b>Buffer:</b>	
	<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 type="checkbox"/> Vernal Pools (>200SF)	_____
	<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):**

The project will decommission an existing gas pipeline lateral and appurtenant equipment, requiring temporary wetland impact. There is no alternative which will not impact a wetland. A NH-Certified Wetland Scientist prepared a functions and values assessment that concluded the proposed temporary impact is not detrimental to the functions and values of the wetlands and the greater hydrologic system. Design, construction, and maintenance during the work will minimize impacts. The project will not create a hazard due to loss of wetland. The applicant will restore disturbed areas by use of a wetland seed mix. All required permits will be obtained including a Statutory Permit-by-Notification from NHDES and USACE General Permit.

**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.**

74-75  
Exeter West Condo Association  
25 Ernest Ave., Exeter NH

74-76  
Exeter West Condo Association  
26 Ernest Ave., Exeter NH

74-77  
Exeter West Condo Association  
27 Ernest Ave., Exeter NH

74-78  
Exeter West Condo Association  
39 Ernest Ave., Exeter NH

74-79  
Exeter West Condo Association  
38 Ernest Ave., Exeter NH

74-80  
Exeter West Condo Association  
37 Ernest Ave., Exeter NH

81-79  
Town of Exeter  
31 Kingston Road, Exeter NH

74-74  
Kazantzidis Peter  
7 Heritage Way, Exeter NH

74-73  
Rebeil Family Revocable Trust  
9 Heritage Way, Exeter NH

74-72  
Claar Family Trust  
11 Heritage Way, Exeter NH

74-71  
Vincent Shelley Connor Trust  
13 Heritage Way, Exeter NH

74-70  
Fifteen Heritage Way Rlty Trust  
15 Heritage Way, Exeter NH

74-69  
Tremblay John & Tammy Rev Living Tr  
17 Heritage Way, Exeter NH

75-20  
Maney Robert F Jr  
19 Heritage Way, Exeter NH

75-19  
Radzom Axel  
21 Heritage Way, Exeter NH

62-55  
Browne, Daryl  
40 Brentwood Rd, Exeter NH

81-57  
Town of Exeter  
Kingston Rd, Exeter NH



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.;

**Wetland Delineation Photographs**

**Client:** Unitil **Project Number:** 3652220367

**Site Name:** West Exeter (Proposed Abandonment) **Site Location:** Exeter, NH

**Photographer:**

Charles Lyman

**Date:**

4/14/2022

**Photograph:** 1

**Description:**

View looking northwest from end of GSGT ROW at Kingston Rd.



**Photographer:**

Charles Lyman

**Date:**

4/14/2022

**Photograph:** 2

**Description:**

View looking southeast in center of ROW; note wetland established in tire ruts.





**Wetland Delineation Photographs**

**Client:** Unital **Project Number:** 3652220367

**Site Name:** West Exeter (Proposed Abandonment) **Site Location:** Exeter, NH

**Photographer:**

Charles Lyman

**Date:**

4/14/2022

**Photograph:** 3

**Description:**

View looking southeast down ROW from northern part.



**Photographer:**

Charles Lyman

**Date:**

4/14/2022

**Photograph:** 4

**Description:**

View looking at area of wetland functioning as vernal pool habitat – low-lying area in ROW.





# Wetland Function-Value Evaluation Form

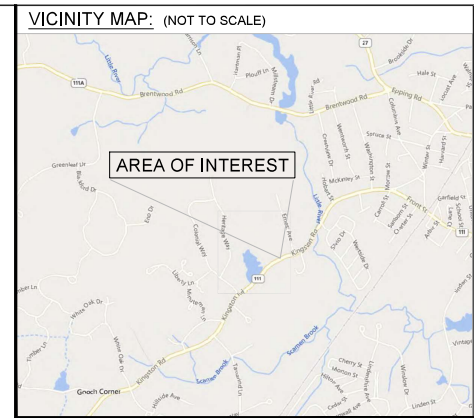
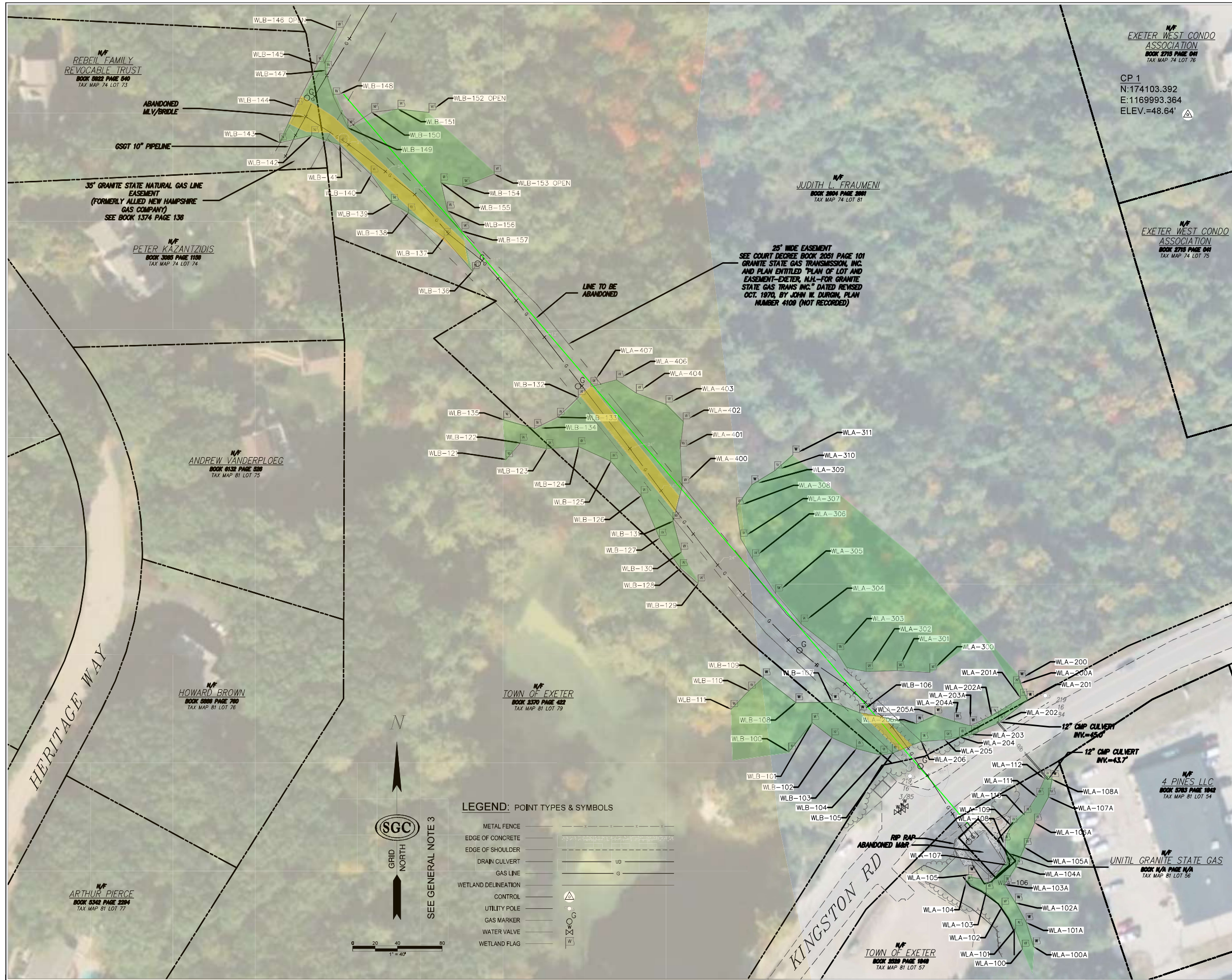
Total area of wetland \_\_\_\_\_ Human made? NO Is wetland part of a wildlife corridor? YES or a "habitat island"? NO  
 Adjacent land use Recreational; 1/4 acre Res. Devel; Lt. Comm. Industrial Distance to nearest roadway or other development < 20'  
 Dominant wetland systems present PSS; POND; Stream Contiguous undeveloped buffer zone present yes  
 Is the wetland a separate hydraulic system? NO If not, where does the wetland lie in the drainage basin? Below/adjacent to POND  
 How many tributaries contribute to the wetland? 1 Wildlife & vegetation diversity/abundance (see attached list)

Wetland I.D. Wetland A  
 Latitude \_\_\_\_\_ Longitude \_\_\_\_\_  
 Prepared by: CHL Date 4/25/22  
 Wetland Impact: Type PSS Area \_\_\_\_\_  
 Evaluation based on: Office X Field X  
 Corps manual wetland delineation completed? Y X N \_\_\_\_\_

Function/Value	Suitability Y / N	Rationale (Reference #)*	Principal Function(s)/Value(s)	Comments
Groundwater Recharge/Discharge	Y	1, 2, 6, 7, 8, 13, 15	Y	1200' flow.
Floodflow Alteration	N	1, 2, 5, 6, 7, 9, 14, 15, 18	N	culverted below road.
Fish and Shellfish Habitat	Y	1, 4, 5, 6, 9, 10, 12, 13, 14	Y	-stacked POND next to ROW/hydraulically connected to Wetland A & B.
Sediment/Toxicant Retention	N	1, 2, 3, 4, 7, 8,	N	MANAGED lawns & Residences upslope of wetland.
Nutrient Removal	Y	1, 2, 3, 4, 5, 6, 7, 8, 9, 10	Y	YARD chemicals / RUNOFF from Residential Development.
Production Export	Y	1, 2, 4, 5, 6, 8, 10, 12,	Y	DEAD DEER, Hawks, CROW, DUCKS, observed. POND/wetlands complex considered.
Sediment/Shoreline Stabilization	N	3, 6, 7, 9, 10, 12	N	
Wildlife Habitat	Y	2, 4, 5, 6, 8, 10, 13, 14, 17, 18, 19, 23	Y	Town owned PARK.
Recreation	Y	1, 2, 4, 6, 8, 9, 10, 11, 12	Y	SEE "Final Report of the Residential Watershed Improvements Project for the Town of Exeter"
Educational/Scientific Value	Y	3, 5, 6, 7, 8, 9, 10, 11, 12, 16	Y	Opportunity present for educational field trip.
Uniqueness/Heritage	Y	2, 5, 8, 9, 11, 12, 13, 14, 19, 21, 22, 27	Y	open space in Developed AREA.
Visual Quality/Aesthetics	Y	1, 2, 3, 4, 6, 8, 9, 12	N	POND & Wetland are public park / access, available w/ PARKING
ES Endangered Species Habitat	N	-Not Likely	N	
Other				

Notes: POND is stocked AND used, by fishermen; Hikers & fishermen\* observed DURING site visit. \* Refer to backup list of numbered considerations.





**EXETER WEST CONDO ASSOCIATION**  
BOOK 2715 PAGE 041  
TAX MAP 74 LOT 76

CP 1  
N:174103.392  
E:1169993.364  
ELEV.=48.64'

**JUDITH L. FRAUMENI**  
BOOK 3804 PAGE 381  
TAX MAP 74 LOT 81

**EXETER WEST CONDO ASSOCIATION**  
BOOK 2715 PAGE 041  
TAX MAP 74 LOT 75

**25' WIDE EASEMENT**  
SEE COURT DECREE BOOK 2051 PAGE 101  
GRANITE STATE GAS TRANSMISSION, INC.  
AND PLAN ENTITLED "PLAN OF LOT AND  
EASEMENT-EXETER, NH-FOR GRANITE  
STATE GAS TRANS INC." DATED REVISED  
OCT. 1970, BY JOHN W. DURGIN, PLAN  
NUMBER 4109 (NOT RECORDED)

**PETER KAZANTZIDIS**  
BOOK 3068 PAGE 1190  
TAX MAP 74 LOT 74

**ANDREW VANDERPLOEG**  
BOOK 6132 PAGE 536  
TAX MAP 81 LOT 75

**HOWARD BROWN**  
BOOK 5886 PAGE 760  
TAX MAP 81 LOT 76

**TOWN OF EXETER**  
BOOK 2370 PAGE 422  
TAX MAP 81 LOT 79

**4 PINES LLC**  
BOOK 5763 PAGE 1842  
TAX MAP 81 LOT 54

**UNITIL GRANITE STATE GAS**  
BOOK N/A PAGE N/A  
TAX MAP 81 LOT 56

**TOWN OF EXETER**  
BOOK 2328 PAGE 1848  
TAX MAP 81 LOT 57

**GENERAL NOTES:**

- 1) THIS PLAN AND ALL WORK ASSOCIATED WITH IT WAS PERFORMED BY SGC ENGINEERING, LLC PURSUANT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN WOOD ENVIRONMENTAL AND SGC ENGINEERING LLC, DATED MARCH, 2022.
- 2) WETLANDS WERE FIELD DELINEATED, VERIFIED, AND LOCATED BY OTHERS.
- 3) THE BEARINGS SHOWN HEREON ARE BASED ON NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM (NAD83) AND ARE BASED ON GPS OBSERVATIONS.
- 4) NO SUBSURFACE INVESTIGATION HAS BEEN PERFORMED BY SGC ENGINEERING, LLC. DIG-SAFE SHOULD BE CONTACTED PRIOR TO COMMENCING ANY EXCAVATION. (888-344-7233).
- 5) THIS PLAN IS THE RESULT OF A FIELD SURVEY CONDUCTED BY SGC ENGINEERING, LLC ON JUNE 03, 2022.
- 6) ABUTTER INFORMATION WAS ACQUIRED FROM THE TOWN OF EXETER ONLINE TAX MAP SERVICE.

**WETLAND NOTES:**

Wetlands were field-delineated by Charles Lyman, NH Certified Wetland Scientist #120, phone 207-828-3280, on April 14, 2022.

The following jurisdictional resources are not present within the Granite State Gas Transmission easement shown on this plan: Priority Resource Areas, Prime Wetlands, Exemplary Wetlands, Inland Streams, Very Poorly Drained Soils

Poorly Drained Soils information is taken from the New Hampshire Wetlands Permit Planning Tool, and is shown in light brown.

Proposed temporary impacts areas from temporary timber mat placement are shown in orange.

**REVISIONS:**

NO.	DATE	APPROVED FOR SUBMITTAL
0		
1	6-30-2022	WETLANDS PERMIT APPLICATIONS



**LEGEND: POINT TYPES & SYMBOLS**

METAL FENCE	—
EDGE OF CONCRETE	—
EDGE OF SHOULDER	—
DRAIN CULVERT	—
GAS LINE	—
WETLAND DELINEATION	—
CONTROL	—
UTILITY POLE	—
GAS MARKER	—
WATER VALVE	—
WETLAND FLAG	—

**Unitil Granite State Gas Transmission**  
**Gas Pipeline Lateral and Station Decommissioning**  
**Kingston Road, Exeter NH**  
**June 30, 2022**  
**Issued for Permitting**



**SGC ENGINEERING, LLC**  
SURVEY AND MAPPING  
501 COUNTY ROAD  
WESTBROOK, MAINE 04092  
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